

# **HRFT: Annual Report 1999**

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# TURKEY HUMAN RIGHTS REPORT

## 1999

### ABBREVIATIONS

ANAP	Motherland Party	MİT	National Intelligence Organization
BBP	Great Unity Party	MKM	Mesopotamian Cultural Center
BP	Peace Party	MLKP	Marxist Leninist Communist Party
CMUK	Code of Criminal Procedures	OHAL	State of Emergency Region
ÇGD	Contemporary Journalists' Association	ÖDP	Freedom and Solidarity Party
ÇHD	Contemporary Lawyers Association	RP	Welfare Party
CHP	Republican People's Party	RTÜK	Radio and Television Supreme Board
DBP	Democracy and Peace Party	SES	Union of Health and Social Workers
DEP	Democracy Party	SHP	Social Democratic Populist Party
DHKP-C	Revolutionary People's Liberation Party	SİP	Socialist Power Party
DİSK	Confed. of Progressive Trade Unions	SPY	Law on Political Parties
DKP	Democratic Mass Party	SSC	State Security Court
DSP	Democratic Left Party	TBB	Union of Bar Associations of Turkey
DTP	Democratic Turkey Party	TESK	Artisans and Craftsmen Association
DYP	True Path Party	TİKKO	Workers' Peasants' Liberation Army
ECHR	European Court of Human Rights	TİSK	Conf. of Employers' Trade Unions
EHRC	European Human Rights Convention	TMMOB	Union of Chambers of Engineers and Architects
EMEP	Labor's Party	TMY	"Anti-Terror Law"
EP	Labor Party	TOBB	Union of Chambers and Exchange Markets of Turkey
FP	Virtue Party	TPC	Turkish Penal Code
GNAT	Grand National Assembly of Turkey	TSK	Turkish Armed Forces
HADEP	People's Democracy Party	TTB	Turkish Medical Association
HEP	People's Labor Party	TÜGİAD	Young Businessmen Association of Turkey
HRFT	Human Rights Foundation of Turkey	Türk İş	Confed. of Workers' Trade Unions
HRA	Human Rights Association	TÜSİAD	Industrialists and Businessmen Assoc. of Turkey
ILO	International Labor Organization	UN	United Nations
KESK	Conf. of Public Laborers' Trade Unions	UNHCR	UN High Commissioner of Refugees
NSC	National Security Council	YAŞ	Supreme Military Council
MHP	Nationalist Action Party	YÖK	Higher Education Institution

## **Preface**

The Human Rights Foundation of Turkey (HRFT) is happy to release the annual report for the year 1999, although the English version is even more delayed than the Turkish original. The report includes the human rights violations in Turkey during 1999 and was prepared by the Documentation Center of the HRFT. In compiling the report we used our own resources, newspapers, journals and other publications. We made much use of the daily bulletin, information provided by human rights defenders, politicians, trade unionists and statements from other organizations as well as official figures.

The main chapters of the report are “the Kurdish question”, “the right to life”, “internal displacement”, “the right to personal security”, “freedom of expression”, “the freedom of assembly and demonstration”, “the freedoms of association” and “pressure on human rights defenders”. You will find several sample cases in each sub-division of these chapters. The examples are by no means exhaustive. You have to agree that many more abuses happened throughout 1999.

We released this report in continuation of the annual reports that we started to publish in 1991. We want to express our gratitude to all our supporters and those, who provided documents and information.

**HRFT Documentation Center**

# 1. Introduction

## 1.1. The Earthquakes of 17 August and 12 November

On 17 August at 3am an earthquake happened with the center of Kocaeli. The earthquake with the magnitude of 7.4 was to be felt in the Marmara, Inner-Anatolian and Aegean region. Many buildings were destroyed. Official figures put the number of death as 18,673 and the number of wounded people at 48,901. A total of 364,905 living and working places were damaged.

The government was criticized for a lack of precaution in a country that is at risk of earthquakes in 97% of the land. The rescue work started late and was insufficient. In addition, officials hindered civil initiatives, who wanted to take aid to the region and civilians, who wanted to help with the rescue work. This resulted in more deaths than necessary. On 19 August 7 provinces were declared “area of catastrophe” and the governors were furnished with extraordinary powers.

The Crisis Center at the Prime Ministry that had been discussed in terms of being in conformity with the Constitution started to censor publications, when the criticism and reactions increased. Prime Minister Bülent Ecevit stated that he was disturbed by the reports on the earthquake and the Ministry of the Interior sent a circular to all 80 provincial governors in the country asking for supervision of all TV channels. The High Council for Radio and TV (RTÜK) closed the TV channel Kanal 6 for 7 days because of its reporting on the earthquake.

It soon turned out that no resources existed for natural disasters in Turkey, even though they happen quite frequently. The national budget of TL 650 trillion only included TL 4 trillion for all kinds of catastrophes. The harshest criticism was made against the Health Minister Osman Durmuş, because he refused blood donations from Greece with the words “we have no cooling system”, did not allow hospital units on ships from the 6<sup>th</sup> US fleet to be used, replied to complaints about dirt that people should use the toilets of the mosque and take their baths in the sea and criticized the urgent rescue team AKUT, which played an important part in the rescue work.

The Red Crescent did not supply a sufficient number of usable tents to the estimated number of 200,000 homeless people and, therefore, the Directory of the Red Crescent also became the target of criticism. Finally, on 6 October the General Director of the Red Crescent in Turkey, Kemal Demir, resigned. His successor Yüksel Bozer resigned on 6 November.

The State Statistics Institute (DIE) announced in a preliminary report that the damage caused by the earthquake amounted to TL 1.1 quadrillion and put the number of inhabitable houses in the region at 111,851. The World Bank said in September that the damage was \$ 5 billion (that is TL 2.2 quadrillion). State Minister Recep Önal stated on 17 October that foreign aid amounted to \$ 3.4 billion and added that \$ 500 from the IMF had been used for the salary of civil servants and workers. It later turned out that only \$ 50 million had been used in the region of the earthquake. Members of the Earthquake Research Commission, established by the Grand National Assembly of Turkey (GNAT) on 23 August to work for a period of three months stated that the local authorities had not been able to interfere during the first two days. They feared that more deaths had occurred because of unregistered burials and criticized the Red Crescent for delivering improper goods. The 77-page report did not mention the reasons and responsible persons for the

fact that had turned the earthquake into a disaster.

Yavuz Önen, chairman of the Union of Chambers of Turkish Engineers and Architects (TMMOB) said in 9 September that the project of the government to build prefabricated houses was no solution, because it would only serve to make some people rich. He argued that the number of deaths was much higher than the official figures showed and narrated his observations from the region:

“Some 70% of what existed in Adapazari province cannot be used any more. 25 houses have collapsed. 100,000 citizens have become homeless. About 6,000 small enterprises do not exist any more. In the region of Yalova, Karamürsel, Değirmendere, Gölcük, Kocaeli 75,000 houses cannot be used for living. In İstanbul the basis of buildings are weak. Many are at risk of collapsing.”

On 14 September the government agreed with 25 companies to build prefabricated houses for TL 1.5 billion each. Criticism arose, when it turned out that many companies had close ties to the political parties in power. One of the firms, for instance, belonged to the MHP MP for Gümüşhane, Bedri Yaşar. The work started towards the end of October, but when the houses were handed over it could be seen that many of them were filled with water.

In mid-October the Crisis Management Center in the Prime Ministry declared that 17,118 people had died and 43,003 had been wounded. But when Sergio Piazzi, Director of the Department for Humane Aid at the UN, announced that Turkey had ordered 45,000 bags for corpses, suspicion came up that the number of deaths was actually much higher.

On 12 November at 7pm another earthquake happened with the center in Cevizli village, Gölyaka district, Bolu province. It had a magnitude of 7.2. Düzce and Kaynaşlı districts of Bolu had been affected by the earlier earthquake. This time houses that had been declared habitable collapsed leading to more deaths and injuries. The Crisis Center at the Prime Ministry declared that 806 people had died and 4,948 had been wounded. Similar deficiencies were observed this time and the government responded by making Düzce a provincial capital on 3 December.

On 24 November the GNAT passed new arrangements for taxes according to the stand-by agreement with the IMF. Pointing at the damages of the earthquakes the expected additional income was set at TL 2 quadrillion, instead of TL736 trillion. Sümer Oral, Minister of Finances, stated that this sum would help to cover the costs for the damages but it would also contribute to secure the balance in the economy.

## 1.2. “THE 28 FEBRUARY PHASE”

“Relations between the NSC and the Government”

The so-called “28 February Phase” that started in 1997 when the National Security Council (NSC) termed the Islamic movements as “internal enemies” continued in 1999. The military wing of the NSC continued to press the government for an “effective fight against reaction” (term used in Turkish for fundamentalists). A trial was opened against 28 people including the former chairman of the closed down Wealth Party (RP), Necmettin Erbakan and executives of the National Youth Foundation (MGV) and the Association of Distinct Industrialists and Businessmen (MÜSİAD) on charges of “attempting to build a State on religious principles”. The Chief Prosecutor at the Court of Cassation launched a case against the Virtue Party (FP) asking the Constitutional Court to close it.

On 15 January the Council of Ministers decided to make some changes to the Council for Supervision and Coordination of Implementation in the Prime Ministry (BTK) in order to secure better coordination of measures against reaction. It was decided to create a center within the Prime Ministry to coordinate the work of the sub commission.

On 2 February Prime Minister Bülent Ecevit issued a circular on the assumption that reactionary, destructive and separatist activities against the regime and the basic characteristics of the Turkish Republic constituted an open danger. The circular provided:

- The provincial governors will follow and direct the work of the district governors to make the control system more effective.
- Political exploitation of religion on politics, economy, trade, social life and mass support and activities to politicize religion will absolutely be prevented. To this end the Ministers in the capitol and the governors in the countryside will take the legal precautions without hesitation. Necessary legal proceedings will be taken against those, who conduct reactionary, destructive and separatist activities, without hesitation.
- This is a duty for the protection of the republic. The republican prosecutors will show the same sensitivity. The governors and prosecutors of the republic will lead the struggle jointly and in coordination. The basis of this activity is determination and stability.
- In particular all radio and TV stations broadcasting reactionary, destructive and separatist programs will be supervised within the established system. Harmful programs will be prevented and the responsible persons will be brought to justice.
- It has to be considered that those active for the destruction of the regime have developed new methods in order to make the measures ineffective. One has to be alert for cooperation, which those working for destruction and separatism have developed with those working for the reaction. All public personnel have to avoid appearing in a manner that weakens the struggle against reaction. Particular sensitivity has to be shown in the implementation of the rules on dressing.

On 5 February the BTK decided to establish close control for the sects and, if necessary, conduct raids on the centers. During the meeting the work on prevention of separatist and reactionary activities was evaluated and it was decided to be alert on reactionary activities during elections and control the speeches of representatives of political parties in line with the circular of the Prime Minister.

On 17 March Hüseyin Kıvrıkoğlu, Chief of General Staff, told the daily Hürriyet about lobby work on postponing the elections for the Grand National Assembly of Turkey (GNAT)

expressing that the postponement of the election might lead to a serious chaos on Turkey. "At first," he said, "the armed forces were against early elections, because we believed that vital reforms and necessary legal changes should be made before another election. But these legal changes were not made during the time of governments, who were not able to realize the changes."

Kıvrıkoğlu also spoke about intentions to abolish Article 312 of the Turkish Penal Code (TPC) and said: "The abolition of Article 163 is the main reason for the current dimension of the reactionary threat. It is also a reality that existing legislation is not able to prevent the growth of reaction and secure the necessary deterrence. Under these circumstances the softening of this law would lead to the reactionary threat become more dangerous. This would lead our country into a greater muddle and chaos. Our country cannot endure this. We believe that reason and common sense will win in the end."

State President Süleyman Demirel called the speech quite normal and only commented that it might have been better to wait for things to develop on its own.

On 24 March Hilmi Özkök, Deputy Chief of General Staff, visited Vural Savaş, Chief Prosecutor at the Court of Cassation. Vural Savaş said during the meeting:

"It is high treason to use religion in politics. The Turkish State had two provisions in the fight against reaction. The first one, Article 163, was abolished. It is very difficult to fight against reaction, without renewing Article 163 according to Article 24 of the Constitution. The second one is Article 312. I believe that it is dangerous, not only to lift the Article, but also to amend it, unless Article 163 is rewritten according to the Constitution. On the one hand the chief prosecutor's office is asked to move on such offences and political parties and on the other hand, the weapon is taken away from us. An important proportion of our intellectuals have turned into seduced girls by asking us to be artists."

On 27 March a report of the General Staff was leaked to the press. The report arguing, "reaction is trying to make the armed forces passive" included the following statements:

"During the meeting of the NSC on 28 February 1997 it was determined that the threat of reaction constitutes a serious problem for security and a number of decisions were taken to protect the principle of secularism. A circular by the Prime Ministry of the 55<sup>th</sup> government established a system of control in provinces and districts under leadership of the governors. At the beginning this system was not effective since some of the administrators carried reactionary views themselves, but the measures have lately shown some positive results.

During the same time the reactionary circles continued to organize society with legal and illegal organization to their ends. It was observed that they paid additional efforts in order not to lose their legal gains in political, economic and social areas and intensified their propaganda and actions on making the State and the armed forces passive in their struggle against reaction. All legitimate means of democracy are effectively used in these efforts that are conducted under the mask of democracy and human rights. In addition, the achieved financial possibilities are used to buy the will of the people."

During the election of 18 April FP became the third strongest party in the GNAT with 111 deputies. Intense discussions started when FP MP Merve Kavakçı came to the swearing-in ceremony wearing headscarves (see the chapter Freedom of Religion).

On 7 May the Chief Prosecutor at the Court of Cassation launched a case against the FP asking the Constitutional Court to ban it. The indictment argued that FP was not only the successor of the closed down RP, but of "all parties that had been dissolved for having

used religion for political ends". The 7-page indictment quoted from speeches of party officials and mentioned the fact that the deputy Merve Kavakçı had come to the swearing-in ceremony with headscarves on and left the ceremony without taking the oath. The indictment asked that all MP be deprived of their mandate, except for Aydın Menderes, who "obviously did not share the party's politics".

After the end of June the connection of high-ranking party officials including Prime Minister Bülent Ecevit with one of the main figures among the Nur faith, Fethullah Gülen and his organizational activities came under discussion. Videos were shown on TV, in which Gülen called on his followers to patiently work for the take over of the State, asking them not to make mistakes. A number of reports said to have been prepared by the Directory of Security and the General Staff on Fethullah Gülen were made public. The prosecutor at Ankara SSC started an investigation against Mr. Gülen.

On 25 June the General Secretariat of the General Staff declared in writing that they had not prepared the reports and videos. The State Presidency and Prime Ministry also denied being the originators of the reports that allegedly had been presented to the NSC.

During the NSC meeting on 23 June a decision was taken to "strategically develop the fight against reaction". Following the meeting 6 draft laws that had been prepared in line with the 28 February decisions were sent to the GNAT with a recommendation of preferential treatment.

- "Draft for Amendment of Article 23 of the Law No. 1700 on Civil Servants in the Ministry of the Interior"
- "Draft for Amendment of Circular 399 with the Force of Law, dated 22.01.1990"
- "Draft for Amendment of Article 125 of Law No. 657 on Civil Servants"
- "Draft for amendment of Article 1 of a law on religious clothing and titles; increase of the sentence under Article 526/§2 TPC, including some laws on prohibition of certain clothes"
- "Draft law on amendment on the Turkish Civil Code"
- "Draft for Amendment to the Law on Establishing the State Control Council envisaging its assignment to research, inspect and control foundations in all aspects"

However, the draft laws did not pass the respective commissions to be forwarded to the general assembly of the GNAT in 1999. On 19 July Prime Minister issued a second circular on the fight against reaction. The circular asked for tight control of private institutions such as associations, foundations or dormitories.

The circular conceded that the BTK had worked effectively and called on local administrators to continue their efforts against reaction. Special control would be conducted on special institutions of education, dormitories, boarding houses and courses established by foundations, private enterprises, municipalities and persons and the responsible State organs would effectively implement the laws on radio and TV stations with reactionary and separatist programs.

Following the meeting of the High Military Council 5 commanders were sent to retirement including Çevik Bir, Chief of General Staff on 28 February 1997, General Doğu Aktulga, Commander of the Aegean Army and General Necati Özgen, Commander of the War Academy. The Islamic press called this "elimination of the 28 February architects". In reaction the General Staff issued a declaration on 15 August stating that the armed forces would remain the guarantor of the secular republic.

The Institute on High Education (YÖK) continued its pressure on Islamic students and

teachers in 1999. In February YÖK Chairman Kemal Gürüz said that the measures on clothing would continue. "We have enlightened headscarved students and will continue to do so. Our determination continues." YÖK introduced a ban on headscarves for examinations of foreign students and during the year hundreds of students were dismissed from schools, prevented to participate in examinations; investigations were started against thousands of students and teachers.

### 1.3. Susurluk

Relations and allegations on the triangle of police-politician-mafia that had suddenly appeared after the accident in Susurluk on 3 November 1996 continued in 1999. It was expected that the dirty relations would be revealed with the trial at İstanbul SSC and the clarification of the “disappearance” the MIT agent Tarık Ümit <sup>(1)</sup> and the killing of Ömer Lütfü Topal, known as the king of gambling casinos. But these relations were not uncovered in 1999.

On 9 January Haluk Kırıcı, a close friend of Abdullah Çatlı and one of the suspects in the Bahçelievler massacre case, was detained in the house of another suspect of the case, Bünyamin Adalı in Pendik-İstanbul. This opened a new perspective for the trial at İstanbul SSC. <sup>(2)</sup> Reportedly Kırıcı went on hunger strike and refused to testify. On 13 January he was arrested and sent to Eskişehir Prison. Bünyamin Adanalı was arrested on 14 January.

In his testimony to the prosecutor at İstanbul SSC Kırıcı said: <sup>(3)</sup>

“In 1995, when the elections were held, I was on the run. When I heard that Mehmet Ağar was a candidate in Elazığ province I went there. I stayed there for three days and campaigned among the ‘idealists’ (extreme right) to vote for Ağar.

“It is known that Abdullah Çatlı and I owned a joint textile company in İstanbul-Merter by the name of Sultan Tekstil... Even though we were wanted we went there frequently and worked there. On a tip-off the police from Bakırköy conducted an operation in 1994. By chance we were not there. Since they interrogated our staff only routinely, it was easy for us to get away. Otherwise we might have been apprehended in 1994.

“I was detained in İstanbul-Küçükçekmece on 25 January 1996. The prosecutor demanded to keep me in detention. I used the phone of my lawyer to inform Abdullah Çatlı and informed him of my apprehension. Shortly afterwards Korkut Eken called the director of the unit, Sedat Demir and asked for my release. Sedat Demir replied ‘how can I let Kırıcı go?’ When I realized that the supervision had loosened I benefited from inattention of the officers and escaped. (At the time Korkut Eken, permanent secretary in the General Directorate for Security, denied to know Kırıcı and to have called Sedat Demir.)

“During my time on the run, it might have been 1996, but before the accident in Susurluk, I went with Sedat Bucak to Şanlıurfa-Siverek. At the time I drove the Ford-Mondeo, the same car that I used to take the corpse of Abdullah Çatlı. I hid in the houses of the Bucaks in Siverek for about a week.

“Some time before his death Abdullah Çatlı was give a Micro Uzi gun. He always had it with him, but after the accident in Susurluk the gun disappeared... (Micro Uzi guns had been imported during the time of Mehmet Ağar as General Director for Security. The Hospro Company under the leadership of Ertaç Tinar had imported 10 mini and 20 micro versions of these guns from Israel. None of them were ever found.)

“I’m in no way connected to the killings of Tarık Ümit and Ömer Lütfü Topal. I did not participate in these acts and did not get any information on them. Abdullah Çatlı did not tell me anything about them. My belated friend could keep secrets. I do not know whether he is related to these incidents.”

During the interrogation Kırıcı also commented on one of the first documents on the relations, the picture of a wedding, and accepted that he had been among the invited guests. Haluk Kırıcı explained the Bahçelievler massacre in detail and added that he regretted the incident calling the deed brutish and barbaric.

On 9 April Ünal Osmanağaoğlu was apprehended in İzmir-Kuşadası. He was wanted in connection with the killing of Kemal Türkler, former chairman of the confederation DİSK, and the killing of 7 young members of the Turkish Workers' Party (TİP) in 1978. Ünal Osmanağaoğlu had been wanted for 19 years. It was discovered that for the last 7 years he had run the national park "Davutlar" under an ID of his brother.

On 21 November Bedri İncetahtacı, member of the parliamentary Susurluk commission, died in a traffic accident in Ankara-Esenboğa. An investigation into his death by the same commission did not reveal any different aspect for the death.

Nothing else could be uncovered about General Veli Küçük in 1999. In the report on Susurluk prepared by a commission in the Prime Ministry under the chair of Kutlu Savaş had named him as the owner of the mobile phone that Mahmut Yıldırım, known as "Green" had used.

A commission of lawyers from İzmir Bar Association appealed to the Chief of General Staff and the Gendarmerie on 5 February. They wanted to know whether any investigations had been carried into the phone calls between Çatlı, Hoştan and Küçük and whether the general had been subjected to an administrative or criminal investigation.

When both institutions did not respond the lawyer filed official complaints against the Chief of General Staff and the Gendarmerie on 27 May. The appeal stressed the connection between Abdullah Çatlı, who had died in the Susurluk accident and General Veli Küçük and reported that several phone talks via mobiles had been established between Veli Küçük, at the time gendarmerie commander in Kocaeli, Abdullah Çatlı and Sami Hoştan. In the trial of the Yüksekova gang Sergeant Hüseyin Oğuz had testified as witness that Küçük had been in contact with "Green" (Mahmut Yıldırım). He mentioned that Küçük might have told Yıldırım where to find Cem Ersever, with whom he was in dispute. <sup>(4)</sup>

The lawyers listed a number of further evidence against Veli Küçük that required an investigation. However, the Second Chamber of the High Military Administrative Court rejected the case on 18 August. The court argued that the plaintiffs were civilians and a civilian court should deal with the case.

The discussion on whether Mahmut Yıldırım, a key figure in the Susurluk scandal, was alive or not continued in 1999. On 11 September 1998 a corpse had been found near Bozdağ village, Ödemiş district (İzmir), but even in 1999 it could not be clarified, whether this was the corpse of Mahmut Yıldırım. A DNA test had negative results.

In February claims came up stating that Mahmut Yıldırım had gone abroad. Interpol was contacted on the basis of an arrest warrant in connection with the attack on former HRA Chairman Akın Birdal. The investigation against 7 police officers in connection with issuing a passport for Mahmut Yıldırım on the name of Metin Atmaca on 9 February 1996 was dropped because of lapse of time.

### **The main Susurluk trial**

The main trial on the Susurluk scandal continued at İstanbul SSC in 1999. The defendants were: İbrahim Şahin, former deputy chief of the department for special action, Korkut Eken, former MIT agent, Ayhan Çarkın, Ayhan Akça, Oğuz Yorulmaz, Enver Ulu, Mustafa Altunok, Ercan Ersoy and Ziya Bandırmalıoğlu (members of special teams and police officers), the driver of Urfa MP for the DYP Sedat Bucak <sup>(5)</sup>, Abdülgani Kızılkaya, Haluk Kırıcı, Yaşar Öz, drug dealer, Sami Hoştan and Ali Fevzi Bir, partners of Ömer Lütfi Topal.

In the hearing of 15 March the file on Haluk Kırıcı was combined with the main case. Haluk Kırıcı testified stating that he was not proud for the incidents including murder that he had

been involved in before 1980. He said that he had been friends with Çatlı for 25 years. Haluk Kırıcı said that he had known Mehmet Ađar during his time as governor of Erzurum. He confirmed that Çatlı had been friends with Sami Hořtan and Korkut Eken. Haluk Kırıcı added that he and Çatlı had conducted trade until 1995 and maintained that he had not used a gun after 1980.

As far as Çatlı was concerned he had worked with MİT and the Directory for Security and had been used abroad. Haluk Kırıcı claimed that Çatlı had not done anything outside the will of the State. This was known on all levels including State President Süleyman Demirel. Kırıcı alleged to have been tortured in detention and added, “since you are confronted with these things quite frequently, you won’t take it too serious. At our time torture was quite different. At the Forensics nothing was established. Technology has developed fast.”

After the hearing of 28 June the court decided to lift the arrest warrant for Haluk Kırıcı in connection with the Susurluk trial. On 27 December the prosecutor summed up the case. He demanded sentences between 4 years, 8 months and 10 years’ imprisonment for Korkut Eken and İbrahim Şahin on charges of “founding a gang with the aim to commit crimes” according to Article 313 TPC and “hiding a criminal” according to Article 296 TPC. On the same charges the defendants Ayhan Çarkın, Ođuz Yorulmaz, Ercan Ersoy, Enver Ulu, Mustafa Altunok, Ziya Bandırmalıođlu, Ayhan Akça, Abdülgani Kızılkaya, Sami Hořtan, Ali Fevzi Bir and Yařar Öz should be sentenced to 4 years, 8 months’ imprisonment. Haluk Kırıcı should get a sentence of 3 years, 7 months’ imprisonment for “founding a gang” and “issue forged IDs”.

The hearing was adjourned to 3 March 2000.

### **The Case on “Lost Arms”**

During 1999 Ankara Penal Court No. 6 continued to here the case of Necmettin Ercan, at the time chief of equipment department at the Directorate for Security, chiefs of police Musa Teber and Tekin Hatipođlu, chief commissioner Nazmi Kara and the police officer Ömer Aydođan in connection with the loss of 10 assassination guns of Beretta brand. The Hospro Company had donated these arms to the General Directorate for Security.

In March a case was launched at Ankara Penal Court No. 1 against İbrahim Şahin, Mustafa Büyük, responsible for the equipment in training special units in Antalya, Uđur Çevik, responsible for the equipment in training special units in Gölbařı, Lütfü Eraslan, director of the department for operations, chief of police Şemsettin Canpolat, Sezai Boran, chair of the Commission for Register and Control and the commission members Niyazi Pek, Arif Yıldız, Hasan Kozan and Ali Durmuř. The defendants should be sentenced to imprisonment between 3 months and 3 years for misconduct of duty in connection with the loss of arms that had been donated by the Hospro Company.

During the hearing of 4 May Lütfü Eraslan said that he had led a course for training special units in Antalya. The material had been sent according to an agreement between Israel and Turkey. Israeli trainers had opened the boxes and no list of the contents had been made. The material, which they did not need for the course, had been sent to Ankara and İbrahim Şahin might know of a list of the arms. Defendant Hasan Kozan stated that the members of the commission had not received the material and only had been asked to count it.

In the hearing of 15 June defendant Niyazi Pek stated that he had joined the commission in 1994. They had located some material in Gölbařı, but had not received any arms or material before. The other defendants testified similarly.

In the hearing of 9 July İbrahim Şahin testified. He said that arms from abroad had not been given to them, but the department for equipment. He maintained that none of the arms handed over to them had gone missing. In the hearing of 6 October both cases (10 defendants at Ankara Penal Court No. 1 and 5 defendants at Ankara Penal Court No. 6) were combined and Court No. 6 was defined as the court to hear the case/s. The trial did not conclude in 1999.

### **Connected Cases**

On 5 March a trial against 4 people in connection with an attack on the chairman of ANAP, Mesut Yılmaz in Hungary on 24 November 1996 (shortly after the Susurluk accident) ended in acquittal. The defendants Ziya Korkut, Veysel Özerdem and Aydın İpekli were acquitted because of lack of evidence and the case against İsmail Koçkaya was dropped, because the act had been committed abroad, the sentence was less than 3 years' imprisonment and Mesut Yılmaz had withdrawn his complaint.

On 11 March the 9th Chamber of the Court of Cassation confirmed the acquittal of Hanefi Avcı, former deputy chief of the intelligence department in the Directorate for Security. On 15 July 1998 Ankara SSC had acquitted him of charges of disclosing secret information by revealing phone numbers of MİT.

One of the defendants in the Susurluk case, Yaşar Öz, said on 22 March in a separate trial against him at Istanbul SSC on charges of drug that the State had used them in important operations and he had done his best. Mehmet Açar had asked them for such favor in the name of important people in the hierarchy. The trial concluded on 9 April. Öz was sentenced to 7 years, 6 months' imprisonment.

The case against Yaşar Öz in connection with the killing of the businessmen Savaş Buldan, Hacı Karay and Adnan Yıldırım, whose corpses had been found in Yığılca district of Bolu on 4 June 1994, continued throughout the year. On 21 May Düzce Criminal Court decided to release the defendants.

In the case on the murder of Ömer Lütfü Topal, known as the king of gambling casinos, in İstanbul Sarıyer on 28 July 1996 held at Beyoğlu Criminal Court No. 1 no important development was noted in 1999. The defendants in this trial were: Haluk Kırıcı, Oğuz Yorulmaz, Ayhan Çarkın, Ercan Ersoy, Mustafa Altunok, Sami Hoştan, Ali Fevzi Bir and Serdar Özdağ.

The case in connection with the bomb attack of 16 March 1978 at İstanbul University that resulted in the deaths of 7 and injury of 41 students went into a deadlock as a result of the Susurluk Report. In this case İstanbul Criminal Court No. 6 heard charges against Latif Aktı, Özgün Koç and Mustafa Doğan. In the hearing of 1 March the sub-plaintiff's lawyer alleged that a secret passage of 11 pages in the Susurluk Report included claims that Mustafa Doğan had participated in the coup in Azerbaijan and asked the court to get a copy of it. The court agreed, but was unable to get a copy of the report.

Following the detention of Ünal Osmanağaoğlu on 9 April the case against him, Aydın Eryılmaz, Abdülsamet Karakuş and İsmet Koçak Nisan in connection with the killing of DİSK President Kemal Türkler on 22 July 1980 continued at İstanbul Criminal Court No. 2 throughout 1999. Osmanağaoğlu was charged under Article 149/2 TPC with causing the death of a person by agitating the people. The charges required the death penalty. The defendant appeared in court for the first time on 8 June. Osmanağaoğlu said that he had not killed Kemal Türkler and only knew Abdullah Çatlı by name. When he had heard that he was wanted in connection with the Bahçelievler massacre he had gone abroad in 1979. He had returned with the passport of his brother Tamer Osmanağaoğlu. He also claimed

that he did not know the other defendants Aydın Eryılmaz, Abdülsamet Karakuş and İsmet Koçak.

The court asked for the file of the main MHP-trial hoping to get hold of testimonies of Haluk Kırıcı, Mikail Şimşek and Avni Musulluluoğlu, who reportedly had made statements on Osmanağaoğlu. But the court did not succeed in getting the file from Ankara. In the hearing of 28 September the court quoted from a letter of Mehmet Rauf Ertürk, who alleged that Celal Adan <sup>[6]</sup> had conducted the murder and Osmanağaoğlu had admitted to it, because he was a relative of Adan. The trial was not concluded in 1999.

### **The Yüksekova Cases**

In September 1996 in a car in Yüksekova district (Hakkari). The subsequent investigation revealed information on “killings by unknown assailants, murder under torture, kidnapping and smuggling”. The court cases that were opened as a result of it continued in 1999.

### **The “Gang” Case**

Diyarbakir SSC No. 4 started a trial against 14 people, the so-called Yüksekova gang, mainly uncovered by statements of the confessor militant Kahraman Bilgiç. The trial did not conclude in 1999. Kahraman Bilgiç was the only defendant under remand. On 18 November the court lifted the ban on leaving the country for Major Hamdi Poyraz. The case was adjourned to 27 January 2000. The defendants in this trial were: Kahraman Bilgiç, Hamdi Poyraz, former commander of the mountain squad in Hakkari, Mehmet Emin Yurdakul, former commander of the gendarmerie in Yüksekova, lieutenant Nihat Yiğiter, NOC Bülent Yetüd, sergeant Ali Kurtoğlu, Ali İhsan Zeydan, Mayor of Yüksekova, Oğuz Baygüneş, employed at the municipality, Enver Çırak, special team member, İsmet Ölmez, chief of the village guards from the Kaşuran tribe, the village guards Kemal Ölmez and Hasan Öztunç and Mustafa Koca, Director of the Institute for Meat and Fish. The charges included the formation of a criminal gang (Article 313), destruction and robbery (Article 495/1) and drugs and arms smuggling (Article 403 TPC).

### **The Yüksekova Case**

Hakkari Criminal Court continued to hear the case against Mehmet Emin Yurdakul, Kahraman Bilgiç and Nihat Yiğiter in connection with the killing under torture of businessman Abdullah Canan, Şemsettin Yurtseven, Mikdat Özeken and Münir Saritaş in 1995. During the hearing on 15 July the written testimony of Major Kanber Oğur was read out. He stated that he had seen Mr. Canan and the villagers at the hands of soldiers. The public prosecutor, the district governor and he had been “exiled”, when they tried to investigate the killings.

On 12 December the trial concluded. All defendants were acquitted, since the act of killing could not be determined. The reasoned verdict also stated that the corpses of the villagers had not been found and might still be alive. It was also noted that Major Kanber Oğur had withdrawn his testimony.

### **The Necip Baskın Case**

In April the Court of Cassation concluded the review on the case related to the kidnapping of Necip Baskın. The court confirmed the sentence for Kahraman Bilgiç (12.5 years' imprisonment), but quashed the sentences for the special team member Fatih Özhan, Yusuf Azmi Aydın, Abdülkadir Bayram, the village guards Abdülkerim Özcük, Osman Özpazar, Necmettin Hazeyi, Mehmet Emin Ergen and Osman Ergen (they had been sentenced to 14 years, 7 months' imprisonment each). Diyarbakir SSC No. 1 that had passed the verdict on 17 September 1998 had to hear the case again. The second verdict

was announced on 29 December. Only special team member Fatih Özhan was sentenced to 16 years, 8 months' imprisonment. The other defendants were acquitted.

## 2. The Kurdish Question and the State Of Emergency

### 2.1. The Kurdish Question

In 1999 the armed forces determined the approach of the State to the Kurdish question. The attitude of reducing the problem to a question of terror did not change. In April the then Chief of General Staff Hüseyin Kıvrıkoğlu stated that there was no Kurdish question, which had become the slogan of supporters of the PKK, “there is only the problem of terror that is trying to divide the country. The Turkish State is at peace with its people. If there was a Kurdish question, like it is claimed, we would not be that successful in the fight against terror and despite thousands of martyrs the people would not continue to live together.”

The government and NSC took Abdullah Öcalan’s call of 2 August to withdraw the armed forces beyond the border and stop the armed struggle and the fact that the PKK followed this order as a tactical step. The General Staff held an evaluation meeting in August 1999 and maintained that despite the announcement of the PKK the armed struggle against the PKK would continue. It was stated that the PKK withdrew its armed forces each winter. The only difference this time was that the decision had been taken earlier and introduced under a different pretext. According to the General Staff the only solution would be that the militants of the PKK would lay down their arms and benefit from the Law to Fight Terrorism or that they become ineffective.

At the end of September the General Staff noted that the activities of the PKK had gone down by 52% compared to September 1998. “But,” the statement continued, “there have been examples in the past. Each time the organization gets into trouble it uses similar tactics and afterwards the bloody actions continue with more violence than before.” The statement also commented on the surrender of PKK members: “The group of 20-25 people is part of this propaganda. With this symbolic act the terrorist organization shows that it does not see the Repentance Law as sufficient and has other expectations. It keeps the armed forces as a trump card for negotiations and in a way threatens to take up the armed struggle again.”

The General Staff noted that about 1,050 militants of the PKK remained within Turkey and noted that the terrorists in Iran, Iraq and Syria continued to be a threat for Turkey. The number of PKK members detained during the last five years was put at 33,148. In a speech of 1 October State President Süleyman Demirel called on the PKK members to surrender.

The Presidential Council of the PKK responded to the General Staff by saying that the solution and steps were not tactical, but a strategic move. “Many people have difficulties to understand that this is not a sign of weakness, but an unselfish move for peace and democracy.” The Council stated that the PKK would insist on peace, but rejected the calls for surrender.

Intellectuals and democratic institutions continued to call for a solution of the Kurdish question by political means and based on human rights. On 12 October Yaşar Kemal read the call signed by some 60 writers and artists from different countries and Turkey in the Burhan Felek Saloon of the Journalists’ Association TGC. Mehmet Uzun, Yaşar Kemal, Orhan Pamuk, Ahmet Altan and Zülfü Livaneli had initiated the call for democracy. The statement asked for an end to discrimination among people and a solution to the Kurdish question by a democratic step, demanding that the administrative and legal obstacles should be lifted and language, culture and identity should legally be protected. In November 36 intellectuals and writers in Germany supported the call. The press

conference had been organized by Ömer Polat, Serol Teber, Kemal Yalçın and Şakir Bilgin. The statement stressed that the solution of the Kurdish question by democratic means had become particularly important at a time when the OSCE was meeting in İstanbul.

73 people from different political background and civilian organizations participated in a conference in Bolu under the title of "Initiative for Democracy". The meeting was held on 7 and 8 November. The declaration at the end of the conference called for the abolition of the death penalty, the implementation of the freedoms of language, culture, religion and audio-visual communication, the clarification of killings by unidentified assailants, prosecution of perpetrators in cases of extra-judicial executions and the lifting of restrictions and prohibitions imposed on NGOs.

The declaration continued by saying that the conditions for social reconciliation were more than ready. "In particular the end of armed clashes has created this atmosphere. The earthquake, too, has resulted in the feeling of brotherhood and solidarity among the people. The developments towards the European Union intensified democratic demands." The declaration ended by saying, "we see it as a precondition that everybody can speak his/her mind, express his/her anger and happiness in his/her own language, that everybody can appear and speak as they are."

The elements that advocated a political solution to the Kurdish question remained under pressure. On 26 February the Constitutional Court banned the Democratic Mass Party (DKP) on the grounds that the program contained provisions against the indivisible unity of the State. On 29 January the chief prosecutor at the Court of Cassation approached the Constitutional Court with the demand to close the HADEP and bar it from the 18 April election. (See chapter on Freedom of Organization.)

#### ***a- The "Socio-Economic" Solution***

In 1999 economic and social development plans, seen as part of a solution to the Kurdish problem aiming at an overcome of underdevelopment, remained on the agenda, but like in previous years did not turn into concrete steps suitable to change the lifestyle of people living in the region. No changes were observed in seeing the military solution as the basic choice and having large sums assigned to armament. Onur Öymen, Turkey's Permanent NATO Representative, stated on a meeting on European Security and the Turkish Defense Industry on 7 September that the 1998 budget for defense had been \$ 8.3 billion. According to Öymen Turkey took the 6th place in spendings on defense after the USA, France, the UK, Germany and Italy.

The monthly bulletin of the Union of Chambers of Turkish Engineers and Architects (TMMOB) contained a survey on security spending in Southeast Anatolia putting the figure for spending since 1984 at TL 21 quadrillion. The survey detailed the consequences if this money would be spend on health and social needs in the region: "400 hospitals in 22 provinces, 50 hospitals in 172 district, health centers in 215 towns, health centers in 7,724 villages, civilian airports in 22 province, 1,416 kilometer highway from Ankara to Hakkari and 1,086 kilometer highway from Ankara to Kars, 1,204 streets stretching over 2,700 kilometers for places that have no access, 1,000 ponds, canalization in 172 districts and 215 towns, drinking water for the districts and towns, electricity for the district and towns, 80 colleges for professions, 100 boarding schools, 22 dormitories for 1,500 students, 172 dormitories for 300 students, 22 sport complexes."

Unemployment remained one of the main problems in the region. Nusret Baştaş, Director of the Employment Office in Diyarbakır stated in January that during the previous

year 20,843 people had applied for work, but the office had only found a job for 396 of them. Nusret Baştaş mentioned small and medium enterprises that had been half finished and said that they needed to start operating so that tens of thousands of people could find jobs. Diyarbakır Trade and Industry Chamber stated that some 75 thousand people had applied to the employment offices in Diyarbakır, Batman, Bingöl, Bitlis, Mardin, Muş, Siirt, Şırnak, Hakkâri, Malatya, Elazığ and Şanlıurfa, about 30% more than in 1997, but only 5 thousand of them had found jobs.

In its meeting of 19 February the Council of Ministers decided to start a huge development attack in Eastern and Southeastern Anatolia. Prime Minister Bülent Ecevit stated, "The separatist terror organization has obstructed the services we brought to the people in Eastern and Southeastern Anatolia and been an obstacle to investments." On 1 March he announced the "Southeastern Solitude Package". The package included the "village return and rehabilitation project" and allocated TL 40.5 trillion for the following measures:

- Investments in Adıyaman, Ağrı, Ardahan, Bayburt, Batman, Bingöl, Bitlis, Diyarbakır, Elazığ, Erzincan, Gümüşhane, Hakkâri, Hatay, Iğdır, Kars, Mardin, Muş, Ordu, Siirt, Sivas, Şanlıurfa, Şırnak, Tunceli, Van and Yozgat that have not been terminated will be gained for the economy. For that reason the enterprises will be granted loans for investment and operating. TL 30 trillion have been allocated for this,

- Once the investments have been completed the prices for energy will be lowered so that they can start production,

- As a measure of urgent support for small and medium sized enterprises the number of provinces and the loans for the provinces will be increased,

- In the region under a state of emergency (OHAL) the sum for investments in all sectors except for stock breeding, clothing and transport will be increased by at least \$ 8 million and for enterprises that employ 75 workers new investments will get long-term loans with low interest,

- In order to support small art cooperatives the Development and Support Fund will give long-term loans with low interest,

- Health and education services will be developed, boarding schools will be established and personnel will be increased.

On 7 March Ecevit spoke about the package in Diyarbakır. He said that the difference to previous programs was that it would not remain on paper. Its contents were clear and the relevant ministers had issued the relevant decrees. Halkbank had contributed with an additional loan so that the total amount of money to be used was close to TL 300 trillion.

Diyarbakır Trade and Industry Chamber presented a "Regional Development Report" to Ecevit. The report evaluated the package reservedly positive since this plan showed the resources to be used. However, the allocated TL 40.5 trillion would not be enough to reach the envisaged aims. TL 30 trillion would not be enough to finish half-built enterprises within 2 years in 26 provinces. The report further criticized that this was a temporary budget, the Southeastern Project (GAP) and stockbreeding was not included and the sum reserved for the return to the villages was very low. The Chamber asked for a review of the package by taking the view of local initiatives into account. They the following proposals:

- A socio-economic inventory of the region should be taken and corresponding master plan should be developed.

- The development targets should be planned for the short, medium and long term, a "Southeastern Development Fund" should be created and a regional development council to supervise it plus a regional development bank should be established.

- The Southeastern Project GAP that is the driving force behind the regional development has to be reviewed on the whole and its administration has to be moved to the region.

- Motorways should be built to link the Southeast to the Black Sea and from there to the Caucasus and the Turk republics, which are new areas for trade. The highway from Pozantı to Şanlıurfa should be connected to Diyarbakır. An international airport should be built.

- The tourism sector should get support for the development of tourism.

- Bureaucrats that know and love the region and are able to get the people and the State together should be appointed to the region. The region must be saved from the image as being a place for "exile". Administrators should be motivated by material benefits.

## **b- Cultural Politics**

As part of the psychological warfare of the government in line with the NSC the attempts of having Turks celebrate Nevruz instead of Newroz continued in 1999. The circular of the Ministry of the Interior asked that all buses, shops and marketplaces should be decorated on 21 March, books brochures, leaflets and calendars should be distributed. The circular also demanded that conferences about Nevruz should be held, newspapers and journals should publish on it, the colors yellow-red-green should be used and it should be stressed that these colors are Turkish colors.

In 1999 Newroz celebrations were not permitted in many places, except for official celebrations and the pressure on political parties, trade unions and NGOs continued. According to the HRA 8,174 people were detained during the Newroz celebrations in Turkey. (See Freedom of Assembly and Meetings.)

Institutions such as the Mesopotamian Culture Center (MKM) that aim at developing the Kurdish culture remained under pressure, because different languages and cultures are appreciated as elements that threaten the unity of the State. Staff in such institutions was tried in charges of supporting an illegal organization or disseminating separatist propaganda. (See Freedom of Organization and Freedom of Expression.)

Instead of exercising a different culture and accepting the right to use the mother tongue and be educated in that language as one of the prerequisites of such a culture, the demand of such a right continued to be regarded as a crime. Executives of Eğitim-Sen, for instance, were tried because of an article on "right to education in the mother tongue". The article was published in a book about the results of the "Democratic Education Council" that had been held in 1998. It was already sufficient to sing Kurdish songs on private weddings to constitute a threat to the unity of the country.

In April 14 members of HADEP were detained because Kurdish music had been played in the bus used for the election campaign in Sultanbeyli district (İstanbul).

On 20 May Bedri Yarşı and Abdullah Sever, members of the music group "Koma Jivan" were taken to Manisa Prison. They had participated in a wedding in Manisa on 29 May 1997 and were tried at İzmir SSC. On 14 October 1997 İzmir SSC sentenced them to 6 months' imprisonment for singing Kurdish songs. When the Court of Cassation confirmed the verdict Bedri Yarşı and Abdullah Sever had to go to prison.

The Cultural Communication Club, formed by students from İstanbul University, was closed on 1 June, because Kurdish songs had been played during a concert.

Lawyer Muzaffer Öztürk chairman of HADEP for Polatlı district (Ankara) was tried because he used Kurdish music during the campaign for the 18 April elections. Ankara SSC sentenced Muzaffer Öztürk to 10 months' imprisonment for disseminating separatist propaganda. He was also fined TL 8 billion. Polatlı Penal Court sentenced him to 6 months' imprisonment and fined him TL 80 million for violating the Law on Associations.

On 10 June the trial against Cezmi Yalçinkaya, Beyaz Emektar and Nuri Turan, staff of the MKM in İzmir concluded at İzmir SSC. They had been tried under Article 8 of the Law to Fight Terrorism (LFT), because they had sung Kurdish song on a festival organized by the youth commission of HADEP in Denizli province. Cezmi Yalçinkaya, Beyaz Emektar and Nuri Turan were sentenced to one year's imprisonment and fined TL 6 billion.

On 5 August the artists İlhan Veske and Adil Demir and the groom father Ömer Karaaslan were arrested. They had been detained after a wedding in Araköy, Kızıltepe district (Mardin) on 1 August. All three were charged under Article 169 TPC. In August 2000 İlhan Veske was sentenced to 45 months' imprisonment. The other two defendants were acquitted.

On 15 September Ali Aktaş, Dilek Alpaslan, Sedat Aslan and two local artists, whose names could not be established, were detained because they had sung Kurdish songs during a festival organized by the Diyarbakır branch of the Association for Handicapped People in solidarity with victims of the earthquake. The detainees were released after testifying to the prosecutor.

On 25 September the police in Diyarbakır raided a wedding after a tip-off that Kurdish songs were played there. The police made an ID check and detained 17 people including the groom and bride father. On 26 September the police intervened in another wedding in Bağlar quarter using armored vehicles. The participants were dispersed on the grounds that Kurdish music was being played and that people wore traditional clothes. The police detained the groom father, but released him after two hours.

Resul Alınak, chairman of Eğitim-Sen in Elazığ and the secretary Mehmet Çakan were charged with violating the Law on Association, because Kurdish songs had been sung on the "Evening for Unity and Solidarity" on 7 December 1998. On 7 October Elazığ Penal Court No. 2 acquitted both defendants.

Serpil Kaya, chairwoman of the students association at the college of education in Buca (İzmir), was suspended from school for 6 months, because Kurdish songs had been sung on a festival organized by the association.

In December Oktay Ergin, teacher at the primary school in Çınar district (Diyarbakır) was put on trial because he allegedly made his pupils sing Kurdish songs. The prosecutor at Diyarbakır SSC wanted him to be convicted according to Article 8 LFT (separatist propaganda).

The Court of Cassation confirmed the conviction of 10 months' imprisonment for Fehime Aslan and Arif Atalay, staff members of the MKM in Adana. Arif Atalay had spoken in Kurdish during a festival organized by MKM and HADEP on 27 December 1998 and Fehime Aslan had translated it.

In Demirtaş quarter of Mersin the police raided a wedding on 14 November and detained the members of the music group "Koma Vendidad", Ayten Pasin and Kenan Şahin. Reportedly the participants were insulted and dispersed.

The case brought against Süleyman Yeter, chairman of ÖDP in Elazığ province, and six other people because the singer Ferhat Tunç sang Kurdish songs during a concert in 1998, ended in acquittal.

A complaint was filed with the President of the GNAT, because Mehmet Fuat Fırat, MP for the FP from İstanbul, had mentioned Kurdish besides of Arabic and Persian as the foreign languages he spoke. Another MP, Mustafa Gül, asked in August that this remark be lifted in all publications including the Internet. This was done.

In 1999 the government intensified efforts to stop the broadcast of Med-TV that can be viewed via satellite. Güner Öztekin, Ambassador of Turkey in Belgium asked the Belgium Foreign Ministry on 16 March that the channel should be closed immediately. He argued that the channel had become a means of communication for the terrorists.

On 18 March the German Ambassador Hans Joachim Vergau and the British Ambassador Hugh Mortimer were called to the Ministry of Foreign Affairs. The talks referred to Med-TV, the newspaper "Özgür Politika" and the news agency DEM, all of which should be closed down immediately.

As a result of the initiatives by the Turkish government the British Independent TV Commission (ITC) decided on 22 March to close down Med TV for 21 days, because it had called for violence. Kurdish journalists conducted a hunger strike in front of the House of Commons and two people set themselves on fire in protest of this decision. Orhan Aykan, who set himself on fire in Kassel (Germany) on 28 March, died and İdris Çalışkan, who burnt himself in Yozgat Prison on 22 March, was taken under treatment. <sup>[17]</sup>

The International Federation of Journalists (IFJ) raised concerns about the closure of Med-TV. IFJ stated that Med TV was serving the culture and language of large sections in the European society and argued that the decision was the result of pressure by the Turkish government, which the public should not accept.

On 23 April ITC decided to withdraw the license for broadcasting for Med TV noting that there were doubts that Med TV would stick to the rule of the ITC. The decision followed a warning of 20 November 1998 that had been issued for a period of 6 months.

Med-TV responded by saying that this was a political decision in contravention to Article 19 of the Universal Declaration of Human Rights. Med TV stated that the only party that would be pleased with this decision was the Turkish State.

After the closure of Med-TV Medya TV started to broadcast in July. Reports from Boyçapkın village, Malazgirt district (Muş) stated that Mehmet Dağyar, who had been detained on 7 August, was tortured because he had watched Medya TV. (See the chapter on Torture).

In September the governor in Şırnak announced that it was forbidden to watch Medya TV. The decision was published in a local paper on 16 September. The governor's office declared that all those, who watched Medya TV or made other people watch it, would be subjected to the laws of the state of emergency and the penal code. The announcement was repeated for one week every day on the local radio station "Vakıf". The relevant articles in the Law No. 2935 on the State of Emergency (OHAL) and the Turkish Penal Code were named as Article 25 and Article 526 (TPC). <sup>[18]</sup>

Mehmet Emin Demir, General Director of Medya TV reacted against the decision of Şırnak Governor and stated that the channel was broadcasting with the international SCA license. It were the provisions of the OHAL Law that contravened universal standards.

Osman Baydemir, deputy chairman of the HRA, stated that the measure was unlawful, because there was no provision in Turkish law prohibiting the viewing of satellite broadcasts. He added that it was also a violation of the European Principles on Broadcasting and the European Convention on Broadcasting. He said: "The governors office in Şırnak has not the competence to take such a decision. All it can do is prevent the entry of written material. It cannot ban TV. Such a thing has only been witnessed in Iran. People have to be free to choose their channel. This is a violation of the right on culture. There is no other TV channel broadcasting in Kurdish. We protest from a legal and a humane point against this decision."

In an attempt to show that there is no pressure in Turkey on the Kurdish language the General Directorate for Press, Publication and Information in the Prime Ministry issued a report in June under the title "Kurdish Press and Publication Activities in Turkey". The report maintained that 74 publications were freely using the Kurdish language: 10 newspapers and journals, 29 books, 4 publishing houses, 3 Kurdish films, 4 research institutions, 10 radios including Kurdish music in their programs. (For details on Pressure on publications see the chapter on Freedom of Expression and Communication.)

Foreign Minister İsmail Cem lit green light for Kurdish TV, when on 13 December he spoke to CNN Türk. He said: "At the moment I'm speaking in my mother tongue on TV. Every individual should be able to speak his/her mother language on TV. We look at the issue from the perspective of individual rights. If someone wants to broadcast in his/her own language, we cannot prevent that."

When Prime Minister Bülent Ecevit was asked about this he said that it was a matter for the NSC and the NSC had not yet discussed the problem. He refrained from making further comments. On 26 December State President Süleyman Demirel reacted against Cem's statement. He said that there was no other mother tongue in Turkey, but Turkish and argued that one of the basic conditions for being a centralized State was to preserve the unity in the official language. Therefore, education in another language and/or TV and radio programs in another language were not advisable.

## **2.2. Practices of the State of Emergency**

When martial law ended in the Southeast the office of a governor for the region under a state of emergency was established by Law No. 285 dated 19 July 1987. The provinces of Bingöl, Diyarbakır, Elazığ, Hakkari, Mardin, Siirt, Tunceli and Van became the emergency legislation region (OHAL). Adıyaman, Bitlis and Muş were termed neighboring provinces to be affected by the extraordinary legislation. In 1999 emergency legislation still existed in the provinces of Diyarbakır, Siirt, Şırnak, Hakkari, Van and Tunceli and was prolonged in periods of 4 months each. On the NSC's proposal emergency legislation was lifted in Siirt province as of 30 November. Siirt got the status of neighboring province. Emergency legislation in the other provinces was prolonged for another 4 months starting on 30 November.

On 15 February OHAL Governor Aydın Arslan said that the reasons for emergency legislation no longer existed. The terror in the region was under control. Even though the incidents had gone down by 90% the reasons for terror still existed. Arslan argued that an institution similar to the State Planning Institute might take over and coordinate the economic, social, cultural, health and education problems in the region. Arslan maintained that the fight against terror was possible with investment in the economy and social and cultural life. In 1998 TL 1.4 quadrillion had been invested in the region. Earlier civil servants had not wanted to work in the region, but last year 541 out of 553 trainee

physicians appointed for the region had actually started work.

The OHAL Law continued to be the legal background for a large number of human rights violations in the region. In 1999 initiatives that wanted to research these violations continued to be hindered. The Diyarbakır branch of the Human Rights Association (HRA) that had been closed down by the governor of Diyarbakır on 24 May 1997 on the grounds that it “conducted activities that threatened the unity of the State” remained shut in 1999, although the officials of the branch were acquitted in May.

The OHAL governor did not allow Patrick Baudoin, President of the International Human Rights Federation (FIDH) and his deputies Saadedine Zmerli and Karim Lanidii to visit Diyarbakır. The information was transmitted to the hotel, in which they were staying. The delegation left Turkey the same day (15 February). Commenting on the decision Hüsnü Öndül, chairman of the HRA, said that according to the Constitution anybody could found associations or conduct demonstrations and meetings without prior permission, but in practice these rights could only be used with permission. He reminded that the emergency legislation like martial was an extraordinary regime of a temporary nature.

Newspapers and journals that reported on human rights violations in the region were not allowed in the region. For instance, the daily Evrensel was forbidden to enter provinces under OHAL on 4 January, the daily Özgür Bakış was banned on 7 May. (For details see Freedom of Communication).

Many members and executives of trade unions were “exiled” from the region and their actions were banned. One of these actions was a protest against the 2000 budget organized by KESK for November. This action was not allowed in the provinces under OHAL and the neighboring provinces.

On 11 May a delegation from various trade unions, including Siyami Erdem, chairman of KESK and the chairpersons of SES, Tüm Bel-Sen, Enerji-Yapı Yol Sen, BTS, Tarım Gıda-Sen, Tüm Yargı-Sen and officials from Eğitim-Sen, SES, Tüm Sosyal-Sen and Haber-Sen came to Diyarbakır to protest against the increasing number of persecution of civil servants in the region. OHAL Governor Aydın Arslan and Diyarbakır Governor Nafiz Kayalı refused to meet them.

Siyami Erdem stated that the unionist movement was under serious pressure in the region with the aim of restricting the activities. “You cannot say things you utter in other parts of Turkey, when you are in Diyarbakır or Urfa. Our posters are not allowed in the working places or the streets. After each press conference investigations are conducted. This kind of pressure is an obstacle for democracy in Turkey.”

On 23 November a delegation formed by the TÜMTİS chairman Sabri Topçu, KESK official İbrahim Kudiş, Genel-İş official İsmail Özhamarat, Güngör Gençay, from the Union of Turkish Writers, Levent Dokuyucu, from Haber-İş in İstanbul, and Nesim Aksakal, from Petrol-İş in İstanbul went to Diyarbakır to protest against the prolongation of OHAL. They visited the offices of Yeni Evrensel and Özgür Bakış, the papers not allowed in the region. Levent Dokuyucu stated that despite claims that OHAL had softened the reporters still were not allowed to go to certain areas.

### **The Village Guard System**

1999 passed without clarification what will happen to the village guards (system). The system had been established in 1985 with the Law No. 3175 relying on Article 74 of the Law 442 on Villages providing that villagers in the OHAL region shall assist the security forces and protect themselves against terror. In July the Interior Commission in the GNAT

discussed a law on village guards. On 29 July the Commission accepted a draft that would change one Article of the Law on Villages and add one Article to the Law. The new legislation would introduce a system of reward and punishment. The condition for becoming a temporary village guard was defined by being a literate Turkish citizen, aged between 18 and 45, without conviction under Article 312 TPC or Articles 3 and 8 LFT. For the existing 65,800 village guards in 22 provinces these conditions would not apply. The draft was not reviewed in the GNAT in 1999.

#### *Killings with involvement of village guards*

On 7 February village guard İbrahim Akın killed the teacher Mesut Akgündüz in Dargeçit. The people tried to lynch İbrahim Akın, but the security forces saved him by detaining him.

On 17 March Hacı Atan (50) and Resul Kılıç (21), who had just finished his military service, were killed in Kumçatı town (Şırnak). The son of Hacı Atan, Hasan Atan, stated that both men were killed for going into a forbidden zone. He told the HRA that his father and the other villager had gone to work, but nor returned in the evening. The next day the commander of Kumçatı Gendarmerie Station had called them to tell that the two men had been killed near the Risol River. This was a forbidden zone and anybody going there would be killed." Hasan Atan claimed that confessors and village guards had murdered his father and the young man. He alleged that they had cut their heads and taken them to the gendarmerie station. They had complained to the gendarmerie command in Şırnak and the prosecutor's office. One soldier had told them that it would be impossible to get the corpses. He had said: "We have told the press that they are terrorists. Even if a hundred of you go, I shall kill all of you."

In the statement by the OHAL Governor of 25 March the two people had been mentioned as killed PKK members. MP for Diyarbakır Haşim Haşimi intervened on behalf of the relatives, but had no success. He said that he talked to Prime Minister Bülent Ecevit, who told him after contacting the General Staff that he was unable to help.

On 29 May Berivan Bilen (10) died near Yanıkkaya village in Kozluk district (Batman). Apparently she was shot by village guards on duty near a petrol station. After the incident 6 village guards were detained, but their names were not revealed. Muhyettin Bilen, an uncle of the killed girl, said: "My niece played with other children about 30 meters away from the house. Suddenly we heard shots. That was nothing special, because we often hear shots. Later the other children brought Berivan home. We do not know hoe the incident happened, but the other children said that the village guards shot at them." When the detained village guards were taken to the spot they claimed to have shot at a snake about 150 meters away from the place, where the children were playing.

It was also witnessed that village guards shot at each other or clashed with soldiers. On 17 November a clash broke out between the village guards from Marmedan and Karaca villages in Şirvan district (Siirt). The fight reportedly arose from a dispute over the ownership of land and lasted for an hour. Alaattin Esen, Fahrettin Esen and Hayrettin Esen were killed and 30 village guards were wounded. The security forces stopped the fight and reportedly announced a curfew in town.

The village guards Hüseyin Öter and Recep Öter from Mutluca village in Beytüşşebap district (Şırnak) reportedly killed each other during a joint operation in the mountains. The incident happened on 14 June and based on an old dispute.

Reports from Balveren village in Şırnak province alleged that Abdülkerim Sanrı, son of the village headman and leader of the village guards, Abdullah Sanrı, and the village

guard Ahmet Tanık were killed under torture on 19 August. The arms and legs were broken and cigarettes had been stubbed out on their body before they were killed with gunshots. The corpses were found 3 kilometer outside the village. Abdullah Sanrı and Mehmet Alkış filed a complaint against the commander of Milli Gendarmerie Station and the soldiers on duty.

Mehmet Alkış stated that he was on duty in the same area during that night. "One kilometer away from us, but closer to the village soldiers and special team members had positioned themselves. At 2am Abdülkerim Sanrı and Ahmet Tanık departed saying that they would go home. At 3am we heard shot from where the soldiers were. First we stayed in our place, but when we went to the spot we saw the unrecognizable corpses, but no soldiers." Mehmet Alkış related that the gendarmerie commander from Şırnak had come to the village on 28 August and asked them not to stir up things. He had asked them to drop the complaint; otherwise they would say that they were killed, when they went to help PKK militants.

Soldiers and village guards shot at other village guards near Ahmetli village in Bismil district (Diyarbakır) on 12 October on the grounds that they had gone to collect wood without permission, The village guards Beşir Akgül was killed and İlhan Akgül was wounded. It was also alleged that the villagers, who wanted to return by tractor to Savur district in Mardin province, did not react when they were asked to stop.

Village guards also resorted to violence for personal reasons or family problems. Sabri Akın, working as village guard in Dargeçit killed the juvenile Mesut Akyüz on 5 February, because he wanted to marry his daughter Dilber Akın.

In Salih village, Ömerli district (Mardin) a fight broke out between the village guards Halim Altuğ, Hasan Altuğ, Abdülkadir Altuğ, Kasım Altuğ and Sait Kaya and Zeydan Akman because of debts. Hasan Altuğ (50) was killed and Halim Altuğ, Abdulkadir Altuğ, Kasım Altuğ, Münire Altuğ and Şefika Altuğ were wounded. Sait Kaya, Sultan Kurt and Zeydan Akman were reportedly detained.

Village guards misused their power not only within, but also outside of the region. On the crossroad between Mardin-Diyarbakır-Mazıdağı village reportedly stopped vehicles and collected money from the travelers. They would hand over those, who refused to pay, to the soldiers. The minibus driver B.Y. related an incident of 13 June as follows: "We were traveling from Mazıdağı to Diyarbakır. Outside town village guards stopped us and asked us to donate TL 1 million for the Foundation of Soldiers. There were 13 people in the bus. 11 of them gave the money under force."

Allegations from Qesirk in Gürpınar district stated that the chief village guard Raif Aslan and the guards Ayhan Aslan, Hüseyin Ateş, Selim Dizer and Bahattin Özcan were forcing the population to give money for the last 3 years. The money was reportedly collected for the PKK. The village guards had also forcibly taken sheep from some people. On 15 June the village guards went to Ömerli village and introduced themselves as PKK members. They forced the woman Kitan Ateş to give them a sheep. When the woman complained to the gendarmerie station the village guards gave her TL 50 million. Some villagers claimed that the same "gang" was collecting money from travelers, but all of them were too afraid to complain about it. The soldiers allegedly knew of what the "gang" was doing.

Metin Olcay, chief village guards in Fındık village, Güçlükönak district (Şırnak') wanted to build a house on the land of Ramazan Sütçü. When he opposed Metin and Abdurrahman Olcay beat him on 24 July. The governor in Güçlükönak reportedly reacted

on a complaint by saying “we can build houses, wherever we want.”

On 7 August soldiers confiscated sheep that Ercan Yılmaz and Serhat İnal wanted to take from Midyat to Mardin under the pretext that they wanted to supply the PKK with them. When Yılmaz and İnal protested they were beaten by village guards at the checkpoint. The victims alleged that the soldiers gave the sheep to the village guards, who sold them in Mardin and Kızıltepe.

It was alleged that soldiers and village guards from Bilgi village threatened shepherds between Çatak and Gürpınar districts (Van) on 16 August and confiscated 600 sheep.

Some village guards got involved in arms and drugs trade. Form MP for the DYP in Hakkari and chief village guard Mustafa Zeydan was tried at Diyarbakır SSC for selling ammunition. He was acquitted in the first hearing on 28 December. On 8 July 1990 the village guards from the Zeydan tribe, Hayrullah Öztürk, İzzettin Atabak and Kolik Batuk had been caught when they transported thousands of bullets they had bought in Iran to Yüksekova district. The village guards said that they had done this on orders of Mustafa Zeydan. The guards were sentenced to 6 years, 8 months' imprisonment, but Zeydan could not be tried because of his immunity at the time.

On 16 June Diyarbakır SSC sentenced the village guards Abbas Babat, Sadık Bulut, Yusuf Bulut, Hasan Çelik, Abdülaziz Benek, Necmettin Benek, Mecit Benek and Abdülmecit Benek to sentences between 5 and 11 years' imprisonment for having founded a gang for arms trade. The village guards had sold bullets they had got and arms that had been taken from PKK militants, who were killed during an operation in Northern Iraq.

On 2 September 18 kilograms of hashish were found in a house in Konalga village, Çatak district (Van). The village guards Hecer Gökçe, Bapir Çiçek, Mehmet Gümüştaş, Seyvan Gümüştaş, Fethi Gümüştaş, Agit Danış and two with the first names of Beysa and Veli were detained. Çatak Penal Court remanded them on 8 September.

Village guard Abdullah Akdeniz raped N.A. (14) in Kulp district (Diyarbakır). He had moved into that house, when the girl's father, a relative of Abdullah Akdeniz died. The incident was uncovered in October, when the girl was pregnant. Other relatives (no village guards) complained about Abdullah Akdeniz on 23 October. He went to the gendarmerie station, but was set free on intervention of his uncle and chief village guard On 9 November N.A. had a stillbirth. She was taken to the house of another relative, but killed on 13 November. Reportedly no charges were brought against Abdullah Akdeniz, but Muhittin Taş, who had taken responsibility for the promise of money, was arrested.

#### *Trial of Kamil Atağ, Mayor of Cizre and chief village guard*

Kamil Atağ, Mayor of Cizre district (Şırnak), who had been wanted for a murder in 1986, was tried in 1999. Following the killing of the shepherds Agit Süslü and Halil Tınıç in Van on 8 July 1986 three people had been detained. On 11 November 1986 arrest warrants were issued for Kamil Atağ and Abdülcabbar Özkan. At the end of the trial two defendants were sentenced to 16 years' imprisonment and one person was acquitted. The cases against Abdülcabbar Özkan and Kamil Atağ were separated. Kamil Atağ was elected Mayor of Cizre in 1994. During the election the population reportedly was forced to use open votes and the soldiers had openly supported Atağ. Further cases against included another killing in Siirt in 1983 and the allegation of fraud by obtaining a diploma without even visiting primary school. But the corresponding files got lost in the Ministry of the Interior.

After the 18 April elections Kamil Atağ's period in office was extended. His opponent

from the FP, Emin Dündar Atağ, informed the public of the arrest warrant. Kamil Atağ left Cizre and stay in Ankara for a while. He received two medical reports, which Cizre Governor Mümin Heybet confirmed and put in practice. Atağ stayed in the official guesthouse for municipalities in Ankara and frequently went to the GNAT. He met former State Minister Salih Yıldırım and ANAP deputies from Şırnak.

On 19 July Interior Minister Sadettin Tantan said in Diyarbakır that Atağ was wanted and, if he were apprehended he would be handed over to the relevant authorities.

There were also attempts to silence witnesses. Soldiers detained Abdurrahman Tomay and Cafer Taygun, witnesses from Ovecek village in Çatak district. They were reportedly threatened not to testify against Atağ and then released. Relatives of Atağ visited the leader of Xelilan tribe, Hasan Tomay in Van (the witnesses belong to this tribe). Reportedly Hasan Tomay was given a car and subsequently he had Abdurrahman Tomay and Cafer Taygun come to Van on 31 July, where he imprisoned them in his home. One day before the hearing he handed them over to the gendarmerie.

Kamil Atağ surrendered in Van on 29 July. Abdülcabbar Özkan surrendered on the same day. During the hearing of 2 August at Van Criminal Court both defendants pleaded not guilty. The witnesses Abdurrahman Tomay and Cafer Taygun came in the company of gendarmes. They stated that they had been kidnapped, but they did not remember the persons tying their hands. They claimed not to know Atağ and Özkan and said that earlier Tahir Tomay had forced them to testify against Atağ. Further witnesses accused Atağ and ve Özkan. Musa Tiniç said that both defendants had been among the people, who kidnapped them and committed the killings. İzzettin Güçlü, Temel Tiniç and Ahmet Güçlü made similar statements. On question of the judge 4 witnesses identified Atağ and Özkan. Nevertheless, the court ordered their release.

The court acquitted Atağ and Özkan in the hearing of 29 November. An investigation was started, when lawyer Kıran said that this had not been a trial, but whitewashing.

On 13 September Kamil Atağ was removed from his office as mayor, because he was not in possession of a diploma from the primary school.

## **2.3. The Kurdish question and the PKK**

### **Abdullah Öcalan's Transfer to Turkey and his Trial**

Towards the end of 1998 the NSC and the Turkish government increased their efforts to catch the PKK leader Abdullah Öcalan. In October General Atilla Ateş, commander of the land forces, declared Syria a target and State President Süleyman Demirel said that the patience was almost over. Abdullah Öcalan left Syria on 9 October 1998 and was abducted in Kenya on 16 February.

On 12 November 1998 Öcalan arrived in Italy. On 16 January 1999 he went to Russia. <sup>(19)</sup>

Turkey protested sharply against Italy. Human Rights Watch declared on 20 January that Italy had missed the chance of trying crimes against humanity. James Spoley, spokesman for the US State Office, regretted the decision of Italy not to bring Öcalan to justice.

Although Öcalan reports of 18 January stated that Öcalan was on a military airport in Nijni Novograd town in Russia, the Russian Foreign Ministry said on 21 January that there

was no trace of him. Meanwhile Britta Böhler, lawyer of Öcalan, declared that her client had to change places constantly and it was their aim to have the international court in Den Haag intervene.

From Russia Öcalan went to Greece and on 2 February he was sent to Kenya, where he stayed in the house of the Greek Ambassador until he was taken to Turkey on 16 February.

After the apprehension Dimitrios Reppas, spokesperson for the Greek government said that Öcalan had stayed in Kenya for 12 days. He had departed to go to the Netherlands, but the Greek government had heard of him since then. Prime Minister Bülent Ecevit announced Öcalan's apprehension. He called on all PKK militants to surrender. In the night of 16 February the lawyers Britta Boehler, Ties Prakken and Victor Kappe came to Turkey with an interpreter. They were kept at Atatürk Airport for six hours and send back to the Netherlands.

Şemsi Dilan Kılıç, representative of the ERNK, spoke in Athens on 27 February and said that Öcalan had been handed over in a joint plot between CIA, MOSSAD, Turkey, Kenya, Russia and Greece.

### ***Protest Actions and Suppression***

The abduction of Abdullah Öcalan and his transfer to Turkey was protested in and outside Turkey. The demonstrations in February resulted in a large number of detentions and in some places turned into clashes between the demonstrators and the police.

During such a clash in Mardin-Kızıltepe on 17 February Necmettin Kahraman died. The police buried him. Several quarters if İstanbul were under high tension and during a clash in Gazi quarter on 20 February 5 police officers were wounded. In Adana and Mersin the police raided houses in quarters with predominantly Kurdish population and detained many people. The HRA announced that 3,369 people were detained between 16 and 24 February.

Many demonstrators were put on trial including pupils from primary schools. The prosecutor at Diyarbakır SSC prepared an indictment on 4 March alleging that a crowd of 70 to 80 people had gathered in front of Ünal Erkan Primary School on 19 February, organized by the students A.A. (15), E.B. (14), S.A. (14) and ve A.T. (16). The crowd had shouted slogans for Abdullah Öcalan. The teachers Murat Uğuraslan and Celal Kendal Turhan were indicted for having supported the action. The prosecutor wanted the students to be sentenced according to Article 168 TPC (membership) and the teachers according to Article 169 TPC (support). The trial did not conclude in 1999.

During the time HADEP offices in almost all provinces and districts were raided and many officials and members were detained. During a raid on the HADEP offices in Diyarbakır on 16 February the police detained 34 people including the lawyers Sinan Tanrıku, Abdullah Akın, Selim Kurbanoğlu, Mansur Reşitoğlu, Mahmut Vefa, Yusuf Tosun, Feridun Çelik, Ferda Pökerce and Serhat Eren. In Diyarbakır trade unionists were also detained, among them Vezir Perişan (Belediye İş), Ebubekir Çelebi (Eğitim-Sen), Hasan Soysal (BTS), Hüseyin Bayrak (SES) and Zülküf Karatekin (TMMOB).

Prisoners conducted hunger strikes with the demand to save the life of Öcalan and grant him a fair trial. Not only prisoners accused of links to the PKK, but also other political prisoners participated in the action. Çetin Güneş, author in the journal "Hedef", who participated in the hunger strike had to be taken to Ankara Numune Hospital. He died there on 27 March. Güneş had been imprisoned since 1989 and suffered health problems

because of the hunger strike in 1996.

Demonstrations and meeting were held in many European countries, in particular in Germany, but also in Iran, Syria and the Lebanon. In protest at the abduction of Abdullah Öcalan the Israel Embassy in Athens and the Center of the UN in Geneva were occupied. Security officers at the Israel Consulate in Berlin opened fire on demonstrators on 18 February killing Sema Alp, Mustafa Kurt, Ahmet Acar and Sinan Karakuş. In the Netherlands 6 people were tried for having occupied the Israel Embassy in Den Haag. One of them was sentenced to 2 years' imprisonment, the others to 1 year's imprisonment. In Hamburg 2 people were sentenced to a total of 4 years', 8 months' imprisonment for having occupied the offices of the Social Democrat Party (SPD).

### **Those burning themselves**

In protest at not granting Abdullah Öcalan asylum, his abduction and transfer to Turkey and sentencing him to death several people set themselves on fire. They were:

- 24 December 1998 Muhittin Işık, Gaziantep
- 5 January 1999 Ramazan Atabay, Siirt E Type Prison
- 16 February 1999 Kahraman Denli, Diyarbakır
- 16 February 1999 Bilal Ekinci, Diyarbakır
- 16 February 1999 Ahmet ... Diyarbakır
- 16 February 1999 Arzu Demiralp, Batman Closed Prison
- 16 February 1999 Yahya Figan, Ümraniye Prison
- 16 February 1999 Nurhak Polat, Ümraniye Prison
- 16 February 1999 Mazlum Öncel, Diyarbakır Prison (died)
- 16 February 1999 Bayram Kaymaz, Nazilli E Type Prison
- 17 February 1999 Veysel Çınar, Ümraniye Prison
- 18 February 1999 Serpil Polat, Sakarya Prison (died) [\[10\]](#)
- 18 February 1999 Hüseyin Çığ, Maraş Prison
- 18 February 1999 Murat Coşkun, Ceyhan E Type Prison
- 18 February 1999 Ahmet Tepe, Adıyaman Prison
- 19 February 1999 Bengin Kurt, Ceyhan (Adana) Prison
- 22 February 1999 Çiğdem Duman, Elbistan Prison
- 22 February 1999 Piro Ecer, Mersin
- 25 February 1999 Bülent Akman, Erzurum Special Type Prison
- 3 March 1999 Kenan Camelan, Ümraniye Prison
- 14 May 1999 Cenan Aslanoğlu, Greece
- 29 June 1999 Nükhet Noyan, İstanbul
- 8 August 1999 Murat Yeşilgöz, Amasya Prison (died)
- 14 August 1999 Oktay Güvenç, Bayrampaşa Closed Prison
- 23 October 1999 Bedriye Yıldız, Gebze Prison

30 November 1999 Yavuz Güzel, Bartın Prison (died)

23 December 1999 Hükmiye Seyhan, Russia (died)

27 December 1999 Resul Aslan, Ümraniye Prison

27 December 1999 Halil Gönyeli, Ümraniye Prison

In March the Ministry of Justice issued a circular asking for harsh measures against associations, foundations, publication, individuals and organization likely to take initiatives in favor of Abdullah Öcalan. It was noted that only the Center for the Management of Crisis was allowed to make statements on the trial of Abdullah Öcalan. The prosecutors were asked to be attentive on the following matters:

- Unlawful actions have to be prevented on all levels; the determination of the State has to be shown in this respect,
- Actions and statements suitable to weaken the people's support for the fight against separatism by exploiting democratic possibilities in imposing harmful thoughts are to be prevented,
- Necessary measures are to be taken against individuals, associations, foundations and political parties conducting direct or indirect political or cultural separatism or supporting the defendant Abdullah Öcalan,
- Legal measures have to be taken if adherents of the defendant Abdullah Öcalan under various titles, or those who conduct political or cultural separatism, but are active outside the PKK, submit criminal messages, which are shown by the mass media or if there is an attempt for it and, because of its interest, RTÜK has to be informed,
- Unauthorized demonstrations in support of organizational actions in the prisons and all kinds of organizational actions have to be prevented,
- Activities by foundations, associations and political parties for the politicalization of the terror have to be followed and prevented, regardless of the name,
- Legal measures have to be taken against associations and foundations, found to directly conduct political and cultural separatism.

### ***The Judicial Process***

Following Öcalan's transfer to Turkey many countries, in particular European countries and organizations asked for a fair trial of him. The Commission on Foreign Affairs in the European Parliament issued a statement asking for permission of European lawyers in the trial and the possibility of politicians to meet Öcalan. The statement including a hint that Turkey as a member of the Council of Europe should not carry out the death penalty. A fair trial was vital for the relations between Turkey and the EU. Similar statements came from the Human Rights Commission at the UN, the Parliamentary Assembly of the CoE and Human Rights Watch.

In response State President Süleyman Demirel said on 17 February that he was not opposed the calls, but added that Turkey was a civilized State of law and would not determine its way by looking at these calls, because it possessed a free judiciary.

On 19 February Pieter Dankert, joint chairman of the mixed parliamentary commission between Turkey and the EU, renewed the call for a fair trial and asked not to

execute the death penalty. He also stated that the presence of a military judge on the bench of state security courts raised serious doubts on the fairness of such trials.

On 20 February the Foreign Ministry expressed that the Turkish judiciary was independent and “the best what the EU, CoE and other institutions can do is take up their responsibility in fighting terrorism instead of trying to influence the process”.

On 25 February the European Parliament passed a resolution on the arrest of Mr. Öcalan and the need for a political solution to the Kurdish question. With regard to the trial of Mr. Öcalan, Parliament expected the Turkish authorities to provide full guarantees of humanitarian treatment and to ensure that a public and fair trial is held in accordance with Turkey's obligations under European and international law. It invited the authorities to make provision for the admission of international observers to the trial and to reconsider allowing the International Committee of the Red Cross to verify humanitarian conditions in the prison and the health of the prisoner.

With regard to the future of the Kurds in Turkey, Parliament recalled its condemnation of terrorism in all its forms. It urged the authorities to allow the free participation in the April elections of all existing democratic political parties, including HADEP, and to stop the harassment and imprisonment of their leaders and activists.

On 19 February the Council of Ministers declared İmralı Island a forbidden zone and provided for various permission needed for an access to the island. İmralı Prison was evacuated and the prisoners were distributed to other prisons.

On 18 February Nuh Mete Yüksel, Talat Şalk and Hamza Keleş, prosecutor at Ankara SSC went to Bursa in order to interrogate Abdullah Öcalan, but they could only go to the island on 21 February, because of bad weather. They finished the interrogation on 23 February and Ankara SSC No. 2 issued an arrest warrant against Abdullah Öcalan on 24 February.

On 23 February the lawyers Osman Baydemir, Medeni Ayhan, Ahmet Zeki Okçuoğlu and Hatice Korkut went to Mudanya, from where they wanted to go to the island. They were unable to find an official to help them and not being protected against the threats of people making the “wolves’ sign” (known as gray wolves or idealists from the extreme right) they returned to İstanbul. After return Osman Baydemir stated that they had got the necessary permission from The Justice Ministry and Ankara SSC. The documents should have been forwarded to a “crisis desk”, which we were unable to locate. The first meeting of Abdullah Öcalan and his lawyers was on 25 February.

In February Abdullah Öcalan’s lawyer appealed to the European Court of Human Rights (ECHR) asking for immediate steps on violations of the right to life (Article 2 of the European Human Rights Convention, EHRC), Article 3 (torture), Article 5 (personal security and freedom) and Article 6 (fair trial). The ECHR convened on 4 March and issued an interim order according to Article 39/1 of the regulations asking for guarantees to a fair trial and an end to obstacles for the right of defense. In particular the Court asked for extended visits of the lawyers in specific places, the opportunity for the lawyers to inspect the files, reorganization of the SSCs as impartial courts and an end to quotations in public of interrogations.

In connection with allegations of ill-treatment the European Committee for the Prevention of Torture (CPT) visited İmralı on 2 March. In May the CPT declared that Öcalan had been in good physical condition without the risk of ill-treatment, but he had been in a bad psychological position. CPT asked for the possibility to read the papers and books, listen to the radio and increasing the possibility for outdoor activities. The lawyers’

visits should become easier and be conducted in a suitable way.

On 5 March Ankara SSC discussed the formalities of the trial and decided that relatives of victims in the clashes would be allowed to participate as sub-plaintiff. The second hearing in the case, conducted in the absence of the defendant was conducted on 24 March. The Court decided to move to İmralı Island. Lawyer Ahmet Zeki Okçuoğlu said that the defense had not been established, Öcalan was not in a position to prepare his defense. He was still held in special interrogation facilities of the General Staff and should be transferred to a normal prison.

The indictment was announced on 28 April. Except for one case continuing at Şanlıurfa Criminal Court No. 2 all cases against Öcalan were combined. <sup>(111)</sup> The indictment asked for the death penalty according to Article 125 TPC for Abdullah Öcalan on the grounds that he had founded and led the PKK and actions that had been conducted on his orders fulfilled the offence of separating part of the country from the administration of the State. It was noted that the offense under Article 125 TPC was obvious and, therefore, single actions had not been investigated.

The last hearing in the absence of the defendant was held on 30 April. International observers from the CoE, Amnesty International and representatives of the USA, Switzerland, Finland, the Netherlands, the UK and Hungary were present. The Court rejected the demand by the defense to stop the trial and declare itself not competent. The demand was made in line with the decision of the ECHR. The Court also decided not to allow international observers to the hearings on İmralı Island. The first hearing on the island was set for 31 May.

The ECHR asked the Turkish government for comments on the applications of Öcalan's lawyers setting the deadline for 30 June. The Court wanted to know, whether the right to a fair trial would be granted, what the authority of the military personnel on the island was, how the court would be composed. The Court also asked for details on allegations in connection with the abduction in Kenya, other irregularities and the condition of isolation.

Turkey replied on 2 September stressing that national remedies had not been exhausted. There had been no irregularities during the trial and in detention. Some specific precautions had to be taken for the sake of public security, but these measures did not obstruct the right to a fair trial.

After 4 month in prison Öcalan appeared before in court for the first time on 31 May. He was held in a cage with bullet-proof glass. He said among other things: "Since my capture and the say when I promised to live for peace I was not subjected to rough pressure and not exposed to verbal insults or torture. Respectfully I want to express my determination to serve the State in building peace and brotherhood on this ground around a democratic republic as a consequence of the respectful approach of the State of the Turkish Republic on this point. During my capture international states, in particular Greece and Russia, but partly also Italy and Kenya have not stuck to national and international rules of law. Their roll in capturing me by methods of piracy is important. I want to protest this and make it clear that for this reason there is not much sense in my trial and my defense."

The defense lawyers reminded of the decision by the ECHR and asked to halt the trial, until the necessary restructuring of the SSCs had been done. When the Court rejected the demand the lawyer Ercan Kanar and Hasip Kaplan left the courtroom with the words that there was nothing to be done at a national court. The 139-page indictment was

read and questions were put to the defendant. Presiding judge Turgut Okyay asked Öcalan what he wanted to do for peace. Öcalan replied: "If the State opens a channel for solution, if there is an amnesty for the men in the mountains, the PKK will adapt itself to the situation".

In his 81-page written defense Öcalan stated among other things: "The freedom of language and culture for the Kurdish society is the vital kernel of the problem... Military and armed approaches have lost their meaning. Illegal organization including the PKK will have to adapt them to the new political and legal process.... The indictment is not objective and I do not feel the need to make a criticism. Listening to it makes you feel that I started the Kurdish uprisings. I did not create the Kurdish problem. In Ankara I found it in front of me...

"I'm not concerned about a judicial defense. To my mind the existing Constitution is not applied and at a time, when the identity is insistently denied, it is more important to stress the moral and political need for resistance. Yet, this may not affect the trial."

During the hearing of 1 June Abdullah Öcalan presented some details on indirect contacts with the governments under Turgut Özal, Mesut Yılmaz and Necmettin Erbakan. Being asked on specific incidents Öcalan said that he did not know the details. His duty had been to determine the strategy and policy. On 2 June Öcalan answered question of aid from various countries. The lawyers and relatives of Öcalan could not participate in the hearing on 3 June, because they had left the hotel after an attack and threats against the owner. <sup>[12]</sup> The Court stated to have found a place for the lawyers and the relatives.

Öcalan repeated his ideas on the project for a democratic republic. Being asked whether he believed in the centralized character of the State and whether his party had taken any decision in this respect, Öcalan answered by talking about the pain both peoples had gone through because of the clashes. He had been assured that the central committee of the PKK unanimously supported peace on the basis of a democratic republic. The presiding judge asked Öcalan whether he was in control of the organization and he said that the Presidential Council was bound to him.

In the hearing of 4 June the defense lawyers asked to call Celal Talabani, journalist Cengiz Çandar, journalist İlnur Çevik, writer Alev Alatlı, writer Yalçın Küçük, lawyer Selim Okçuoğlu, Necmettin Erbakan, Tansu Çiller and ex- Interior Minister İsmet Sezgin as witnesses for the various contacts, but the Court rejected the demand.

On 8 June the prosecution summed up the case. The prosecutor termed the defense of Öcalan "not frank" and claimed that the PKK had not dismissed the idea of founding a separate Kurdistan. He repeated the demand of the death penalty according to Article 125 TPC. The defense was given 15 days for their final words.

Shortly after the beginning of the Öcalan trial the GNAT changed the Constitution providing that after 21 June civilian members would replace the military judge/s on the benches of the SSCs. In the Öcalan case the military judge Abdülkadir Davarcıoğlu was replaced by the civilian judge Mehmet Maraş, who had participated in the trial since the first hearing.

In the hearing of 23 June the lawyers asked for a new beginning since the military judge had changed. The Court rejected the demand. Abdullah Öcalan read out his 23-page defense. He stressed that the solution would be a democratization of Turkey and called models such as a federation or autonomy not very realistic. After his speech the lawyers started to read their 350-page defense. Lawyer Niyazi Bulgan started by saying that the trial had been under outside influence, because of inciting reports in the media. Abdullah Öcalan had been isolated on the island, he had been hindered to prepare the defense and

the necessary documents had not been forwarded to him.

The verdict was announced on 29 June. In his final words Abdullah Öcalan said that he did not accept the accusation of being a traitor. He believed to have worked for the unity of the fatherland and a free life. He had not worked against the republic but for a democratic republic. He believed that the future of the country was not war, but peace and called on everybody to have a share in that.

Abdullah Öcalan was sentenced to death according to Article 125 TPC. <sup>[13]</sup> The Court did not apply Article 59 (good conduct) for a reduction of the sentence. On 7 July Ankara SSC No. 2 announced the reasons for the verdict. The reasoned verdict stated that the PKK had not abandoned its vision of dividing Turkey and founding an 'independent Kurdistan'. It called the laterally declared ceasefire a swindle and claimed that the Kurds in Turkey were not suppressed. The ban on Kurdish had been lifted in 1991 and radio stations were broadcasting in Kurdish. Kurdish newspapers and journals were freely sold. Öcalan had to be sentenced to death, because he had led the organization for 20 years and had not mentioned anything that might weaken the PKK.

The death penalty of Abdullah Öcalan found reaction in the international arena. The CoE issued a statement on 29 June reminding that no execution had been carried out in Turkey for the last 15 years and the last execution in a member state had been 2 years ago. CoE hoped that Turkey would preserve its good record. CoE noted that the removal of the military judge from the bench of the SSCs was a positive step and in the fight for human rights Turkey would do best when it stuck to the standards.

The statement from the German Foreign Ministry as the chair of the EU reminded that the EU was opposed to the death penalty and continued: "We hope that Turkey will not execute the death penalty." Fabio Evangelisti, who had participated in the hearing of 29 June as the chair of the Schengen-European Committee of the EU stated that the trial had been a political one. It might have been conducted according to norm of Turkish legislation but did not conform to European norms. He said: "Witnesses of both sides should have been heard. No concrete evidence was brought against Öcalan. Anything that the defense requested was rejected." Evangelisti maintained that Turkey would drift away from Europe, if the death penalty was executed and even be at risk of losing the membership to the CoE. Turkey was aware that the Kurdish question would not end with Öcalan.

Amnesty International (AI) declared that the verdict was delivered after an unfair according to national jurisdiction and international standards. AI asked for a retrial at an independent and impartial court. FIDH called for the death penalty not to be executed.

Mary Robinson, UN High Commissioner for Human Rights, raised concerns about the verdict pointing at 10 days of incommunicado detention, restrictions of visits by the lawyers and threats against them. She found the accusations serious but raised doubts about the trial, even though it was a positive element that the military judge on the bench had been changed. On 22 July the General Assembly of the European Parliament (EP) adopted a resolution on Öcalan and the Kurdish question. EP asked the GNAT not to ratify the death penalty arguing that serious security problems would arise in Europe, if the sentence were executed. EP stated that doubts on the fairness of the trial remained and wanted that the Kurdish people be granted its political, social and cultural rights. The chair was instructed to take initiatives with GNAT and the UN.

Prime Minister called the decision interference into Turkish justice, an act that could not be tolerated. He said on 23 July that justice in Turkey was completely independent.

“We as the government do not interfere. But some foreign institutions try to interfere with out independent justice. This is an intolerable act. It is disrespect of the sovereignty of one nation. There are institutions in Turkey that are able to determine what has to be done in the Öcalan trial.”

In August AI released the report “Turkey: Death Penalty after an Unfair Trial: The Abdullah Öcalan Case”. AI reiterated the view that Öcalan had been sentenced to death after an unfair trial and called for a retrial at an independent and impartial court. In the final recommendations of the report AI demanded that the suggestions of the CPT against isolation should be put in practice and called for an impartial investigation into the claims of ill-treatment and threats of Öcalan’s lawyers.

A report prepared by a special commission working in the name of the parliamentary assembly of the Council of Europe (CoE) was adopted by the general assembly in September. The Chair, Lord Russell Johnston, held a press conference on 20 September and said: “With the approval of Mr. Öcalan we founded a special commission and followed his trial. We have condemned the death sentence. The Turkish authorities know about this. When it comes to the Kurdish question it is closely related to the Öcalan trial.”

The report of the commission stated that the trial was fair, but conducted under the political pressure of the public and relatives of killed soldiers. Pressure was exerted on Öcalan, his lawyers and relatives and no other decision than the death penalty could have been expected. Some members of the commission held the opinion that the trial was no judicial but a political case. The commission held that the ECHR would determine whether the withdrawal of the military judge was sufficient for getting the trial in line with the requirements of the EHRC. The report wanted the rights of the Kurds to be recognized and asked for democratic reforms that would require changes in the Constitution. During the general assembly Uluç Gürkan, leader of the Turkish delegation, said that the trial of Öcalan was pending at the courts and a political assessment of the CoE would constitute ‘double standard’.

#### *Pressure on the Defense (Lawyers)*

Throughout the trial the principle of not identifying the lawyers of the defense with the defendant was constantly violated. During the hearings the lawyers were attacked by the “families of the martyrs” and intervening lawyers. In Mudanya MHP followers frequently attacked the lawyers.

Ahmet Zeki Okçuoğlu, Osman Baydemir and Hatice Korkut were reportedly kicked and punched on 25 February as they arrived at the quay-side at Mudanya to set off for the prison island of İmralı for their first meeting with Abdullah Öcalan. Some 50 members of the extreme right-wing Nationalist Action Party (MHP) and of an organization close to the MHP called Hearths of the Idealists (*Ülkü Ocakları*), insulted and threatened them. Osman Baydemir was detained on the pretext that an arrest warrant against him existed. He was released after interrogation at İstanbul Police HQ.

The Association of Contemporary Jurists ÇHD protested the harassment of the lawyers, while Prime Minister stated that all precautions had been taken to protect them.

On 23 March lawyer İrfan Dünder was attacked when he came from İmralı Island. He was detained on 6 April under the pretext that he had not done his military service. He was released after one hour. On 9 April Ahmet Zeki Okçuoğlu and Eren Keskin were attacked by a group of people in İstanbul.

The Union of Turkish Bar Associations (TBB) asked the Prime Ministry, the Justice

Ministry and the Ministry of the Interior to secure that the defense was granted according to the Constitution, the Law for Jurists and international conventions. TBB called for free meetings with the client and asked that nobody but a judge should be present during this talks. The letter argued that the verdict would be suspicious of these conditions were not met. TBB demanded that the lawyers should not be seen as potential criminals and asked for an end to degrading body searches of the lawyers. TBB also complained that the lawyers had been asked to give their fingerprints and they should have signed a letter stating that they would not shake hands with their clients and talk to nobody about the trial.

In the hearing of 30 “relatives of martyrs” attacked the lawyer İrfan Dündar in the corridor of the court in Ankara. He was hardly saved by security officers. At the end of the session, he and lawyer Niyazi Buldan were attacked against. The lawyers wanted to make a press statement in front of the courthouse, but had to be rescued by the police, who took them to the police station. They had to stay there for two hours until the crowd dispersed. The lawyers were taken away in a bus and set free in Sıhhiye. Here members of the anti-riot team beat them. Derya Bayır, Mükrimte Tepe (both female), Ahmet Avşar, Niyazi Bulgan and İrfan Dündar were injured during this incident.

İstanbul Bar Association and AI protested the event. On 5 May the defense lawyers Ahmet Zeki Okçuoğlu, Hasip Kaplan, Özcan Kılıç and Turgay Kaya announced that there was no use in carrying on their duty, if the conditions did not improve in short time. They had approached the State President, the Prime Minister and SSC and the prosecutor, but had not received any reply from official places. Okçuoğlu repeated their demands by saying that the isolation of Öcalan should be ended and he should be put into a normal prison, the restrictions on visits by the lawyers should be lifted, measures in contravention of their profession should be halted and the hearings should be conducted according to the law without turning into demonstrations of lynchings. He asked for legal measures against attackers and an end to provocations by the administration and the press.

After the hearing of 17 May the lawyers complained that the obstacles for the defense and the isolation of their client continued. Öcalan did not get daily newspapers and from the ones that he received certain items had been cut. Ercan Kanar said: “We are not able to give him any documents on the case, except for the indictment. Our talks to him are closely supervised. Under these conditions we cannot speak of an honest trial.” During the hearing of 31 May the lawyers Ercan Kanar and Hasip Kaplan left the courtroom saying that they were unable to conduct their duty as defense lawyers.

After the hearing of 4 June intervening lawyer Şevket Can Özbay filed a complaint against 11 lawyers on the grounds that the quotes from a statement by the Presidential Council of the PKK was “a militant move against the profession of lawyers”. He maintained that the lawyers Ercan Kanar, Hasip Kaplan, Niyazi Bulgan, Mahmut Şakar, İrfan Dündar, Hatice Korkut, Mehmet Fehmi Güneş, Mükrimte Tepe, Kemal Bilgiç, Ender Büyükçulha and Doğan Erbaş had committed the crime of supporting an armed gang.

The defense lawyers in return complained to the relevant bar associations stating that they had been insulted and attacked in the hearings. They wanted the intervening lawyers to be subjected to a disciplinary investigation. Ankara Bar Associations started such an investigation in July against lawyer Şevket Can Özbay.

İstanbul SSC heard a case against one of the defense lawyers, Niyazi Bulgan, together with Sibel Ceylan an interpreter of the Law Office of the Century. On 15 May Sibel Ceylan had been detained on the accusation of taking documents on the Öcalan case abroad. She had said that she got the documents from Niyazi Bulgan. During the hearing of 24 June Niyazi Bulgan said that the documents, which in fact was just the indictment

and no secret document, should have been taken to lawyer Breugler. The indictment had already been printed as a book and had been distributed to the press. İstanbul SSC acquitted both defendants.

### **The Court of Cassation (Appeal)**

On 5 July Abdullah Öcalan's lawyers Niyazi Bulgan, Aysel Tuğluk, İrfan Dündar, Kemal Bilgiç and Hatice Korkut send their appeal against the death sentence to the 9th Chamber of the Court of Cassation with the demand of a hearing in person.

This hearing was conducted on 7 October, but since the defense lawyers Kemal Bilgiç, Aysel Tuğluk, İrfan Dündar and Ercan Kanar had notified the Court that they could not come the hearing was adjourned to 21 October. On that day lawyer İrfan Dündar read out the Öcalan's defense entitled "The Problem of Kurdish Freedom and Law". His speech was interrupted by verbal attacks of relatives of security personnel killed during the fights and the intervening lawyers. After the defense the Court announced that the verdict would be declared on 25 November. At the end of the hearing the intervening party members attacked the defense lawyers. The police accompanied journalists and the intervening party members out of the court hall. The defense lawyers had to leave through a different entrance.

On 25 November the 9th Chamber of the Court of Cassation confirmed the death penalty given by Ankara SSC No. 2 on Abdullah Öcalan. The decision was taken unanimously. The reasoned verdict commented on one of the major points of objection, the fact that the trial was held on İmralı Island with a hint to Article 20/6 of the Law 2845 providing that trial at SSCs can be heard in other places, if the speedy progress, the collection of evidence or security required it. The Court of Cassation also argued that the defendant and his lawyers had enjoyed the right to defense.

The reasoned verdict quoted from Öcalan's testimony to the prosecutors at Ankara SSC No. 2, the arresting judge and his statements during the hearings. It held Öcalan in the first degree responsible for the actions and activities of organization adding that more than the ones shown in the indictment had been conducted. Abdullah Öcalan told his lawyer İrfan Dündar after the decision that it had come as no surprise and, as stated before, he was ready for execution as well as for life.

Lawyer Doğan Erbaş listed the irregularities since the beginning of the investigation as follows: "Abdullah Öcalan was abducted in Kenya in contravention to international law and taken to Turkey; he was held in custody for a period longer than provided in the Code of Criminal Procedures (CMUK); he had access to legal counsel later than requested by law; the principle of confidentiality of the investigation was violated; Öcalan should have been put in a prison close to the place of the Court; Öcalan and his lawyer were not give enough time and material to prepare their defense; they received documents were late and their right of defense was obstructed; the case should have been heard in Diyarbakır; the principle of equality between the prosecution and the defense was violated; the evidence of the defense was not evaluated; the right to be presumed innocent was violated by a campaign started in the media and followed by State officials; according to the decision of the ECHR the court board should not have included a military member; after the military judge had been replaced the proceedings until that date should have been repeated; the principle of individuality of crime and punishment was violated by keeping Öcalan responsible for all actions."

On 26 November the Court of Cassation sent its verdict to Ankara SSC No. 2. The European Court of Human Rights (ECHR) issued an interim order on 30 November stating

that the ECHR expected that the State in question would not execute the sentence until the Court had decided on the admissibility of the applicant's petition. In other words, the Court asked the Turkish government to wait with the execution until it reviewed the case.

The leaders of the political parties in power gathered urgently on the same evening. At the end of the meeting Prime Minister Bülent Ecevit declared: "The interim order of the European Court of Human Rights was transmitted to us. Even though the Court of Cassation confirmed the verdict the legal remedies have not been exhausted. The period for asking to revise the verdict has not expired. Once the subject is submitted to the government together with the verdict, we shall evaluate it again."

Ertuğrul Yalçınbayır, chair of the constitutional commission in GNAT drew attention to the fact that Turkey was bound by decisions of the ECHR in line with international agreements. Turkey had filed a reservation on the subject of the death penalty with the CoE and added: "But it may be argued in the ECHR that this was an unfair trial because of attitudes and acts during the hearings. We changed the structure of the SSCs to keep such arguments away from us, yet some incidents during the trial might create a problem."

At the beginning of December Süleyman Demirel said that Turkey had to make a decision on the death penalty. "If Turkey wants to be a part of Europe it must accept the conditions and has to wait for the decision of the ECHR."

During the summit in Helsinki on 11 and 12 December Turkey was given the status of a candidate to the EU. The hope was expressed that Turkey might take steps towards democracy and human rights and realize the necessary reforms. Turkey was called to abolish the death penalty. The decision also stated that Turkey was still a long way from meeting the Copenhagen criteria and, therefore, talks for full membership could not start.

On 24 December Öcalan's lawyer asked for a correction of the verdict. Ercan Kanar said that they were not hopeful on this point, but felt that they should use this remedy as well. In the application the lawyers presented the following arguments:

"We did not get an answer to our argument that the way of capture of our client and his transfer to Turkey were against national and supranational law. It is necessary that the evidence corresponds with law and also the apprehension has to correspond with the law. In this trial an unlawful situation developed right at the beginning. Our objection to the procedure of arrest did not receive a response. The Supreme Court also did not deal with our doubts on the legal grounds for getting the Crisis Management Center at the Prime Ministry involved in the investigation. Concerning the fact that the trial was held in a militarily forbidden zone outside the area of the local court's competence the Supreme Court interpreted the rules of law and relevant provisions wrongly. The Supreme Court did not take our argument on wrongful combination of trials into account. Our argument on the right to be presumed innocent was not investigated. Our objection that the equality of arms was not secured did not find an answer either. Further arguments that were not reviewed are: wrong decisions on intervening parties, keeping the defendant in a glass cage, hearings were not held in public, the public to be present was chosen, the hearings before the change of the military judge were not repeated, the collection of evidence was not complete, unlawful means were used in evaluating the evidence, the answer to the demand of applying Article 59 was not substantiated."

On 30 December the chief prosecutor at the Court of Cassation turned down the demand of a correction of the verdict. The chief prosecutor also argued that in case the ECHR made a decision against Turkey, there would be no need of a retrial, because the judgments of the ECHR had no effect on legally binding court decisions.

By this decision the national remedies were exhausted. The file on Öcalan was sent to the Ministry of Justice. The Ministry of Justice sent the file to the Prime Ministry on 3 January 2000. The leaders of DSP, ANAP and MHP, which constituted the government, agreed on 12 January 2000 that the file should be kept waiting there and not be forwarded to the GNAT. It was agreed that for the time being one should conform to the interim order of the ECHR.

The confirmation of the death penalty was protested by AI, the Helsinki Human Right Federation and MP Gunnar Janson, who had been present at the hearing of the Court of Cassation in the name of the Parliamentarian Assembly of the CoE.

### **Öcalan's Calls for Peace and the Ceasefire**

By means of his lawyer Abdullah Öcalan declared on 2 August that he had called on the PKK to stop the armed struggle from 1 September 1999 onwards and retreat from inside the borders of Turkey. He called on all institutions and officials of the state and society to be sensitive and supportive. He said inter alia:

“To the public of Turkey and the world. The atmosphere of clashes and violence in Turkey is an obstacle for the development of human rights and democracy. The violence that mainly stems from the Kurdish question plays the basic role in this respect. In order to get out of the deadlock and on the way for a solution an end must be given to violence. Therefore, I call on the PKK to stop the armed struggle and retreated beyond the Turkish border for the sake of peace from 1 September 1999 on, after the laterally conducted ceasefire since 1 September 1998. I want to express my hope that by doing so a new dialogue on the way to democracy and level of compromise will develop. In connection with this I call on all relevant institutions and officials of the state and society to be sensitive and supportive for the success of this phase of peace and brotherhood, and on national and international governments and organizations to contribute on this basis.” The lawyers added that Öcalan had made no statement on the country to where the militants should go and added that there was one month' time to assess the proposal.

Öcalan's started to be implemented before the set date. Osman Öcalan declared on Medya TV on 1 September that one fourth of the armed forces had retreated and the withdrawal was continuing.

In September the General Staff termed the peace efforts the “last twitches”. The statement said that actions had gone down by 50 percent, but the PKK continued to be a threat for Turkey. Concrete steps for peace were commented as “tactics”. The General Staff said that 91 operations had been carried out and criticized the circles supporting the peace efforts. Figures for the last five years were presented and it was noted that more militants had been rendered ineffective since 1994. The total number for the last five years was set at 33,148. The number of active militants was shown as 10,000 and for September 1999 the figure including disabled and wounded militants was said to have gone down to 4,000 in and outside the country. Militants were not only in Turkey, but also in Iran, Iraq and Syria. The aim of the Turkish Armed Forces was to completely wipe out the armed threat. The General Staff also argued that the intention of the supporters of the organization had not changed and showed the Repentance Law as the only solution.

In a meeting with his lawyers on 20 September Öcalan proposed that an armed group of PKK members should come to Turkey as a gesture. The Presidential Council announced that it would send such a group and said: “Our new approach is a change in strategy and is based on a decision that expresses the change.”

Minister of Defense, Sabahattin Çakmakoğlu, declared that he did not find the peace

calls by the PKK leader Abdullah Öcalan, the retreat beyond the Turkish borders and the gesture of 20 people coming to Turkey honest und claimed that Öcalan tried to be recognized with a different identity. He said: "This is a tactic. He wants to save himself. He wants to present himself in a different light and not the leader of a movement that took the life of 30,000 of our people. We do not appreciate this as honest."

On 1 October Ali Sapan, former spokesman of the ERNK (political wing of the PKK), Seydi Fırat, Mehmet Şirin Tunç, İsmet Baycan, Yaşar Temur, Sohbet Şen, Gülten Uçar and Yüksel Genç came to Turkey as the "Peace and Democratic Solution Group" and surrendered to the security forces. To secure that they would not be harmed the lawyers İrfan Dünder and Kenan Sidar spoke to the office of the OHAL governor on 29 September. On 30 September the left Diyarbakır for Silopi accompanied by a group of journalists. But they were stopped at Yeniköprü and the commander of the gendarmerie station told them that he had oral orders from the Ministry of the Interior and written orders from the OHAL and Hakkari governors not to let them into Hakkari province. The lawyers went to Şemdinli and spoke to the military commander. The general assured that no harm would be done to the surrendering group. They would be transported by helicopter.

Later on 1 October the group was taken to Yüksekova. They said that they carried letters to the State President, the Prime Minister, the General Staff and the chair of the GNAT. The lawyers were not allowed to be present, when the group was handed over to the security forces. The OHAL governor declared that the group had surrendered in order to benefit from the repentance law. After a period of three days in detention Van SSC remanded the members of the group on 4 October. Lawyer Kenan Sidar talked to them in prison and said afterwards that they had been in good physical condition. They had not been ill-treated. Later the group was taken to Muş Prison.

From prison they made an announcement via their lawyers stating that they had come to Turkey as the vanguard of the peace process and their arrival should not be mistaken for surrender or repentance. While the public had shown its interest the official approach had tried to keep the subject closed.

On 4 October the PKK leader Öcalan stated that the arrival of an armed PKK group was the result of honesty and he asked for legal provisions to allow for participation in the democratic republic. So far changes that allowed for the PKK to participate in the democratic republic had not been made. He said that if the legal obstacles were removed and legal provisions were made the PKK militants would show their participation in the legal process in 2000.

Van SSC opened separate cases against each member of the group. The lawyers Ahmet Avşar and Kenan Sidar said that they had come to Turkey with the group. Stressing that this was a joint effort they stated that it was unlawful to open separate cases. Ali Sapan, Seydi Fırat and Mehmet Şirin Tunç were charged as executives of an illegal organization under Article 168/1 TPC; İsmet Baycan, Yaşar Temur, Sohbet Şen, Gülten Uçar and Yüksel Genç were charged for membership of an illegal organization according to Article 168/2 TPC. The trials did not conclude in 1999.

The second group consisting of 8 people came from Europe on 29 October. Haydar Ergül (ERNK executive), Dilek Kurt (member of the dissolved Parliament of Kurdistan in Exile and the National Congress of Kurdistan), Aysel Doğan (she was an independent candidate in the 1991 election for Tunceli province), İmam Canpolat (executive of the Alevite Union of Kurdistan), Hacı Çelik (executive of the Yezidi Union of Kurdistan), Aygül Bidav (ERNK member), Yusuf Kıyak (ERNK member) and Ali Şükrü Aktaş (ERNK member) came by plane from Vienna to İstanbul. The police detained them at the exit of

the plane. The group was taken to İstanbul Police HQ. İstanbul SSC remanded them on 2 November. The women in the group were sent to Gebze Prison, while the men were taken to Kartal F-type Prison. The prosecutor at İstanbul SSC did not allow the lawyers Ahmet Avşar, Filiz Köstak and İrfan Dünder to meet the prisoners referring to an order of the Ministry of the Interior.

Five members of the group were indicted at İstanbul SSC. Haydar Ergül, Aygül Bidav and İmam Canpolat were charged under Article 168/1 TPC as leading members of an illegal organization, Ali Şükrü Aktaş and Yusuf Kıyak were charged under Article 168/2 TPC as members of an illegal organization. The prosecutor at İstanbul SSC declared himself incompetent for Dilek Kurt, Aysel Doğan and Hacı Çelik and sent the file to Ankara SSC. Complaints were also filed with the public prosecutor in Bakırköy for all members of the group except for Dilek Kurt on charges of entering the country with false papers.

The second peace group was also carrying letters to the State President, the Prime Minister, the chair of the GNAT and the General Staff. The Central Committee of the PKK had signed the letters. On 2 November the group members testified to the arresting judge at İstanbul SSC. They said that they had come on the call of Öcalan intending to contribute to the project of a democratic republic. They had come on their free will and did not repent. This was no surrender, they said.

On 20 December the lawyers Eren Keskin (at the same time chairwoman of the İstanbul branch of the HRA) and Edip Yıldız (at the same time chairman of TOHAV) appealed to Justice Minister Hikmet Sami Türk asking for a transfer of four prisoners from Kartal F-type to Gebze and Ümraniye Prison. In that case the members of the group would be able to prepare a joint defense.

### **Cevat Soysal's Abduction and Transfer to Turkey**

On 13 July members of the secret service MİT brought Cevat Soysal, an alleged leader of the PKK in Europe from Moldavia to Turkey. The transfer was only announced on 21 July, when MİT had finished the interrogation. The announcement said:

“Cevat Soysal, whose extensive efforts in Europe and the Middle East have been observed, was identified during a journey, when he was about to prepare militant elements for the base of the PKK, educate these elements politically and practically in the direction of enlarging the propaganda and agitation activities of the PKK envisaging mass chaos. He was captured and taken to Turkey.”

The place of his abduction was not mentioned. When reports occurred that he had been captured in Germany Prime Minister Bülent Ecevit stated that he had not been detained in Germany, but another European country. The European representation of the ERNK declared that Cevat Soysal had been detained by the Moldavian government and had been handed over to Turkey. ERNK also said that he was not the PKK representative for Europe, but a member of ERNK.

On 22 July Valeriu Pasat, Moldavian Minister for Security, came to Turkey and talked to officials from MİT. After the meeting MİT stated that Moldavia had not been involved in the transfer of Soysal to Turkey. “Valeriu Pasat, Moldavian Minister for Security, stated that Cevat Soysal had been living there since May 1999. Some of his contacts in and outside the country and travels were known in Moldavia, but Moldavia was certainly not involved in his transfer to Turkey.” Prime Minister Bülent Ecevit confirmed that Moldavia did not contribute to the operation, which MİT had conducted on its own.

German Foreign Minister Joschka Fischer stated on the subject that Cevat Soysal

had the status of a refugee in Germany and received travel documents in Germany. Lawyer Ergin Cinmen stated that the operation of MİT was against international law. He said: "Any country that wants to get hold of a criminal has to approach Interpol to have a red bulletin issued. Then the country must approach the State, where s/he is. The security forces of that country apprehend the person and the State asks for refoulement. If agreed, the person might be refouled... The fact that Soysal was transferred, although he had the status of a refugee in Germany, increases the unlawfulness of the act. It means that Soysal would not have been extradited from Germany and Turkey could not have conducted such an operation there."

Renate Schultz and H. Eberhard Schultz, Soysal's lawyers in Germany, stated on 23 July that Soysal had not been captured by MİT, but had been handed over to Turkey. Moldavia that had signed the EHRC and the European Agreement on Extradition had no right to extradite a person under political persecution and had violated the conventions. Imke Dierssen, refugee coordinator of AI in Bonn, protested the extradition to Turkey saying, "Moldavia acted against the Geneva Convention. At this point we can only work for a fair trial of Cevat Soysal."

Picture appeared in the press showing Cevat Soysal, who could hardly stand on his own feet, having to be supported by two officers. On 22 July he testified to Prosecutor Nuh Mete Yüksel at Ankara SSC. When his health deteriorated he had to be taken to Ankara Numune Hospital the same night. Allegedly he was suffering from Hepatitis B. On 23 July the arresting judge at Ankara SSC interrogated him and remanded Soysal according to Article 168/1 TPC. Reportedly Cevat Soysal rejected his statement to the prosecutor, the penal court, MİT and the police.

On 26 July Cevat Soysal met his lawyer Kenan Sidar and Ahmet Avşar in Ankara Closed Prison. He said about his abduction:

"On 13 July I left the place that I was staying in Kishnova (Moldavia) at about 8pm to make a telephone call. In front of the phone box three people attacked me. They pulled a sack over my head and beat me. Some more people came and pushed into a minibus. They did not speak and answered to my questions only in bad English 'don't speak'. They took the DEM 5,000, the mobile phone, my watch, my belt and the shoelaces away from me. After a travel of 1.5 hours we came to an airport that resembled a military compound. Helicopters started and landed there. From the minibus I was immediately taken to a plane. My eyes were blindfolded. One person said in Turkish 'welcome to your home country'. We landed after 2.5 hours. I believe it was a special airport that belonged to MİT. We had to walk for 10 minutes to enter a building. Until 21 July I was interrogated by a team that said to be from MİT. During interrogation a doctor was always present."

Soysal also stated that he knew Kishnova well and knew that there was no civilian airport in 1.5 hours' distance. He was sure that Moldavian officials had abducted him. According to his statement MİT had interrogated him for 8 days and the police had interrogated him for another 3 days. He stressed that he had been tortured during this time in order to testify against democratic institutions. He described the torture methods as electric shocks to various parts of the body, Palestinian hanging, being laid naked on ice, hosed with pressurized water, having to drink an unknown liquid (medicine), what is called the Chinese torture, being held in a narrow cell that allows you only to stand while drops of water are poured on your head and rough beatings.

During the 11 days Cevat Soysal had been taken to hospital twice. He said that he stayed there for 7 hours the first and 6 hours the second time. Soysal also claimed that the police at Ankara Police HQ had tried to have his wounds heal. He had been tortured in

order to create a relation between him, the HRA, KESK, the MKM, HADEP, the daily Özgür Bakış and the Law Office of the Century and thereby show these institutions in connection to the PKK. Soysal had always said that he had no relations to them. Soysal also stated that he was not responsible for police operations that had been carried out after his arrival in Turkey. He did not know the detained or arrested people and had testified to that effect. He had signed 3 of the 6-page testimony, because the other 3 pages did not reflect what he had said.

On 28 July lawyer Kenan Sidar filed an official complaint with the public prosecutor in Ankara because of the torture inflicted on Cevat Soysal. Kenan Sidar said that Soysal had still encrusted wounds and suffered from a lack of memory, concentration and had difficulties in speaking. On 5 August Soysal was again taken to hospital. His lawyer Bedia Buran said that her client had been certified to suffer from a knot in his intestines and argued that his complaints resulted from torture, being kept without sleep and food and the use of medicine.

Ai conducted an urgent action for Cevat Soysal. Hüsnü Öndül, chairman of the HRA, stated on 27 July that the pictures in the press and the notes of his lawyers proved that Cevat Soysal had been subjected to torture and inhuman treatment. He stressed that the prosecutors would have to act on it automatically and, if they had not done so, they should consider his press statement an official complaint.

Cevat Soysal's lawyer appealed to the ECHR in connection with his unlawful abduction and his interrogation. They asked for an interim order so that Cevat Soysal could be treated by a physician of his own choice and could meet the lawyers without supervision. The ECHR declared the application admissible and asked Turkey and Moldavia for comments. Moldavia stated that her government had nothing to do with this case declaring that MIT had abducted Soysal in a secret operation.

On the testimonies, which Cevat Soysal rejected, some 50 people, most of them HADEP members, were detained in Turkey. During raids on the offices of HADEP in İstanbul Center and Bağcılar and Küçükçekmece district Veli Haydar Güleç, deputy chairman for İstanbul province, the executives Yusuf Çirik, Yusuf Çetin, Ferhat Yeğin and Halil Salık, Ümit Çelik, chairman for Bağcılar district, Şahize Çelik, İsmet Karakoç, Arif Sapan, Halit Erik and another 21 people were detained on 22 July. During the raid in the Küçükçekmece office the police also confiscated lists for signatures against the death penalty, prepared by the HRA. The detainees were released on 24 July.

According to Cevat Soysal's testimony Cevat Soysal allegedly instructed Ali Yavuz, chairman of HADEP for İzmir province, and Veysi Aydın, former chairman of DEHAP, to organize a hunger strike and spread it. Both men were detained on 22 July, when they left the HADEP office in İzmir. The prosecutor at İzmir SSC released Yavuz on 23 July. Veysi Aydın was remanded because of an arrest warrant from Diyarbakır SSC on claims of supporting the PKK.

On 21 and 22 July operations were also conducted on houses in Siirt. Muzaffer Çınar, Dilek Emeç, Ferman Sağlam, Erdal Dijmen, Cevdet Erdoğan, İsmail Astam, M. İhsan Gümüştan, Seyithan Yeşilışık and a person with the first name of Ekrem were detained. On 29 July they were taken to court with the demand of arrest, but the court released them to be tried without remand. Among the detainees Muzaffer Çınar alleged to have been tortured (See Torture).

In Batman Hasan İltan, HADEP chairman for the province, İsmettullah Güney, former chairman and the HADEP member İbrahim Neyman, Cemil Yıldız and Eşref Çalar and the

elderly brother of Cevat Soysal, Ziya Soysal were detained on 20 July. Hasan İlten and İbrahim Neyman were remanded on 27 July. The others were released. Hasan İlten was released on 22 September.

In Adana Eyüp Karageçi, HADEP chairman for the province, the members of HADEP parliament Fatma Kurtalan and Vahdettin Emen and Nevin Vargün, chairwoman of the women's commission, were detained on 22 July. On 26 July they were taken to the prosecutor at Adana SSC. Karageçi, Kurtalan and Vargün were released. Vahdettin Emen was remanded in connection with another case.

On 21 July KESK General Secretary Sevil Erol and the HADEP executives for İstanbul province Hanım Köker and Yusuf Yılmaz were detained in İstanbul. İstanbul SSC remanded them on 25 July. Erol and Köker announced from prison that the police officers had threatened them with rape. The prosecutor at İstanbul SSC indicted all three persons for supporting the PKK. The first hearing was held on 26 October. The defendants stated that they did not know Cevat Soysal. The Court ordered the release of Sevil Erol and Hanım Köker.

In Ankara Osman Özçelik, former deputy chairman of HADEP and Dr. Ali Kandemir, former official of SES were detained on 21 July. On 27 July Ankara SSC remanded Ali Kandemir on charges of supporting an illegal organization. Özçelik was released.

The prosecutor at Ankara SSC indicted Soysal, Kandemir and Özçelik together. Cevat Soysal was held responsible for the bomb attack on the Blue Bazaar in İstanbul-Göztepe on 13 March. The attack had resulted in the death of 12 people. The charges were summed up under Article 125 TPC on separating part of the country, an offence that requires the death penalty. SES representative Ali Kandemir and HADEP former deputy chairman Osman Özçelik were charged under Article 169 TPC for supporting the PKK. This provision requires a sentence of between 3 and 5 years' imprisonment. Like all penalties on charges of "terrorism" this sentence has to be increased by 50% under the LFT.

The trial started at Ankara SSC on 16 September. The police prevented journalists from taking pictures, when Cevat Soysal was brought to court. During the hearing Cevat Soysal said that he had seen Mahmut Yıldırım with the code name "Green", whom he knew from photographs, when he entered the plane in Moldavia. He added, "My abduction was planned by a group within MİT calling themselves 'kuva-ı milliye' (former armed forces). Germany gave me as a present to this group and Moldavia assisted in it." Cevat Soysal alleged that the group within MİT had cheated the statesmen by presenting him as the second man in the PKK. In fact, he was not a leading member of the PKK, only a simple member of ERNK.

Soysal also talked about the torture during detention including electric shocks, being laid on ice, hosed with pressurized water, drops of water being poured on the head and being kept thirsty. He said that he had not been tortured at Ankara Police HQ, but rather treated there. Soysal argued that it was no coincidence that he had been taken to Turkey two weeks after the verdict against Abdullah Öcalan. His interrogators had said that the defense of Öcalan had spoiled their plans. They wanted to put the blame for some bloody actions after ceasefire on the PKK.

Ali Kandemir said that he did not know Cevat Soysal. Lawyer Medeni Ayhan stated that the sentence against his client had to remain within the limits set in Germany, because he had been recognized as a political refugee. In fact, he should be tried there. Ayhan demanded that the diskettes, which allegedly had been found on Soysal should be

included in the trial and MİT, JİTEM and Ankara Police HQ should be asked for them. He added that there was no other evidence against his client and, therefore, Soysal should be tried for membership.

Lawyer Levent Kanat asked for a broadening of investigation. The file showed the date of detention as 21 July, as if there had not been a period before. It should be found out, by whom and when his client was taken to Turkey and to whom he was handed over. The persons have to be heard as witnesses in court. Kanat also complained that the statements of persons, who accused Soysal, had all been taken by the police. The court should at least ask for the statements to the prosecutor. The Court rejected all demands of the lawyers and ordered the continuation of arrest.

During the hearing on 9 December Osman Özçelik said that his statements on Med-TV had been in Kurdish. He asked for a new translation. He added that the alleged offenses fell under the “amnesty for the press”. The trial did not conclude in 1999.

### **The Şemdin Sakık Case**

The trial Şemdin Sakık, a leading figure of the PKK, and his brother Arif Sakık, who had been taken to Turkey in 1998, continued in 1999 at Diyarbakır SSC. Both were charged under Article 125 TPC that requires the death penalty. In the hearing on 3 March Şemdin Sakık argued that Abdullah Öcalan had given the order for the attack on 24 May 1993 that had resulted in the death of 33 soldiers. He had only carried out the order.

On 20 May Diyarbakır SSV sentenced both, Şemdin Sakık and Arif Sakık, to death. In his final words Şemdin Sakık said: “My difference in opinion to the PKK started in 1993”. He said that he was opposed to the armed struggle and reminded of the fact that he had applied to benefit from the Repentance Law. Therefore, his file should be sent to the Ministry of the Interior. This demand was rejected, because the period of this law had expired. The Court also did not resort to provisions for reducing the penalty, “because of the position in the organization and the intensity of actions”.

On 7 July Diyarbakır SSC announced the reasoned verdict. The Court did not find the defendant’s confessions honest. Other PKK militants had been sentenced to death before and the Court of Cassation had confirmed many of them. The defendant had been in the organization for 18 years. During this time many actions were carried out that each required the death penalty. If the sentence of death would be reduced to life imprisonment the same would apply for all PKK militants, you have been sentenced to death.

The Sakık brothers appealed against the verdict. They stated that their good behavior during the trial had not been taken into account and Article 59 TPC had not been applied. On this basis the verdict should be quashed. In December the Court of Cassation confirmed the death penalty on Şemdin Sakık, while it quashed the verdict against his brother Arif Sakık on the grounds of insufficient investigation. The 9th Chamber of the Court of Cassation argued that the verdict on Şemdin Sakık had no deficiencies. He was one of the leading members of the PKK and had admitted to have participated in actions. As far as Arif Sakık was concerned his position in the killing of Mehmet Can Simin had to be clarified. Mehmet Can Simin from Eralanlı village in Muş district had been killed in 1993 on the grounds that he betrayed the organization.

### **IV- Armed Clashes**

Operations of the Turkish Armed Forces (TSK) over the borders into Iraq and armed clashes continued in 1999. Following the call of Öcalan in August the PKK continued to withdraw from Turkish soil, but clashes were reported from some place. Here is some

information on such clashes between PKK militants and the security forces:

During clashes on the Bagok Mountain near Mardin 20 PKK militants were allegedly killed on 26 January. During the clashes sergeant Harun Cihan and the soldier İsmail Demircan died.

In the Aliboğazı region of Tunceli operations were conducted on 31 January with the participation of about 40,000 soldiers and 4,000 village guards. Allegedly the PKK used the Aliboğazı region and Ovacık district as passage to Sivas and its surroundings. The operations in the region of Ballı Riverbed continued on 1 and 2 February. Allegedly 6 PKK militants, the sergeants Mustafa Delen, Ramazan Duman, Turgay Algül and the soldier Ahmet Saylak were killed. 5 members of the security forces were wounded. In addition, 3 PKK militants and one soldier were reportedly killed during clashes in Akören village in Aliboğazı region on 31 January.

On 16 February the TSK conducted an operation against the PKK camps Haftanin, Sinat, Pirbela, Zap, Gara, Metina and Hakurk in Northern Iraq. The operation lasted for 7 days, but no announcements were made on losses of the PKK. Reportedly some soldiers were left in their position.

Allegations were made that during clashes close to Sason district (Batman) on 10 March resulted in the death of 17 PKK militants.

On 6 April the TSK started another operation against PKK camps in Northern Iraq. Some 15,000 soldiers and 2,000 village guards reportedly moved 15 kilometers into Iraq. Peshmerges from the Kurdish Democratic Party (KDP) were said to support the operation. Reports stated that 44 PKK militants were killed and 15 apprehended. The General Staff announced that sergeant Hakkı Uyar and the soldiers Mehmet İnan, Yılmaz Baş, Metin Artık, Erdoğan Çöpoğlu, Ahmet Aytemur, Sebahattin Karakaplan, Zeki Yoran, Çetin Taşkın and Çetin Yardımcı died in the operation.

The office of the OHAL Governor declared that 4 PKK militant had been killed during clashes in the Besta, Herekol, Kela Memi and Süvari Halil regions (Şırnak) on 25 April.

Clashes arose on 28 April during an operation between Lice and Kulp district (Diyarbakır) and Genç district (Bingöl). The soldier Tevil Arık was killed. Official sources said that 10 PKK militants were killed.

During clashes near Bilikan (Ballıkaya) in Silopi district (Şırnak) 20 PKK militants were allegedly killed with chemical weapons on 11 May. The PKK claimed that the corpses of the victims, who had been killed by rockets with gas ammunition, were in their hands. The OHAL Governor announced that 35 PKK militants and 5 soldiers had been killed in the clashes.

The PKK named the militants, who were killed in a cave as: Aziz Tanıt, Ercan Eroğlu, Sayın Bayram, Hasan Bekir, Yusuf Turan, Vezir Osman, Ömer Kamber, Abdurrahman Müze, Hamdi Yılmaz, Seyithan Algan, Rahime Arzu, Mizgin Muhammed, Leyla İbrahim Hüseyin, Selva Buzdağ, Meysa Şaxa, Muhammed Aliko and Velit Muhammed Rüşo.

The German TV station ZDF claimed on 27 October that the killings in Şırnak had been conducted with arms supplied by Germany. Hans Koberstein stated that the bullets found in the cave had been inspected at the Forensic Institute of the Ludwig Maximilian University in Munich and the chemical gas CS had been determined. This gas produced at the Buck and Depyfaq Factories had been sold to Turkey in 1995 by permission of the Minister of Economy.

The OHAL Governor announced that in June 6 PKK militants had been killed in the region of the Hisar plateau in Yüksekova district (Hakkari) and 4 PKK militants had been killed near Ulukale village in Çemişgezek district (Tunceli). During these clashes two village guards had lost their lives.

On 10 June clashes between the security forces and the PKK forces in the Maytepe region of Terazin village in Başkale district (Van) resulted in the death of 7 PKK militants and sergeant Fikret Son and the soldiers Cuma Yayla and Emin Arı.

The PKK said that 102 operations had been conducted between 25 April and 25 June. In return the PKK had conducted 193 actions. In these actions 637 soldiers, 30 officers, 6 police officers, 55 village guards, 4 agents, 6 members of special teams, 2 members of MİT and 1 chief commissioner had been killed. The clashes had resulted in the death of 144 PKK militants.

On 3 July the TSK started another operation against PKK camps in Northern Iraq. War planes bombed camps in the Sinaht and Haftanin region. Later soldiers and village guards moved in via points in the Uludere district (Şırnak) named as Sari Ziyaret, Işıkveren, Yemişli and Ortabağ. The operation lasted for one week, but no statements were made in clashes and losses.

On 16 August an operation was started in the region between Sason and Kozluk districts of Batman and Kulp district (Diyarbakır). On 20 August a village guard by the first name of Mehmet was killed near Evdika village in Sason district.

Allegedly 15 PKK militants lost their lives during clashes near Gürpınar district (Van) on 4 September. Lieutenant Ş. Koray Akoğuz, sergeant Murat Baş and the soldiers Rifat Körtürk, Ercan Atalay, Levent Özçakmak, Ali Tekin and Kaya Gönt were killed. The PKK declared that 20 soldiers and 3 PKK militants were killed.

Military units accompanied by peshmerges from the KDP conducted an operation against PKK camps on 27 September. The operation was supported by war planes and concentrated on the Haftanin region. The PKK declared that 15 soldiers and 2 PKK militants died, while the TSK made no announcement on the result of the operation.

At the beginning of October the OHAL Governor declared that 28 PKK militants and 1 soldier were killed during clashes in the Koçyatağı Tepe region in Tatvan district (Bitlis). Another 4 PKK militants were allegedly killed near Beşiri district (Batman), 2 near Samanlı hamlet, Gökçek village (Tunceli) and 2 near Gevaş district (Van).

On 7 October clashes arose between Tatvan and Hizan district (Bitlis) and the Karuka region. Reportedly 28 PKK militants and lieutenant Ferda Köroğlu died.

Clashes near Hışhis (Gözpınar) village in Kurtalan district (Siirt) resulted on 12 November in the death of 10 PKK militants. 14 PKK members were detained, 6 of them wounded.

The OHAL Governor claimed that 17 PKK militants were killed during clashes in Nusaybin district (Mardin) on 23 and 25 November.

On 26 December the OHAL Governor declared that clashes had occurred in the Merkez Dereler region (Şırnak) resulting in the death of 11 PKK militants and 3 soldiers.

### 3. The Right to Life

Violations of the right to life continued in Turkey on a systematic level in 1999. Extra-judicial execution went on. The number of political killings by unidentified assailants went down, but there was no development on clarifying earlier killings. Officials stated that the death penalty would be abolished, but no legal step was taken in that direction.

#### **Authority to use Arms, Suicides of police officers and soldiers**

Suicide within the uniformed forces were frequently witnessed in 1999, partly because of a low level of education, partly because of economic reason, but also because of the right to use arms. Among the soldiers not only those, who had chosen it as a profession committed suicide, but suicides were also reported from the compulsory military service. Most of them remained as allegations and the true background was not investigated.

For instance, Yılmaz Başbüyük serving in Doğubeyazıt district (Ağrı) died under suspicious circumstance on 17 March. His family was told that he came drunk into the ward, fired around and then killed himself by a shot to his head. Başbüyük was buried in Siverek, but the corpse was not shown to the family. In the evening of the funeral the family succeeded in having the corpse exhumed and it was seen that his head and chest had been torn into pieces. His father stated that he did not get any report on the death and maintained that his son had been killed.

On 6 Nisan the corpse of İsmail Güneş, born in Malatya-Akçadağ in 1972 and serving in Cyprus, was handed over to his family with the remark that he had committed suicide. Allegedly he committed suicide by a shot to his head.

Savaş Çiçek (22) from Tunceli was extradited from the Netherlands in May, after his application for asylum failed. On return he was taken to do his military service. On 6 August he allegedly committed suicide in Kars-Sarıkamış where he was serving. He was said to have shot himself to the head with a G-3 rifle. After the family had received the corpse on 7 August they stated that it was impossible that Savaş Çiçek had created the wound on the left side of his head by himself. They suspected murder.

On 7 August Serhat Biçer (20) from Gercüş district in Batman deserted when he was on leave from his unit in Ankara after serving for three months. He went to his family in Antalya and told them he was under pressure in the military, because he was a Kurd. He had escaped because he could not stand the torture and injustice. Two days later he committed suicide by jumping from the 8<sup>th</sup> floor of a building.

Süleyman Aksoy (24) conducting his military service in Gülhane Military Medical Academy in Ankara reportedly committed suicide on 12 July. His father Ali Aksoy said that his son had applied for asylum in the Netherlands and Germany, because he did not want to be a soldier, but he had no other problems.

Mehmet Ruhi Emirkulu from Muş was doing his military service at a gendarmerie station on Hozat district (Tunceli). On 22 August he allegedly committed suicide. His elderly brother Ferit Emirkulu stated that he was given contradictory information on the incident. At the station he had been told that his brother committed suicide, when he was on guard. But his brother had just started his military service and would not have to stand guard. They had also said that he was only wearing a vest, when he committed suicide. He would not have been able to stand guard without proper clothing. The bullet entered from the left side of his chest and, if he shot himself with a G-3 rifle, as alleged, this would have left a big whole. Ferit Emirkulu also stated that an expert told him that the shot must have been

fired from a distance of at least 100 meters. He added that it was strange that they were not given any personal belongings and that the superiors did not want to participate in the funeral.

Rıza Duvanhan, serving as a guardian in Sivas-Temeltepe Military Prison, allegedly committed suicide on 17 September, when he was on duty. The corpse and his belongings were given to his family, but not his diary. In phone conversation with his family he had said that a NOC frequently asked him to torture the prisoners, but he could not do that and did not know what he should do.

Research into the subject revealed that cases of suicide increased during the last years and the professional group with most cases of suicides was the police. Ankara Police HQ started psychiatric advice seminars in 1999 for the 13,000 personnel. According to the statistics of the General Directorate for Security 12 police officers committed suicide during the first 6 months of 1999 and 126 officers committed suicide between 1995 and 1999. The HRFT found information on 12 cases of suicide of police officers in 1999. In some cases, police officers first killed relatives or acquaintances before killing themselves.

Retired police officer Muzaffer Doğan (55) reportedly committed suicide in his house in Bayrampaşa (İstanbul) on 15 January by hanging himself with the shoelaces to the window.

Nusret Aydın, working at Yüreğir Police HQ (Adana) had an argument with his wife Ayşe Aydın (32) on 19 January. He pulled his gun, killed his wife and the children Ersin (11) and Erhan (7) and afterwards committed suicide. Only Erhan Yiğit did not die.

On 25 January retired chief of police, Cemal Akduygu committed suicide with his pistol in his house in Bursa.

On 9 February Gonca Onal allegedly committed suicide, when she was together with her lover Engin Erdoğan, deputy commissioner at Edirne Police HQ. Erdoğan claimed that she killed herself with his official gun.

On 4 March, police officer Şenol Buldu, working in Antalya, killed Zekeriya Şehoğlu by "accident", when he played with his gun in a supermarket.

On 4 April, police officer Bayram Badem (34), working at İstanbul-Bağcılar Police HQ, killed himself with his gun.

Nurettin Kurt, employed at the Anti-Riot Squad in Ankara, committed suicide on 8 April after he had killed his fiancée Esma Kibar.

A press statement of Ankara Police HQ of 17 June announced that Erkan Günaydın from the Anti Riot Squad committed suicide after a discussion with his friends. On 9 June he had reportedly been diagnosed as unable to work for 10 days.

On 5 July the gun of Murat Has, employed in İstanbul-Beşiktaş, released a shot. Murat Has was wounded to the head and died.

Erdinç Koymakçı, who had been appointed as deputy commissioner to the Narcotics Department at İstanbul Police HQ committed suicide in the hotel he was staying in on 14 July.

On 17 July NCO Bülent Demirtaş, working at a garrison in Amasya, committed suicide in the hotel room of Valentina Kovalenko from Ukraine, after he had killed her.

On 22 July police officer Murat Ülker from Ankara-Keçiören Central Police Station shot his colleagues Mehmet Ali Özbek, Gazi Kılıçarslan and Fuat Arık. Özbek died in the incident.

Retired police officer Adem Şimşek, who was paralyzed from his neck after a clash in Nusaybin district (Mardin) in 1992, committed suicide on 12 July. He reportedly received a very low wage for his invalidity.

Mehmet Cengiz, police officer for 13 years and working at Konya Feridiye Police Station, killed himself by a shot to his head on 8 August, after he had killed his wife Hülya and the children Faruk and Mustafa Akif.

On 16 September, police officer Ali Kaplan committed suicide opposite of the police station in Eskişehir that he was working at.

Erol Ersan, working at the Directorate to Protect Sensitive Areas in İzmir, killed himself on 8 November with his gun. Reportedly he had lost his sister, brother-in-law and nephew during the earthquake of 17 August.

Erdoğan Güven married in November after completing his military service. Two weeks after his return, in the night of the wedding, a MKE hand grenade exploded in his house in Yolüstü village (Edirne) killing both Erdoğan Güven and his wife.

On 8 December, retired police officer Hikmet Arıcıoğlu from Erzurum had an argument with members of the family. He pulled his gun, killed his brother Mustafa and his step mother Nuran Arıcıoğlu and wounded his father Mehmet, his nephew Ali İhsan and the bride Işık Arıcıoğlu.

### **3.1. The Death Penalty**

Like in previous years, government officials announced that the death penalty would be lifted, but in 1999 no legal arrangements were made. The death penalty was discussed but not abolished. The discussion intensified after Abdullah Öcalan had been brought to Turkey and was tried with the demand of the death penalty. Despite international pressure, Turkey did not sign the Optional Protocol No. 6 to the European Human Rights Convention (EHRC) providing that nobody will be sentenced to death in times of peace.

During the İstanbul meeting of the Organization for Security and Cooperation in Europe (OSCE) on 18 and 19 November 28 NGOs, including AI, HRW and FIDH, prepared a declaration stating that the death penalty should be abolished in all countries of the OSCE within the year 2000. A report on the progress should be submitted to the summit in 2001. Until the abolition of the death penalty executions should be stopped immediately.

The ECHR reviewed the application of Öcalan's lawyers, which they had filed after the Court of Cassation had confirmed his death penalty, on 30 November. The interim order asked the Turkish government not to execute the death penalty until the judgment on the case.

AI called on the GNAT not to ratify the death penalty of Abdullah Öcalan. Following the Helsinki Summit the European Parliament passed a resolution on 15 December calling on the Turkish Parliament to immediately abolish the death penalty.

During a speech Prime Minister Bülent Ecevit gave to his group in the GNAT he argued that the abolition of the death penalty was not only necessary in relation to the EU but also in order to identify centers of crime. He said: "People involved in dark acts, who have killed others, are captured abroad, but they are not sent to Turkey, because the death penalty has not been lifted."

On 17 December a list with 600,000 signatures calling for the abolition of the death penalty was presented to the chair of the GNAT. The list had been prepared by the HRA.

41 Articles in 4 laws, the Penal Code, the Military Penal Code, the Law to Prevent and Prosecute Smuggling and the Law on Forests, provide for the death penalty. In 1999 332 cases were launched under Article 125 TPC for “actions to separate part of the country”. In these cases 14 boys aged 11-14, 21 young men aged 15-17, 4 young women aged 15-17 and a total of 1001 men and 38 women were tried. In 78 cases launched under Article 146/1 TPC for “the violent attempt to change the constitutional order” 246 men and 67 women were tried. Cases under Article 450 TPC for “murder” increased. In 523 cases 5 people aged 11-14 (4 boys and one girl), 36 juveniles aged 15-17 (30 male and 6 female) and a total of 843 people were tried.

### Files waiting for ratification at the GNAT

Seyfettin UZUNDİZ	Robbery, killing and violation of Law No. 6136
Bekir GEDİK	Intentional killing
Nizamettin ÖZOĞLU	Acts to separate part of the country from the administration of the State
Yakup KARACA	Killing with the intention to hide the evidence of robbery (Articles 450/9, 497/1 and 193/2 TPC)
Mehmet Sait DAYAN	Acts to separate part of the country from the administration of the State
Halil YILDIRIM	Intentional killing (more than one)
Taner KELEŞOĞLU	Intentional killing in 3 cases to hide the misconduct of duty
Sinan İYİT	Acts to separate part of the country from the administration of the State (Article 125 TPC)
Ali Osman KÖSE Rabbena HANEDAR Hasan ŞAHİNGÖZ Ali NAZİK	Violent attempt to overthrow the constitutional order according to Article 146/1 TPC
Murat KATRAĞ	Killing, robbery and theft (Article 450/7, 497/1-2)

İsmail ÖZDEMİR	Killing, robbery and violation of Law 6136 (Articles 495/1, 497/1, 450/9, 448 TPC)
Coşkun ÖZTÜRK	Killing three people under torture (Articles 450/7 and 450/9 TPC)
Hasip Mehmet ATAY	Rape and killing
Mehmet ARI Ekrem GÖKÇE	Brutal killing of more than one person (Article 450/7-9 TPC)
Kadir ŞAHİN Mürsel GİRGİN	Robbery and killing (Articles 479/2, 522/1, 450/9 TPC)
Selmani ÖZCAN	Violent attempt to overthrow the constitutional order according to Article 146/1 TPC
Aziz VARKAN Nadir ŞENOL	Killing more than one person in a blood feud and violation of Law No. 6136 (Article 450/4-10 TPC)
Halil GÜNEŞ	Kill a civil servant on duty (Article 450/11 TPC)
Erol ÖZBOLAT	Killing a civil servant for ideological reasons and violent attempt to overthrow the constitutional order according to Article 146/1 TPC
Celal ATALAY Birsen GÜNGÖREN	Killing and robbery (Articles 498, 522, 495/1, 450/9 TPC)
Yaşar AKAN Cüneyt ERENGÜL	Killing to disguise other crime (Article 450/9 TPC)
Adil İNANDI	Killing of more than one person (Article 450/5 TPC)

Mehmet PESCİ	Intentional killing (Article 450/4 TPC)
İbrahim ÇINAR	Hold captive, rape and killing someone (Articles 450/9, 414/2, 418/2, 430 TPC)
Cemal ÇAKMAK	Violent attempt to overthrow the constitutional order according to Article 146/1 TPC in the name of TKP-ML/TİKKO
Kemal GÖMİ	Violent attempt to overthrow the constitutional order according to Article 146/1 TPC
Burhanettin DUMAN	Killing and robbery (Article 450/9, 479/1 TPC)
Aslan KAYA	Acts to separate part of the country from the administration of the State according to Article 125 TPC
Ali AZAKLI Mustafa NAMLI	Intentional killing under torture (Articles 450/9, 497/1, 522/1 TPC)
Ali SEZGİN	Killing to disguise another crime, robbery (Articles 450/7, 497/1, 522 TPC)
Çağatay ÇELİKEL	Killing and robbery (Articles 450/4-7, 495/1)
Abdurrahim AKALP	Acts to separate part of the country from the administration of the State in the name of the PKK
Mehmet FİDANCI Mehmet Sıddık BİÇER	Acts to separate part of the country from the administration of the State according to Article 125 TPC
Ali TEKE	Violent attempt to overthrow the constitutional order according to Article 146/1 TPC

Yusuf AKBABA	Violent attempt to overthrow the constitutional order according to Article 146/1 TPC in the name of the PKK
Türkan İPEK	
Mehmet DARGA	
Celal TÜRK	
Salih GÜN	
Zübeyir PAKSOY	
Yusuf ÇABUK	
Mehmet BABÜR	Cause death by arms (Article 91/4 of the Military Penal Code)
Zekeriya AYDIN	Killing to disguise rape (Article 450/9 TPC)

The file of Mehmet Yıldırım, who had been sentenced to death for acts to separate part of the country from the administration of the State according to Article 125 TPC, was sent back to the Prime Ministry on 26 October.

The files of Mehmet Nuri Özen and Hasan Aşkın, who had been sentenced to death for acts to separate part of the country from the administration of the State according to Article 125 TPC, was sent back to the Prime Ministry on 5 October.

### Files at the Court of Cassation

- At the beginning of January the 9<sup>th</sup> Chamber of the Court of Cassation quashed the death sentences of 33 people, who had been convicted in the Sivas massacre case that on 2 July 1993 had resulted in the death of 37 people. The names of the convicts were: Muhsin Erbaş, Harun Gülbaş, Bekir Çınar, Erol Sarıkaya, Mevlüt Atalay, Ahmet Turan Kılıç, Kenan Kale, Harun Yıldız, Zafer Yelok, Yunis Karataş, Halil İbrahim Düzbiçer, Ömer Faruk Gez, Ali Kurt, Ahmet Oflaz, Ekrem Kurt, Erkan Çetintaş, Faruk Sarıkaya, Hayrettin Gül, Harun Kavak, Süleyman Toksun, Hayrettin Yeğin, Adem Kozu, Mehmet Yılmaz, Mustafa Uğur Yaraş, Faruk Belkavli, Ömer Demir, Alim Özhan, İbrahim Duran, Etem Ceylan, Vahit Kaynar and Turan Kaya. The Court of Cassation quashed the verdict on the grounds that the stamps in the ID cards could not be read and information on the surnames was contradictory.

- The Court of Cassation confirmed the death sentence against Çağatay Çelikel, who had killed the woman Gülcan Akgündüz in İstanbul on 28 April 1995. Bakırköy Criminal Court No. 1 had delivered the verdict.

- In May the Court of Cassation quashed the death sentences of Ethem Karahan, Abdullah Başka, Ethem Karakol, Abdülgani Onat and Tacettin Turan. Diyarbakır SSG had passed the sentences for activities for the PKK.

### Concluded Trials

Hilmi Yaşlı, who had killed the woman Nuray Karabulut in Adana in 1997, was sentenced to death for the second time. In the hearing of 1 March, Adana Criminal Court No. 1

insisted on its original verdict. The first conviction had been on 4 June 1998, but the Court of Cassation had quashed the verdict.

On 16 April Erzurum SSC sentenced Hasan Ateşçi to death. He was said to be one of 3 PKK militants, who conducted a suicidal attack in Sivas on 29 October 1996. During the attack the alleged PKK militants Güler Otaş and Hacı Can and the police officers Rüstem Demirbaş, Ali Yüce and Adem Tut and the civilian Osman Polat had died.

On 20 May Diyarbakır SSC passed the death penalty on Şemdin Sakık, a leading figure of the PKK and his brother Arif Sakık, even though Şemdin Sakık stated that he was in disagreement with the PKK since 1993. The Court did not apply any rule for reduction, because of the intensity of actions the defendant had been involved in.

On 2 June İstanbul SSC sentenced Mehmet Güzel to death according to Article 125 TPC. He was accused of having collected money in the name of the PKK.

On 1 November Ankara Criminal Court No. 3 concluded the trial in connection with the killing of Serdar Alten, Latif Can, Salih Gevence, Faruk Ercan, Efraim Ezgin, Osman Nuri Uzunlar and Hürcan Gürses, members of the Turkish Workers' Party (TIP) in Ankara-Bahçelievler on 8 October 1978. The defendant Ünal Osmanağaoğlu had been caught in Kuşadası on 10 April 1999. He said in his final words that he was deeply affected for being on trial for massacre. Presiding Judge Mehmet Koçak presented the verdict and said that Ünal Osmanağaoğlu and Bünyamin Adanalı (he had been captured in late 1995) were sentenced to death seven times each. The court separated the case files of defendants arrested in absentia, Mahmut Korkmaz (he had been captured at the end of 1990 while entering Turkey, kept in prison for a while and disappeared after having been released) and Kadri Kürşat Poyraz. The charges against Abdullah Çatli, who died in the car accident in Susurluk on 3 November 1996, were dismissed.

### **Trials launched in 1999 with the demand of the death penalty**

In December 1998 the prosecutor at Ankara SSC indicted Abdullah Argun Çetin in connection with the killing of journalist-writer Uğur Mumcu. The death penalty was demanded according to Article 450/4 TPC.

At the end of December 1998 İstanbul SSC launched a case against 15 people in connection with the explosion in the Egyptian Bazaar in Eminönü on 9 July 1998. The explosion had resulted in the death of 7 and injuries of 127 people. The death penalty was sought for the defendants Pınar Selek, Abdülmecit Öztürk, Alaattin Öget, Kübra Sevgi and İsa Kaya according to Article 125 TPC. The other defendants have to expect sentences of imprisonment of up to 31 years.

On 5 January the prosecutor at Diyarbakır SSC launched a case against Abdullah Öcalan and some PKK executives including Kani Yılmaz, Ali Haydar Kaytan, Abdurrahman Çadırcı and Sakine Polat and demanded the death penalty under Article 125 TPC. The case was based on speeches on Med TV at a time, when Öcalan had applied for asylum in Italy.

On 13 January the prosecutor at İstanbul SSC indicted Veli Dikme and Fikret Kara in connection with the assassination attempt on former Mayor of Fatih, Saadettin Tantan. He asked for the death penalty since the defendants acted in the name of the Revolutionary People's Liberation Party/Front (DHKP/C).

On 13 January the prosecutor at İstanbul indicted Salih Mirzabeyoğlu (Salih Rıza Erdiş), the alleged leader of the radical Islamic organization İBDA-C, who had been detained on 4 January. He asked for the death penalty for the violent attempt to overthrow the constitutional order according to Article 146/1 TPC. The indictment also sought

imprisonment terms for Salih Mirzabeyođlu, Saadettin Ustaosmanođlu and Mehmet Fazil Aslantürk under Article 168/2 TPC on charges of “being members of an illegal organization,” and for Hüsnü Göktaş under Article 169 TPC on charges of “sheltering the members of the organization.”

On 14 January a criminal court in İstanbul indicted Serdar Kaçmaz (18), İsmail Çolak (18), İ.A. (17) and S.T. (14) in connection with the rape and murder of the kindergarten teacher Serpil Yeşilyurt and the heavy wounding of her mother Hanım Yeşilyurt in İstanbul-Ümraniye on 4 October 1998. The prosecutor demanded death penalties.

At the beginning of March the public prosecutor in Ankara charged Kürşat Kiyak and Selami Saygı with the killing of Hüseyin Akbaş on 5 January. He demanded the death penalty.

In March Ankara SSC Prosecution Office launched a trial against Necmettin Erbakan, the Chairperson of the Welfare Party, which was closed by the Constitutional Court, and executive members of the RP, the National Youth Foundation (MGV) and the Independent Industrialists and Businessmen Association (MÜSİAD). The indictment accused the defendants of “carrying out activities to establish a state based on religion.” The prosecutor demanded the closure of MGV and MÜSİAD on the claims that these were “organizations bringing up pro-Sheria (Islamic law) militants.” The indictment sought the death penalty for Ahmet Tekdal, former Deputy Chairperson of the RP, and Şevki Yılmaz, Hasan Hüseyin Ceylan and İbrahim Halil Çelik, former MPs with the same.

On 25 March the prosecutor at Van SSC indicted Adem Nikbay and Necip Kurtcebe with the demand of the death for being PKK members, who had planned a suicidal attack

On 25 March the prosecutor at Diyarbakır SSC demanded the death penalty for Fethi Demir, Firaz Turgan, Fatma Engin, Sevgi Demir and Ümrhan Turan for acts to separate part of the country from the administration of the State in the name of the PKK.

The prosecutor at İstanbul SSC demanded the death penalty for several people in connection with Molotov cocktails thrown at the Blue Bazaar in İstanbul-Göztepe on 13 March that resulted in the death of 13 people. On 6 April he indicted Metin Yamalak and on 30 April he demanded the death penalty for Ergin Atabay, Abdullah Günay and Azime Işık.

At the end of April the prosecutor at Ankara SSC finished the investigation into the bomb attack on Çankırı Governor Ayhan Çevik on 5 March. He demanded the death penalty for Kemal Ertürk, Lale Açıık, Nihat Konak and Bülent Ertürk according to Article 146/1 TPC. Şener Kökten, Özgür Deniz Demirdiş, Sevinç Güden, Selahattin Yurdaer, Murat Demirdiş, Turan Açıık and Arap Deniz should be convicted for membership of an illegal organization.

On 15 May the public prosecutor in Kartal (İstanbul) opened a case against Murat Kurt for killing the teacher Hüseyin Ađırman and heavily wounding the student Şebnem Serttaş.

On 31 May the prosecutor at Malatya SSC opened a case against 75 people, 43 of them under arrest. They had been detained during a demonstration on 7 May in protest at the fact that headscarved students were not accepted to Malatya İnönü University. The indictment asked for the death penalty for 51 defendants according to Article 146 TPC. The prosecutor wanted 24 defendants to be sentenced according to Article 168 TPC.

The village guards Cemil Kayıcı, Mehmet Kaya, Muhsin Kayar, Abdullah Yıldırım, Ahmet Kayar, Lezgin Kayar and Mehmet Varış from Ballı village in Şırnak-Uludere were indicted at Diyarbakır SSC under Article 125 TPC.

On 18 June the prosecutor at İstanbul SSC opened a case against 12 alleged members of

the Workers' and Peasants' Liberation Army of Turkey (TIKKO). He demanded the death penalty for the defendants Binnaz Demirbaş, Cem Demirbaş and Haydar Ceylan.

On 29 June the trial against Hakim Yavaş and repentant Abbas Dal started at İstanbul SSC. The defendants were accused of having placed a bomb into a car park in protest at the abduction of Abdullah Öcalan. The death penalty was requested for Hakim Yavaş, who had been detained on 21 March.

In Bursa Mert Güven was accused of having killed his father Erhan Güven and his mother Mine Güven for money. The case was launched on 30 June with the demand of the death penalty according to Article 448, 449 and 450 TPC

On 16 July the trial in connection with the massacre in Sivas that on 2 July 1993 had resulted in the death of 37 people continued after the Court of Cassation had quashed the first verdict. In summing up the case the prosecutor demanded the death penalty for 33 people for the violent attempt to overthrow the constitutional order according to Article 146/1 TPC

Özcan Agocuk was indicted on 14 July. The death penalty was demanded for killing his wife Nezahat Agocuk and Mümin Akar in İstanbul-Küçükçekmece.

On 17 July Mustafa Yılmazel was charged with the kidnapping and murder for ransom of the child Abdullah Aksel in İstanbul-Kemerburgaz on 24 April. The prosecution asked for the death penalty.

In June Ömer Toy allegedly strangled his son Fatih (11) to death. On 18 July the public prosecutor in İstanbul-Sarıyer indicted him and asked for the death penalty.

On 20 July the prosecutor at İstanbul SSC demanded the death penalty for Sırrı Usta and Ramazan Şevket Yılmaz. They were charged under Article 146/1 TPC as members of the Revolutionary Communist Union of Turkey (TIKB).

Cevat Soysal, who had been abducted in Moldavia and taken to Turkey, was put on trial at Ankara SSC. The prosecutor demanded the death penalty on 11 August according to Article 125 TPC for acts to separate part of the country from the administration of the State.

For the murder of his brother Özer Demiralay in Adana Alkan Demiralay was charged in mid-August. The prosecutor demanded the death penalty.

On 14 August Zeynep Biçer was charged with the murder of Aynur Gündoğdu in İstanbul-Merter. He had to expect the death penalty.

Nihat Akgün, a famous figure in the underworld, was charged with having order the killing of Gürel Aydın in İstanbul. He and the alleged killers Ömer Nadir Toksoy and Mahmut Kızıldil were charged on 31 August with the demand of the death penalty.

On 5 September the prosecutor at İstanbul SSC indicted Metin Turgut, Barış Albay, Haydar Akbaba, Serdar Güzel and Murat Başusta. He accused them with the murder of 5 people, 3 of them police officers and to be militants of the Marxist-Leninist Communist Party (MLKP). The death penalty was demanded according to Article 146/1 TPC for the violent attempt to overthrow the constitutional order.

On 21 September Rahman Hafizar, servant at the Embassy of Bangladesh in Ankara, was charged with the murder of the Ambassador's daughter Kismet and his son Şirajus Salehin. The prosecutor demanded the death penalty.

The military prosecutor launched a case against 5 NCOs and three civil servants from the

commando unit in Siirt. He accused them in mid-September with having stolen arms and ammunition to sell it to the Revolutionary People's Liberation Party/Front (DHKP/C) in İstanbul. The NCOs Necdet Kazan, Mehmet Akkaya, Erkan Baki, İlyas Baykut, Erdin Çapar and the civilians Mehmet Yılmaz, Hasan Akbaş and Ertan Öztürk had to expect the death penalty.

On 6 October the public prosecutor in İstanbul demanded the death penalty for Bülent Baransal for the murder of Prof. Dr. Hasan Coşkun from the Medical Faculty at İstanbul University.

On 5 October Mustafa Köprü was indicted in Adana-Yüreğir. He had been captured during a house raid, in which Murat Bektaş and Erdinç Aslan were killed. The prosecutor asked for the death penalty.

On 29 October Cengiz Balık was indicted in Zonguldak. The prosecutor charged him with the killing of Şemsi Denizer, Secretary General of the Confederation Türk-İş and President of the Union Genel Maden-İş, on 6 August. The indictment demanded the death penalty according to Article 450 TPC. For the co-defendant Engin Girgin, who allegedly assisted the killer, the prosecutor asked for a sentence of at least 20 years' imprisonment.

Zinnur Gülşah Dinçer, Ömer Çelik and Engin Arslan allegedly killed the young girl Şehriban Coşkunfirat in İstanbul "to sacrifice it to the devil". On 28 October the prosecutor launched a case against them with the demand of the death penalty.

On 20 September mafia groups clashed in İstanbul Bayrampaşa Prison. Seven people died. On 3 November Hakan Çillioğlu, the alleged leader of one group, was indicted with the demand of 8 death penalties.

On 26 September security forces raided Ankara Closed Prison. 10 prisoners died during the raid. At the beginning of December the public prosecutor indicted 85 prisoners. He demanded the death penalty for Cemal Çakmak, who had been transferred to Burdur Prison, and prison terms between 12 and 47 years for the other defendants.

The prosecutor charged 15 alleged PKK militants, who had been detained in November, on 6 December. He demanded the death penalty for Fuat Dolan (confessor), Niyazi Dolan, Aydın Çelik, Serdar Deviren, Salih Saykan, Özgür Azat İnci, Ayten Gülsüm and İhsan Altun according to Article 125 TPC for acts to separate part of the country from the administration of the State.

On 20 December the police officers İbrahim Şahin, Ziya Bandırmalıoğlu, Arif Tütüncü, Sever Ulu, Ahmet Cemal Arslan, Ali Tunçbilek, Ahmet Faik Şahbudak, Osman Eriş, Erdal Akman, Şahin Arslan, Erhan Yamancıoğlu, Sami Çerçi, Alaattin Parmaksızoğlu and Mustafa Ordu were charged with the killing of Hüseyin Kılıç, Satı Taş and Ahmet Ercüment Özdemir during a raid on a house in İstanbul-Kadıköy on 17 April 1992. The public prosecutor in Kadıköy demanded the death penalty, but also asked to apply provisions for a reduction of the sentence according to the Law on Duties and Competences of Police Officers.

### **3.2 Extra-judicial executions**

Incidents of extra-judicial executions during raids on houses and workplaces, fire opened at random or on disobedience to stop orders and killings after detention continued in 1999. During these incidents at least **63** people died.

On 6 January the Constitutional Court cancelled the provision that was included in the Law

to Fight Terrorism (LFT) in 1997 broadening the right of the security forces to use arms (See Annual Report 1997). According to this provision the security forces had been entitled to shoot immediately and on target, if orders to surrender had not been followed, the suspect tried to escape or intended to show armed resistance.

The Constitutional Court also cancelled a provision in the Law on Administration of Provinces that had furnished military commanders with broad competence. The government was given time to fill the legal gap.

On 16 February Hasan Özdemir, Chief of İstanbul Police, gave the wireless order to “shoot those, who participate in protest actions, to the feet and detain them”. The office of the governor in İstanbul ordered “to use legally possible harshest violence against all actions directed against the security of life and possession of our citizens”.

No changes were observed in trial against members of the security forces on charges of extra-judicial executions. Many cases were not prosecuted and in some cases prosecutors refrained from bringing charges fearing for their lives.

One of these cases became public with the parliamentary request of MP for the DYP for Tunceli, Kamer Genç, on the killing of İnal Cila (11). Kamer Genç asked the Minister of the Interior to comment on the incident that had occurred Söğütlü village Ovacık district (Tunceli) on 25 September. The public prosecutor had told Genç: “My life is at risk. Therefore, I could not investigate the incident on the spot. The incident happened by mistake.”

Interior Minister Sadettin Tantan answered on 6 December: “Units from 34<sup>th</sup> Division carried out an operation. The area with bushes did not allow for long distance sight. When sounds were heard from the bushes and it seemed that someone would come out of it, sergeant F.A. fired warning shots. As a result of these shots İnal Cila, born 1988 son of Cemal, who was grazing animals, was shot by accident. The public prosecutor conducted an autopsy. Based on the fact that the sergeant is a member of the security forces, the prosecutor decided not to be competent according to Decree 285 with the Force of Law (on the foundation of the OHAL governor’s office) and sent the file to the district administration council in Ovacık.” Tantan added that the family was given TL 750 million, 40 kg food, 10 sheep and one goat.

## **Trials on Extra-Judicial Executions**

### *The Gazi Incidents*

The trial launched against 20 police officers, who used their guns during the incidents, which resulted in the deaths of 19 people in Gazi quarter, İstanbul, in March 1995, continued at Trabzon Criminal Court on 29 January. Prison terms of at least 24 years were sought for the police officers for “killing without knowing the real assailant while exceeding the limits of self-defense.” Presiding judge Dursun Kaya Güleç disclosed that the bullets from the bodies of Fadime Bingöl and Sezgin Engin, who had been killed during the incidents, got lost under police protection while they should have been sent to İstanbul Forensic Institute. The accused police officers were: Süleyman Memişçi (superintendent), Ali Doğan, (security director), Adem Albayrak, Mehmet Gündoğan, Hamdi Özata, Hasan Yavuz, İsa Bostan, Sedat Özemir, Hayrullah Şişman, Metin Çakmaz, Yakup Murat, Uğur Duran, İbrahim Serdar, Orhan Durmuş, Mehmet Türk, Mustafa Keleş, Selçuk Biçer, Ali Ulukaş, Yetkin Korkut and Ahmet Türkmen.

In the hearing of 5 March the disappearance of bullets was discussed. Intervening lawyers demanded that the evidence should be found and that the people responsible for the loss

of evidence should be put on trial. They also demanded the trial to be heard in İstanbul. Presiding Judge Dursun Kaya Güleç disclosed that the court had written to Fatih Public Prosecution Chief Office to find the bullets.

During the hearing on 9 April intervening lawyer Cemal Yücel complained that the trial had been continuing for 4 years without a result. Defense lawyer İlhami Yelekçi shouted into the courtroom that the judges should silence his colleague. This led to a dispute but no direct attacks. The court decided that Gaziosmanpaşa Penal Court should organize an on-site inspection.

Prior to the hearing of 14 May bodyguards of the defense lawyers İlhami Yelekçi hindered Faruk Aktaş, reporter for the daily "Özgür Bakış" and some members of the sub-plaintiffs to participate in the hearing. Intervening lawyer Remzi Kazmaz demanded that Trabzon Criminal Court should conduct the on-site inspection and not the court in Gaziosmanpaşa. The Court announced that the bullets had been forwarded to them from the public prosecutor in Fatih.

In the hearing of 17 June the Court decided to compare the bullets from the corpses of Cemal Yücel, Sezgin Engin and Fadime Bingöl with the arms of the police officers. The on-site inspection was carried out on 2 July, more than 4 years after the incident. Gaziosmanpaşa Penal Court No. 3 had organized the inspection. 12 witnesses and the defendant police officers Sedat Özenir, İsa Bostan, Orhan Durmuş and Selçuk Biçer participated. The intervening lawyers asked the court to order the police officers to keep in the distance so that the witnesses could testify without fear. The Court rejected the demand, but ordered the journalists to stay away. Ali Şimşek, father of Dilek Şimşek, who was killed during the incident, told what he had seen. He said that a heap of sand had been in front of the Alevites' meeting place "Cemevi". He had been there. Towards the morning an armored vehicle had pointed light at them and later shots were fired. Mehmet Gündüz had been hit and fell on the sand.

Mahmut Türkmen and Hıdır Elmas, from the board of "Cemevi" related the incident in a similar fashion. Sevgili Kaya, mother of the killed Mümtaz Kaya, said: "Many uniformed and 3 or 4 plain-clothes police officers were there. The plain-clothes detectives had rifles and shot wildly at the crowd. My son and I tried to run away. My son fell right in front of me."

The testimony of the police officer Eftal Camcı was read out during the hearing of 16 July. He stated that all police officers had had rifles. The intervening lawyers asked that all rifles of İstanbul Police HQ should be inspected, but the court rejected the demand.

On 19 November the report of the Forensic Institute on cassettes and photographs of the incident was read out. The report stated that although one of the persons resembled the police officer Adem Albayrak by his stature and hair it could not be established with certainty that it was he, because of the poor quality of the photograph. Intervening lawyer Gülizar Tuncer stated that journalists, witnesses and wounded people had identified Adem Albayrak and even the prosecutor in Gaziosmanpaşa had said that this was the police officer "Adem", when he looked at the photograph. She argued that the Forensic Institute was not objective after appointments made under the Justice Minister Mehmet Açar.

No further developments were reported from the hearing in December.

### *Anniversary of the Incident*

In connection with the demonstration to be held in Gazi Quarter of Gaziosmanpaşa, İstanbul, on 12 March, on the anniversary of the incidents of March 1995 the police

surrounded the quarter starting from the evening of 11 March, and detained reporters for Radyo Umut, Nurcan Aslan and Şengül Derin, Yön FM reporter Eylem Tepe and a reporter for the journal Halkın Günlüğü, whose name could not be revealed. The police dispersed the people who gathered on the streets by opening fire into the air. A group gathered in front of the Cemevi and held the ceremony to commemorate the victims, despite the hindrance by the police. A total of 500 people were reportedly detained.

#### *Mecbure Genç, Üznire Genç*

On 22 October 1998 Batman Criminal Court acquitted the village guard Mehmet Seyid Acar from charges of having killed Mecbure Genç and Üznire Genç (both pregnant) in Eyromiye (Çargeçit) village on 15 May 1996. He said during the hearing that another village guard named Faik Alduk had shot at the car. Relying on the ballistic report the court acquitted the defendant. The Court of Cassation confirmed the verdict in 1999.

#### *Sabahat Karataş, Eda Yüksel, Taşkın Usta*

The trial launched against 22 police officers in connection with the killing of Eda Yüksel, Taşkın Usta and Sabahat Karataş during the raid on a house in Çiftehavuzlar quarter of İstanbul on 17 April 1992, continued at Kayseri Criminal Court No. 2 on 28 January. In the trial, the prosecutor requested the court to judge the accused security officers for murder, but to take into account the provisions related to “self-defense,” on the grounds that “they carried out orders and had to use their guns during the clash.” The trial, which started at İstanbul Kadıköy Criminal Court No. 2 on 15 June 1995, had subsequently been transferred to Kayseri Criminal Court No. 2 for “security” reasons. The accused police officers were: Reşat Altay (Political Police Director), İbrahim Şahin (Security General Directorate Special Operations Branch former Director), Vasfi Kara, Abdullah Dindar, Mehmet Şakir Öncel, İsmail Alıcı, Adnan Taşdemir, Ruhi Fırat, Aslan Pala, Mehmet Düzgün, Adalet Üzüm, Mehmet Baki Avcı, Şenel Karaman, Ömer Mesut Yağcıoğlu, İsmail Türk, Ali Türken, Yahya Kemal Gezer, Zülfikar Çiftçi, Sönmez Alp, Ayhan Çarkın, Salih Tonga and Yaşar Karaçam. No important developments were reported from this trial in 1999.

#### *Hüseyin Kılıç, Satı Taş, Ahmet Ercüment Özdemir*

A trial was launched against 14 police officers in connection with the killing of Hüseyin Kılıç, Satı Taş and Ahmet Ercüment Özdemir, alleged members of the “Revolutionary Left,” during the raid on a house in Kadıköy, İstanbul, on 17 April 1992. Almost 7 years after the incident Kadıköy Public Prosecution Office demanded that İbrahim Şahin, former Deputy Chief of the Special Operations Branch (defendant in the Susurluk trial), Ziya Bandırmalıoğlu (defendant in the Susurluk trial), Arif Tütüncü, Sever Ulu, Ahmet Cemal Arslan, Ali Tunçbilek, Ahmet Faik Şahbudak, Osman Eriş, Erdal Akman, Şahin Arslan, Erhan Yamancıoğlu, Sami Çerçi, Alaattin Parmaksızoğlu and Mustafa Ordu be prosecuted according to Article 450/5 TPC, which requires the death penalty, but the sentences be commuted, taking into consideration the Law on Police Duties and Competences.

In the raids against 4 houses in the Anatolian side of İstanbul on 16 and 17 April 1992, Sinan Kukul, Arif Öngel, Satı Taş, Eda Yüksel, Sabahat Karataş, Ahmet Fazıl Ercüment, Ayşe Nil Ergen, Şadan Öngel, Ayşe Gülen, Taşkın Usta and Hüseyin Kılıç had been killed.

#### *Ayşe Nil Ergen, Ayşe Gülen*

The trial launched against Ziya Özdemir, former Chief of Kadıköy Police, and 15 police officers in connection with the killing of Ayşe Nil Ergen and Ayşe Gülen (Uzunhasanoğlu) during the raid on a house in Kozyatağı, İstanbul on 16 April 1992, continued at Kadıköy

Criminal Court No. 1 on 9 September. In the hearing, arrest warrants in absentia were issued against 3 police officers, who had not testified to the court. The police officers are charged with “killing a person not knowing the real assailant.” On 22 July 1992, an examination under the surveillance of a judge had been carried out in the house where Ayşe Nil Ergen and Ayşe Gülen had been killed, and it had been reported that no guns or explosives had been found in the house.

*Mehmet Topaloğlu, Besat Ayyıldız (Selahattin Akıncı), Bülent Dil*

The trial launched against police officers Nurettin Bülbül, Haydar Erol and Suat Köse related to the killing of Mehmet Topaloğlu, Adana Representative with the journal Kurtuluş, Besat Ayyıldız and Bülent Dil, during the raid in their house on 28 January 1998 in Adana, on the grounds that they “murdered more than one person beyond intention,” (Article 452 TPC), started on 2 November at Adana Criminal Court No. 1. The family of Bülent Dil had filed an official complaint for the 28 police officers involved in the incident and a decision of not to prosecute had been given for 25 of them. Police officers Haydar Erol and Nurettin Bülbül were also prosecuted for killing Murat Bektaş and Erdinç Aslan on 5 October in Adana.

The hearing in December was adjourned to February 2000.

The police did not allow a panel discussion to be held at Adana Office of the Chamber of Electric Engineers (EMO) on the first anniversary of the killings. The EMO Adana Office was surrounded by the police, who detained the daily Evrensel reporter Kamil Şanverdi, the journal Kurtuluş reporters Murat Aktaş and Yılmaz Genç, and Kemal Gürsoy, Tekin Gürsoy, Murat Ercanlı and Ali Yüksel. The detainees were later released.

The trial launched against Lawyer Zeki Rüzgar, who had lodged an official complaint against police officers after the killings, and against Ahmet Ergin, the editor-in-chief of the daily Emek which had published a news story on Rüzgar’s official complaint, and Halit Keskin, the owner of the same, continued at Ankara SSC on 2 February. Zeki Rüzgar, Ahmet Ergin and Halit Keskin were accused of “disclosing the identities of people struggling against terrorism,” under Article 6/1 of the LFT. Zeki Rüzgar, who was arrested on 12 January and put on trial on the accusations of “being a member of an illegal organization” under Article 168/1 TPC, attended the hearing. The trial was adjourned to 16 March for the compilation of missing documents. In the previous hearing held on 8 September 1998, presiding judge Orhan Karadeniz had reminded that the related article of the Law to Fight Terrorism would require a fine, and said that the trial might be concluded if Zeki Rüzgar paid a fine of TL 100 million. Zeki Rüzgar rejected to pay the fine.

In the hearing of 16 March the defense asked the judges to withdraw, because they were biased. In a separate trial against Zeki Rüzgar the presiding judge Orhan Karadeniz and the military judge Erman Başağ had withdrawn, but in this case they rejected the demand of the defense. Lawyer Ender Büyükçulha was fined TL 2.1 million for unnecessarily asking for a withdrawal.

*Mustafa Dölek*

On 11 February Ankara Criminal Court No.8 convicted special team member Samet Ağbaba for the killing of Mustafa Dölek during the raid in Küçük Cennetpınarı Village in Pazarcık, Maraş on 24 June 1995. He was sentenced to 1 year 1 month 10 days in prison, and suspended from duty for the same time. The court decided to reprieve both punishments, concluding, “he would commit no other offences.” Samet Ağbaba had been given the same sentence in the original trial that ended at Ankara Criminal Court No.8 on 11 May 1998, but the Court of Cassation had quashed the decision, because “the

defendant had not been suspended from duty for the length of imprisonment.”

The case at the ECHR filed by Mustafa Dölek’s family, now living in Switzerland, did not conclude in 1999.

### *İrfan Ağdaş*

The trial launched against 3 police officers for killing İrfan Ağdaş while he was selling copies of the journal Kurtuluş in Alibeyköy, İstanbul, on 13 May 1996, continued at Eyüp Criminal Court No. 2 on 16 February. In the trial, police officers Birol Mıdık, Abdurrahman Yolcu and Aytekin Kayhan were charged with the demand of sentences between 12 and 15 years in prison for “killing deliberately without identifying the real assailant.”

In the hearing of 19 April the request for arresting the defendants was rejected. In the hearing of 23 June intervening lawyer Metin Narin stated that the bullet shells, which should have been sent to the court, had not been received. This was needlessly prolonging the proceedings. He accused the police of mistakes during the collection of evidence and asked that an official complaint should be made against them.

During various hearings the intervening lawyers pointed at contradictory evidence. The statement of the defendants, who said that there was a clash, during which Ağdaş was shot from behind and the report by the Forensic Institute stating that bullets were taken out of his heart and his left knee is one contradiction. Talks over the wireless indicated that someone was running away with a black bag in his hand. Nobody mentioned a clash on the walkie-talkie.

### *Süleyman Örs*

The trial launched against police officer Sami Şen in connection with the murder of Süleyman Örs, a militant of the Revolutionary People’s Liberation Party-Front (DHKP-C), in Küçükköy, İstanbul, on 9 June 1997, continued at İstanbul Eyüp Criminal Court No. 2 on 2 March. In the hearing, the arrest warrant in absentia issued for Sami Şen because he had not testified, was lifted. An imprisonment term between 6 years and 8 years was sought for Sami Şen for “killing a person by an unknown assailant while exceeding the limits of self-defense” under Articles 448 and 463 TPC.

Excerpts from the wireless conversation on that date that were presented to court are as follows:

“2540 speaking, central. This is the place of the clash. The colleagues have surrounding the area, but cannot move closer because of a high-voltage cable.”

Center: “8114, tell the colleagues that 4577 has forced the person into the coal cellar... some unidentified words... let him kick the bucket, center”

“... kill that rat. Son of a bitch. Take revenge for Adil...”

The intervening lawyers argued that the talks over the walkie-talkies revealed that this was an intentional killing. “Yet, the name of Sami Şen is not on the list of officers on duty. He should be arrested and the other police officers should be charged as well”.

During the hearing on 28 April The police officer Avni Karadurmuş was heard as witness. He said that he did not hear any calls to surrender. He added that he had not seen Süleyman Örs after he had been killed. The court reminded the witness of his statement to the prosecutor, where he had said exactly the opposite.

In the hearing of 12 July the police officer Ali Kasım Kırğıl was heard as witness. He said that they had been looking for a wanted person and had stopped Süleyman Örs on

suspicion. Süleyman Örs had fired at them and started to run away. The last hearing in 1999 was on 29 December. Requests to arrest the defendant were rejected and the hearing was adjourned to a date in the year 2000.

#### *Hamdin Salgın, Gülistan Özdemir*

The trial against 8 police officers charged with an "extra-judicial execution" continued at İstanbul Criminal Court No. 4 on 22 April. The police officers were accused of killing Hamdin Salgın (18) and Gülistan Özdemir (15) "without an identifiable perpetrator" in a house-raid in Fatih, İstanbul, on 17 April 1998. The police officer Ömer Duman was heard as witness. Duman said that the police officers "ordered the victims to surrender", but this turned into an armed clash. The defendants were: the Political Police Branch Assistant Director Şefik Kul and the police officers Şaban Düzer, Erol Tekten, Salih Palamir, Ahmet Toprak, Rüştü Güneş, Sualp Bayrak and Sami Şen. The intervening lawyers asked that Gülseren Özdemir, imprisoned in Ümraniye Prison, should be heard as witness.

Gülseren Özdemir, on trial as PKK member with the demand of the death penalty according to Article 125 TPC, stated in the hearing of her case at İstanbul SSC on 24 June that her 15-year old sister was killed in her place. [\(114\)](#)

In the hearing of 14 September the police officer İ.K. was heard as witness. He said that he did not remember anything. Intervening lawyer Eren Keskin reacted by saying that there was no need to listen to further witnesses, because they would not remember anything. The court followed her request.

On 16 November the court followed the argument of the prosecutor who had summed up the case by saying that the police acted in self-defense, and acquitted the defendants.

#### *Veysi Özel*

On 14 May the family of Veysi Özel (13), who had been killed near Çardaklı (Çema) village in Hani district (Diyarbakır) on 17 November 1994 appealed to the ECHR. Mecail Özel, uncle of Veysi Özel stated that they had appealed because their case at Diyarbakır Administrative Court had only reached the stage of appointing an expert after more than 4.5 years

#### *Fuat Erdoğan, Elmas Yalçın, İsmet Erdoğan*

The trial launched against 5 police officers for killing lawyer Fuat Erdoğan, İsmet Erdoğan and Elmas Yalçın during the raid against a cafeteria in Beşiktaş, İstanbul, on 28 September 1994, continued at İstanbul Criminal Court No. 5 on 13 September. The police officer Hilmi Kalaycı, Şefik Kul, Mustafa Karabulut and Ramazan Ayan were charged with killing more than one person without an identifiable assailant according to Articles 450/5, 463 and 281 TPC. The trial was to continue in 2000. The case against the police officer Mehmet Baki Avcı was dropped, due his death on 14 October 1994.

#### *Nabi Akyürek, Selma Çıtak, Mehmet Salgın, Sabri Atılmış, Hasan Kasa*

The trial launched against 9 security officers who had participated in the raid against a cafeteria in Perpa Business Center in Okmeydanı, İstanbul, on 13 August 1993, during which 5 persons, Selma Çıtak, Mehmet Salgın, Sabri Atılmış, Hasan Kasa and Nabi Akyürek, had been killed, continued at İstanbul Criminal Court No. 7 on 18 May. In the trial, imprisonment terms up to 30 years were sought for the police officers on charges of "killing persons without an identifiable assailant while exceeding the limits of self-defense." The names of the police officers were: Ercüment Yılmaz (İstanbul Political Police Deputy Director), Ali Çetkin (Security Chief), Hasan Erdoğan (Superintendent), Hüseyin Doğrul,

Ömer Kaplan, Ayhan Çarkın, Ayhan Özkan, Selim Kestik and Kadir Uçar.

The trial ended on 21 December. İstanbul Criminal Court No. 7 acquitted Ercüment Yılmaz, Ali Çetkin Hasan Erdoğan and Kadir Uçar on the grounds that “they did not use their guns during the incident.” The court decided on the death penalty for Ayhan Çarkın (a defendant in the Susurluk case), Hüseyin Doğrul, Ömer Kaplan, Ayhan Özkan and Selim Kestik on charges of “intentional murder” under Article 450/5 TPC. The death penalty was then converted to 8 years imprisonment sentence under Article 50 TPC that reduces the death penalty given to persons “for exceeding the limits of duty determined by law or an authorized organ.” This sentence was further reduced to 3 years 10 months and 20 days in prison on the grounds that “the crime was committed on duty,” and that “the assailant was not known.” Lawyer Metin Narin from the People’s Law Office pointing out that during 6 years only 5 witnesses and 9 defendants were heard and added that although journalists had listened to 6 eye witnesses in just one week after the incident, these witnesses had not testified.

#### *Murat Can, Alpay Denizhan*

Şişli (İstanbul) Public Prosecution Office launched a trial against police officers, who killed Murat Can (Çam) (21) and Alpay Denizhan (22) in Kağıthane, İstanbul, on 12 March 1998. It was initially claimed that “the two persons died in a traffic crash while they were running away from the police with the car they had stolen,” but it was later revealed that they had been shot dead. The trial against 2 police officers was to be heard at İstanbul Criminal Court. Uğur Taşdemir, one of the police officers from İstanbul Kağıthane Police HQ, was charged with “murder,” whereas Mehmet Çıplak was charged with “an act beyond intention.”

#### *Volkan Koç*

The trial launched against police officer Adil Kökkaya for killing a youth named Volkan Koç (18) in Dolapdere Quarter of İstanbul on 4 December 1998 on the grounds that “he disobeyed the stop warning,” continued at Beyoğlu Criminal Court No. 1 throughout 1999. In the hearing of 27 April, Volkan Koç’s fiancée Arzu Kocadiñç stated that Adil Kökkaya had not told the truth when testifying, “He tried to stab me with a knife. And I opened fire into the air, but I shot him accidentally.” The family of Volkan Koç said in the hearing that police officers had come to their house and threatened them in order to avoid them testifying in the trial as witnesses.

In another hearing the witness Mertan Sessiz that the police officers had conducted an ID check and wanted to handcuff them. Volkan Koç refused and started to walk away. At this moment Adil Gökkaya shot at him and hit him to the heart.

#### *Utku Topçuoğlu*

On 24 May İzmir Criminal Court No. 3 sentenced the police officer Haluk Seren to 2 years, 4 months’ imprisonment and the fine of TL 860 million. In 1997 Haluk Seren had clashed with Hacı Fındık, suspected of theft. Fındık had been wounded but the passer-by Utku Topçuoğlu was killed and the passer-by Nazmi Nalcı was injured.

#### *Tayyip Üzüm*

On 17 February the trial against the soldier Bilal Payam that had started in 1998 concluded. The case had been opened for the killing of the worker Tayyip Üzüm in Bodrum on 19 October 1997. Muğla Criminal Court sentenced Bilal Payam to 1 year, 1 month and 10 days’ imprisonment for having shot at the victim with the intention of injuring him.

## Killings in 1999

### *Yılmaz Elüstü, Mehmet Elüstü*

In Cumhuriyet quarter of Genç, Bingöl, two youngsters, Yılmaz Elüstü (17) and Mehmet Elüstü (19), were killed by some members of the special team and police officers on 17 April, in the evening. The youngsters were reportedly relatives of Republican People's Party (CHP) Genç District Organization Chairperson Mesut Değer and were distributing ballot papers to the houses for the election of the headman. The HQ of HADEP stated that the security forces shot the two youngsters reportedly many times near the graveyard of the town threw a hand grenade on them. After the funeral the Battalion Commander of the town and Chief of Police visited the families of the youngsters and apologized for the incident. The official statement read that the persons in question had been PKK militants and died in an armed clash with the security officers.

### *Cem Selçuk Akgül, Sadık Mamati*

Two persons, who were allegedly planning an attack on the US Consulate in İstanbul, were killed by the police on 4 June. The authorities claimed that the police received "information," which indicated that two persons had entered a construction site across to the US Consulate in Tarlabaşı at about 6am. These persons had opened fire at the police officers, who went to the scene and were killed in the clash. The two persons were reportedly militants of the Revolutionary People's Liberation Party-Front (DHKP-C). The police presented their names as Onur Bilge (24) and Nedim Akgün (37). However, it was later asserted that the name of the person who was claimed to be Nedim Akgün was in fact Cem Selçuk Akgül, and Onur Bilge was Sadık Mamati. Cem Selçuk Akgül had reportedly escaped from Edirne Semi-Open Prison in 1993.

On 5 June, lawyers from the People's Law Office carried out an examination on the spot and made a statement on the incident. They said: "They could have captured them alive if they used tear gas or gas bombs. They had nowhere to escape, since they had taken away the ladder at the exit of the basement. There are no bullet traces on the spot that would support the claim that a clash took place. Bombs were used. The incident is an obvious extra-judicial execution."

On 7 June Akgül was buried in İstanbul-Alibeyköy. The police intervened and detained some 150 people including Turgay Aydar, Hüseyin Aykanat, Mustafa Erol, Afet Süreyya Eren, Kadri Güven, Oya Başaran, Deniz Metin, Sevilay Çalışkan, Murat Karaca, Nebahat Aslan, Yener Özbek, Derya Karahan, who were later remanded.

The İstanbul branch of the HRA stated that the building, where the alleged clash occurred was still under construction and the staircase to the cellar had been destroyed. This might have been caused by a bomb.

In 1999 a trial was initiated against the police officers Sami Şen, Selim Orhan Doğan and Rüştü Güneş. Since lawyers had not been informed about this trial they got the information only by coincidence.

### *Fariz Yakacı, Ercan Yakacı, Rezzak İnanç, Raif Uyan, Mehmet Gök, Fırat Esin*

Unknown people opened fire on a minibus in the night of 3 August in the vicinity of Çiğdemli village, Silvan, Diyarbakır. Ercan Yakacı (18), Fırat Esin (19), Mehmet Gök (19), Raif Uyan, Rezzak İnanç (19) and Fariz Yakacı (8) died in the incident while Filiz İnanç, İhsan Gök, Hadi Esin, Salim Gök, Semih Gök, İbrahim Bilmez, Ramazan Söker, Mehmet Gök (same name) and Ayfer Gök were wounded. The authorities claimed that PKK militants carried out the attack. The People's Democracy Party (HADEP) pointed out that

most of the inhabitants of Çiğdemli village had left the village as they had been forced to become village guards, and that the remaining people were mostly adherents of the HADEP. The statement also drew attention to the fact that the attack had taken place at a 10-minute distance from the Silvan Gendarmerie Regional Brigade.

After the incident lawyer Osman Baydemir, deputy chairman of the HRA, Hanefi Işık, regional representative of the HRA and the lawyer Arif Altunkalem and Reyhan Yalçındağ, from Diyarbakır Bar Association went to the hospital, where the wounded persons had been taken and talked to M.Şah Gök, Filiz İnanç, Salim Gök and Dr. Yusuf Yağmur. The report stated:

“The attacked people said that they had no enmity with any person or group. They had not become village guards. The wounded people and their relatives did not want to comment on the assailants, but it was understood that the main gendarmerie unit in Silvan is only 10 minutes (about 1.5 kilometers) away from the spot. The incident could not be clarified, but it very much resembles the dark forces that were active in Güçlükonak. The late treatment of the injured persons also gives reason for concern.”

On 4 August, one of the wounded persons, İhsan Gök, stated that the attackers had been uniformed: “We were under pressure to become village guards, but we did not agree, since we did not have any problems with anybody. On the day of the event, we returned from our fields. We had gone some way, when we saw three people sitting at a fire. In the light of the fire we could see that they had arms and were wearing uniforms. When we approached they got in the middle of the road and fired at us. At the same time shots were fired at us from the left, the right and behind. The attack lasted for about 10 minutes. When the fire stopped we opened the doors and crawled out of the bus. Two slightly wounded friends informed the next village. Two hours later the villagers came and took us to hospital. Everybody knows, who did this.”

On 12 August ERNK, the political wing of the PKK, made a statement assuring that their forces had not conducted the massacre.

*Ahmet Özgezer, Osman Kınay, Hasan Yılmaz*

The names of the persons who died in a house raid on 23 August in Canlı village, Bayındır, İzmir, were disclosed one day after the incident. The house reportedly belonged to Ahmet Özgezer, and Ahmet Özgezer, his brother-in-law Osman Kınay and Hasan Yılmaz died in the incident. Ahmet Özgezer’s son Lokman Özgezer (16) was wounded. He was detained and taken to hospital for treatment. Commissioner Mustafa Kemal Özsüphandağı, member of a special team, was also wounded.

The police claimed that the persons in question were “PKK militants” and that the police had opened fire after the “call for surrender.” The people living close to the house of Ahmet Özgezer stated that the police officers had first fired at Lokman Özgezer. Then they had entered the tent where Family Özgezer lived and had killed the persons inside. Ahmet Özgezer’s wife and children who were detained on the same day were released on 24 August.

On 26 August the HRA and the Association of Contemporary Jurists (ÇHD) carried out an investigation and stated that they could not find traces of a clash. They called the incident an extra-judicial execution.

*Murat Bektaş, Erdinç Aslan*

Two persons were killed in the raids against 2 houses in Yüreğir district of Adana. One of these persons was reportedly killed accidentally. The incident was reported as follows: The

political police carried out a raid on a building in the 24th street in Akıncılar quarter at about 8.30pm on 5 October, and opened fire on the people in the house they had broke into. Murat Bektaş was killed in the fire. Subsequently, the police officers raided another flat downstairs, and killed another person there. The victim Murat Bektaş and his family lived in the first house raided by the police, and that this person had reportedly no connection with any illegal organization. Erdiñç Aslan (22), who was killed in the raid against the second house, allegedly was a militant of the Revolutionary People's Liberation Army-Front (DHKP-C).

Mustafa Köprü (26) was detained during the raid against the second house.

Murat Bektaş's wife Kezban Bektaş related what they had gone through as follows: "Our door was kicked while my husband was talking to my brother, who is a soldier in Tunceli, on the phone. The door was broken and fire was opened on us. My husband was shot in the head and fell on the floor in blood. I took my 3-year old son Uğurcan and ran to the back of the armpits. Two of the bullets hit my right arm during the fire, but I did not notice. The police who shot my husband shouted, 'Stop. There is a woman and a child here,' and he shouted at me, 'Go towards the other side,' and fired 5 or 6 times towards me. Later they went to the next flat and opened fire on the terrorists. I wanted to go outside, but they did not allow me. They locked me to the flat of our house-owner Mevlüt Zeren downstairs."

Murat Bektaş was buried on 6 October. The house-owner Mevlüt Zeren disclosed that Murat Bektaş was his tenant for one and a half year, and the other flat was rented by two youths 15 days ago. Adana Chief of Police Şükrü Yetimoğlu claimed on 7 October that the police did not make any mistake. Yetimoğlu asserted that Erdiñç Aslan was a militant of the DHKP-C, and that Murat Bektaş had "aided the organization and sheltered its members." On the other hand, Deputy Chief of Police, Responsible for Terror Muzaffer Çetinkaya claimed that they had been following these persons for 3 months and that they had opened fire after "surrender calls" by the police. Muzaffer Çetinkaya said, "Murat Bektaş, holding a gun, came out after the lights were turned off. Our friend responded by opening fire. There was no mistake in the raid."

Later it was learned that Erdiñç Aslan had been working for the journal "Kurtuluş". ([15])

Kezban Bektaş filed an official complaint on 8 October. She stated that her husband had never been detained and had lived a normal family live and asked the police to confess that they killed an innocent man.

The father of Erdiñç Aslan also filed an official complaint. Lawyer Alper Saral prepared the petition. He stated that the police had knocked down the door, when Erdiñç Aslan was calling his sister Gülay Aslan on his mobile phone. At the end of the conversation the sister heard him saying 'leave me alone, get lost' and then the conversation was over. "This indicates that Erdiñç was captured alive and killed later. The mobile phone later disappeared, but the company can find out whether such a call was made at 9.35pm or not."

Mustafa Köprü, who was remanded, told his lawyer in prison that Murat Bektaş had nothing to do with them. They would only say 'hello' to each other. ([16])

On 13 October the police officers Fevzi Mustan, Ali Erdurucan, Eyüp Yalçınkaya, Muammer Topaç, Haydar Erol and Nurettin Bülbül testified to the prosecutor in connection with the killing of Murat Bektaş and Erdiñç Aslan. Contrary to the statement by Adana Chief of Police Şükrü Yetimoğlu they said that they shot at the person, because they mistook the phone in his hand for a pistol. The prosecutor wanted the police officers to be arrested, but the judge on duty ordered their release. The prosecutor objected and on 14

October arrest warrants in absentia were issued for the police officers.

Fevzi Mustan, Ali Erdurucan, Eyüp Yalçınkaya, Muammer Topaç, Haydar Erol and Nurettin Bülbül surrendered on 18 October. They testified again to the prosecutor. Kezban Bektaş was called and identified the police officers Ali Erdurucan as the person, who killed her husband.

The police officers objected to their arrest and Adana Criminal Court No. 2 released all but Ali Erdurucan on 18 October.

At the beginning of November the public prosecutor in Adana presented the indictment. He demanded sentences of between 24 and 30 years' imprisonment against the police officers Nurettin Bülbül, Eyüp Yalçınkaya, Haydar Erol and Ali Erdurucan and sentences of between 6 and 15 years' imprisonment for the police officers Fevzi Mustan and Muammer Topaç. The indictment stated that Murat Bektaş had bullet wounds at his left and right hand and his head had been ripped into pieces. The prosecutor concluded that these wounds could not have been called by arbitrary fire in the dark. On the killing of Erdiñç Aslan the prosecutor argued that he might have been captured alive. He concluded that the police officers exceeded the limits of self-defense.

In the hearing of 2 December at Adana Criminal Court No. 1 the defendants said that they had made calls to surrender and shots had been fired from within the flats. Therefore, they had been forced to enter. Kezban Bektaş disagreed. She said that only the main door of the flat had been locked. Someone had been shouting from outside 'open up'. He had been swearing and they thought it was a drunken person. The lights had been lit. Then the door was opened from outside. Ali Erdurucan had ordered her to stand aside and had started to fire immediately. "My husband fell on the phone, we he was hit. Nobody asked us to surrender. I saw Nurettin Bülbül and Ali Erdurucan, when they fired. I heard shots, when the police entered the other flat. There were no warning before they entered."

The hearing was adjourned to a date in the year 2000. After the hearing Yasin Ali Türkeri, editor-in-chief of the journal "Tavır", Deniz Şah and Cantekin Uçar, working for the journal in Antakya, and Tamer Kazan, Zeki Helveren, Mehmet Oral Mutlu and Süleyman Özal, who had come to observe the trial, were detained.

### **Stop Warnings and Arbitrary Shooting**

On 9 February, police officers opened fire on people, who were claimed to have stolen a car, in Merter, İstanbul. A youth named *Nail Çaylıkoca* (20), who had no connection with the incident, died because of the fire launched by the police. Nail Çaylıkoca, a passer-by, was shot in the head, and died at the spot. The prosecutor ordered a ballistic inspection of the arms of 3 police officers, İslam Baltürk, Yakup Kayhan and Osman Arabacı to determine, which one had killed Nail Çaylıkoca. The police officer Yakup Kayhan was presented to the judge on duty at Bakırköy Penal Court. He told the judge that the police officer Osman had told him that the car was about to escape. He had fired on shot in the air and two shots at the tires of the car. He had heard two more shots from behind. The judge did not remand the police officer. He was tried at Bakırköy Criminal Court No. 3. No charges were brought against İslam Baltürk and Osman Arabacı. The first hearing was held on 8 September. Requests to remand the defendant were rejected.

On 16 February a village guards killed *Mehmet Nahil* (17) in Cizre district (Şırnak). Reportedly Mehmet Bahil did not listen to stop warnings. He was wounded but died in the hospital. The village guard, whose name was not disclosed, was reportedly arrested.

Police officers killed *Fuat Ünlü* in Kocasınan quarter of Bahçelievler, İstanbul, on 17 March.

The police authorities claimed that Fuat Ünlü, who had been about to throw a Molotov cocktail at a shop in Kocasinan, had opened fire on police officers, who suspected him of carrying out an attack. He had died in the subsequent clash. One police officer was slightly wounded during the incident. It was claimed that 2 persons along with Fuat Ünlü, one of whom was a woman, had run away.

The autopsy report stated that four bullets had hit Ünlü, one to a finger at this right hand, one to his right shoulder and the vital one to his right eyebrow and behind his left ear. The death had been caused by a bleeding of the brain as a result of destruction of the skull by bullets.

The trial launched against police officers Erol Tekten, Ayhan Özkan and Şaban Düzer for killing Fuat Ünlü started at Bakirköy Criminal Court No. 1 on 12 October. The defendant police officers did not attend the hearing, during which Eren Keskin, the lawyer of the Ünlü Family, stated that they would object to the indictment prepared by Public Prosecutor Salih Sol. Lawyer Keskin disclosed that fingerprints of Ünlü had not been found on the TNT, primer and guns, which had allegedly been found on him. The court rejected lawyer Keskin's demand that the defendant police officers be remanded. The indictment referred to Fuat Ünlü as "a terrorist," and asserted that the police officers had opened fire in order to protect themselves. The indictment requested to apply Article 49 TPC for the police officers, which reads, "an assailant, who has carried out an order which is obligatory with respect to the duty, cannot be sentenced."

*Hamza Baş* (19) was shot dead by the police in Merter, Istanbul, on 19 March. Istanbul Police HQ disclosed that the police had asked for the IDs of two persons whom they had suspected. The persons had opened fire and Hamza Baş had been killed in the clash that broke out. According to the statement, the second person had run away.

Fire was opened on 2 persons, who reportedly tried to smuggle sheep into the country from Iraq, in the vicinity of Çıçlı of Çukurca, Hakkari, on 26 March on the grounds that "they did not abide by stop warnings." In the incident, village guard *Halit Ediş* (35) died, while an unnamed Iraqi citizen was detained.

In Van, *Şeyhmus Karakoyun* (29) was killed by the police on 25 March. The police authorities claimed that Şeyhmus Karakoyun, whom they believed to be one of the leaders of the PKK, had begun to run away when he had seen a police vehicle at about 3.30pm, and that he had died in the subsequent clash.

In Kadıköy, İstanbul, *Ali Kemal Gündoğdu* was killed on 12 April, when he allegedly did not listen to orders to stop a stolen car. The other three suspected thieves, namely Hasan Güney, Sezgin Güven and Fuat Kılavuz were captured alive.

Soldiers and members of a special team killed *Poormela Berzan* (25), *Cengiz Poormela* (25), *Wehbi Gilanîzadeh* (18), *Kamfer Gilanîzadeh* (20), *Xayip Poormela* (13), *Xayip Adil* (20) and *Cuma Ergoşi* (20), who had come from Urniyi town, Rezgi village in Iran to sell fuel oil in Şemdinli district. The Iranian government protested the incident that happened on 7 May.

On 7 May an unnamed person was killed in İstanbul-Göztepe. Reportedly he tried to escape in a stolen car and was hit at his head, when he fled on foot. ([\[17\]](#))

On 16 May at 10pm a clash broke out between Iranians of Kurdish origin, who wanted to pass the border illegally near Çardak village in Özalp district (Van), and soldiers. In the clash an unnamed border crosser died and 16 people were detained. The group reportedly tried to bring sheep into Turkey. The soldiers allegedly confiscated 700 sheep. Another 400

sheep got lost.

On 19 May, soldiers opened fire on a group of about 45 people, who attempted to trespass the Turkish border in the region between Başkale and Saray districts of Van. *Eriş Muhammed Salih (17)*, *Azaze Nagada (57)*, *Azaze Muhammede (24)* *Nasare Tarane (30)*, *Ekber Muhammedi*, *Muhammed Şerif* and persons with the surnames *Sercile*, *Bahtiyar* and *Aras* (first names unknown) were killed and 5 persons were wounded. The group reportedly consisted of Iranian and Iraqi citizens of Kurdish origin who wanted to enter Turkey.

Later it was claimed that the refugees were the victims of a plot by village guards. They were reportedly brought to Turkey by village guards from Keklikdüzü village of Saray, who later informed the gendarmerie. The refugees, who survived the incident with injuries, said in their testimonies at Van Police HQ that they had been taken to Uğurlu village of Başkale from Iran by persons they did not know. The village guards named Ramazan Bilici, Cafer Bilici, Süleyman Demir, Muhammed Bilici and Reis Özgür had taken them from Uğurlu village to Keklikdüzü. The village guards had told them, "We are village guards. Nobody can say anything to you," and had taken \$ 20,000 as well as their belongings such as watches and jewelers, and then left the scene, where the soldiers had opened fire on them shortly afterwards. The 36 refugees, who were kept at the Foreigners Department of Van Police HQ, were reportedly taken to Keklikdüzü Village on 25 May in order to confront the village guards. They had identified the village guards Cafer Bilici, Süleyman Demir and Muhammed Bilici. The 3 village guards were reportedly detained, and the jewels of the refugees were found at their houses. The weapons of 70 village guards in the village were taken away.

Special team members reportedly killed *Ali Demir* in Kapıcı village of Almuş, Tokat. Villagers from Kapıcı village disclosed that the special team had come to the village on 19 May, settled in the village after dragging the villagers Hüseyin Gül, Mehdi Gül and Kamil Güngör out of their houses, and imposed a curfew. The villagers said that Ali Demir, who left his house at about 1.30am on 21 May, had been killed outside his house in the fire by the special team members. They added that Ali Demir was mentally disabled.

Village guards, who were standing guard at a gas station in the vicinity of Yanıkkaya village of Kozluk, Batman, killed *Berivan Bilen (10)* on 29 May.

The police opened fire on three persons claimed to be "trying to break into cars for the purpose of theft," on 13 June in Bahçelievler, İstanbul. *Savaş Yılmaz*, who was wounded, died in hospital. The other two, Tuncer Pasinoğlu and Özer Murat, were reportedly detained. The police authorities claimed that they had fired warning shots when the three persons had not obeyed the "stop warning" and tried to run away.

On 6 July, a person whose name could not be revealed died near 10 April Police Station in İluh Quarter of Batman. Police authorities stated that the person, whom they claimed to be a PKK militant of about 35 years, had approached the police station in order to carry out a suicide attack around 9.10pm. He was shot dead when he did not obey the "stop warning."

*İhsan Parlak (21)* reportedly committed suicide on 9 July. Officials stated that he had entered a shop with arms in Çanakkale with the aim of theft. When the police arrived he committed suicide. Witnesses stated that calls for surrender had been made and they had heard some shots in the shop. The victim was reportedly carrying a false ID.

The police in İstanbul killed *Kadriye Çelik* on 10 July. He was suspected of having stolen a car in Karadeniz quarter in İstanbul-Gaziosmanpaşa. The police shot at him in Sultançiftliği. Çelik was wounded to his leg and back and died in hospital. His companion

İsmail Çor reportedly escaped. The prosecutor in Eyüp indicted 8 police officers on 28 November, charging them with deliberate killing.

On 10 July Dursun Savaşır, suspected of having stolen a car in İstanbul-Avcılar allegedly jumped from the 6<sup>th</sup> floor of a building, to where he had escaped, and died. Dr. Metin Çakırkaya stated that he had examined the body of *Dursun Savaşır* at 1.35pm. All bodily functions had stopped, there were not traces of blows, cuts or wounds and the death presumably occurred due to internal bleedings.

On 14 July one of two people, who tried to run away from the police in Kadıköy, died and the other was seriously wounded. The police followed them after they had stolen a car. Allegedly they did not follow orders to stop, lost control over their car and hit a tree. In the accident the person with the bankcard on the name of *Serkan Kurt* died. İbrahim Kılıç was seriously wounded.

Gendarmes killed *Erşan Soysal*, a deserter, in Beypazarı district of Ankara on 2 August. The gendarmerie team conducted a road control under the command of non-commissioned officer Mustafa Oluçay. They stopped a car near Köst village of Beypazarı and asked for the ID of Erşan Uysal (21). He said that he did not have his ID card on him, that he had come on leave from his military unit, and that his ID and other documents were at his home in Beypazarı. Uysal was detained and should have been taken to the district under the surveillance of the gendarmes. Erşan Uysal allegedly attempted to escape and was shot. He died on the spot. Uysal was reportedly doing his military service in Van and had deserted on 31 July for the third time.

On 23 August some refugees tried to enter Turkey by crossing Hezil River. Soldiers shot at them and killed *İbrahim Emina* (24). Rızan Dikan (31) was wounded.

Police officers shot *Bahattin Çelik* (15) near Köprücük village of Tatvan, Bitlis, on 31 August. Bahattin Çelik, who was a village guard and the son of the village headman, allegedly had a gun on him and did not obey the “stop order” by the police. Police officer Tarkan Toraman was detained for shooting Çelik. In the incident, Bahattin Çelik’s relative Nedim Çelik was slightly wounded.

Three Iranian citizens were allegedly killed when they came from Iran to Şemdinli, Hakkari, in order to sell fuel oil. Reportedly 8 people passed the Turkish border on 2 September, and soldiers opened fire on them in the vicinity of Alan hamlet of Şemdinli. Three people, whose names remained unknown, were killed and 5 people were wounded, 2 of them severely. Villagers in the region went to the spot in order to take the corpses, but had to turn back as soldiers threatened them. Other Iranian citizens reportedly escaped to Iran, leaving fuel oil on the spot.

In Karabağlar quarter of İzmir police officers shot *Gürcan Köküz* (18) on the grounds that “he disobeyed the stop order” on 12 September. Gürcan Köküz, against whom an arrest warrant in absentia had been issued on charges of theft, reportedly climbed up to the roof of a building while running away from the police and was shot dead by police officer Seydi Kartal, on duty at Karabağlar Police Station, when he did not stop despite the fire opened in order to warn him. İzmir Chief of Police Hasan Yücesan said, “Our officer did his duty according to law and acted on the juridical basis. He opened fire to the leg, but the bullet hit another part of his body. It is not a desirable result. We are sorry.”

On 14 September Seydi Kartal testified at İzmir Penal Court No. 5. Reportedly he said that he first a warning shot, but the person escaped into a building. When he tried to run after him, he stumbled and a shot was released from his pistol. The court decided to charge the police officer with causing death by carelessness. Seydi Kartal was not remanded.

On 7 October the police killed one of three car thieves in Zeytinburnu. The police stated that *Hayrettin Fedai* did not listen to stop orders. He had a criminal record with theft and other offenses.

Soldiers and village guards opened fire on other village guards who were “picking up wood without permission” near Ahmetli village of Bismil, Diyarbakır on 12 October. Village guard *Beşir Akgül* died in the incident, whereas village guard İlhan Akgül got wounded. Allegedly the village guards, who were about to return back to Savur, Mardin, with a tractor, did not obey the “stop order.” Six village guards were detained during the incident.

Gendarmes opened fire on a vehicle in Zekeriyaköy, İstanbul, on the night of 27 October on the grounds that the driver did not stop. *Mehmet Yasin Sanlak* (19) was killed in the incident. Reportedly Mehmet Yasin Sanlak and Mehmet Kırıcı, who carried furniture to Zekeriyaköy with their minibus, entered a side road because of the repair on the main road. The youths realized that they had entered the military zone of the Fifth Rocket Base Headquarters and turned back. Reportedly at that moment the soldiers on guard opened fire.

*Abbas Tan* (47) was killed on 4 November, as the result of the gun fire opened on three persons who passed over the Iranian border to sell carpets, near Çayırderesi of Keklikdüzü village of Saray, Van, on the grounds that they “did not obey stop orders.” Orhan Demir was detained, whereas the third person reportedly escaped.

On 10 November at 11pm soldiers opened fire at the border of Turkey and Syria in Suruç district (Şanlıurfa) near Fıstıklı village. Mahmut Yıldızoğlu and Mehmet Şimşek died, while a third person reportedly escaped.

On 25 November soldiers killed Moha Abu Tamer (33) from Bangladesh, when he tried to cross the border between Syria and Turkey. The soldiers said that he did not stop, when being asked to.

*Süleyman Ekrem*, driver of a minibus, and 3 PKK militants, who reportedly took the minibus by force, were killed in the fire opened by soldiers near Pirinçli village of Pertek, Tunceli. Süleyman Ekrem, an executive member of the Labor’s Party (EMEP) Pertek District Organization, who carries passengers with his minibus between Tunceli and its villages, left the last passengers to Musa Dariç hamlet. On his way back, he was halted by a group of PKK militants. Three militants got in the minibus that was shot at near Pirinçli village. Süleyman Ekrem was buried on 1 December in Pertek, Tunceli. The soldiers did not allow the ceremony to be held in front of EMEP Pertek District Organization.

OHAL Governor Gökhan Aydın stated, “Süleyman Ekrem was arrested in 1991 for supporting the organization TDKP/HK. According to the archives he was detained in 1997 for supporting the PKK. The 4 people including Ekrem fire at the security officers. 4 rifles were found in the minibus.”

The statement of the Labor’s Party (EMEP) read, “The State of Emergency Regional Governorate related the incident as a clash, although no shots were fired from the minibus. Ekrem was not a PKK adherent. It has been reported that Süleyman Ekrem, who died because of the wound in the chest, had put the handbrakes on. Our member and the ones in the minibus were intentionally killed.”

The Human Rights Association (İHD) Elazığ Branch concluded its investigation on the killing of Süleyman Ekrem on 29 November. The report read that another PKK militant, who had been wounded in the minibus and then escaped, had been captured two days after the incident. “This militant was later taken to the morgue of State Hospital.” The

report drew attention to the fact that the minibus had stopped properly on the road and the handbrakes had been put on. The report also said, "Because of this situation, we have concluded that the minibus stopped when fire was opened against it. This gives an impression of execution, and we think that these persons could have been captured alive if the intention was so."

The relatives of Ekrem filed an official complaint. His wife Güllü Ekrem and his father Mehmet Ekrem went to the public prosecutor on 10 December and told him that Süleyman Ekrem was known in the region as driver of a minibus. The security officers knew the color of the bus and the plate number. They argued that it was against law to kill an innocent man, when it was possible to capture people alive.

### **3.3 Political killings by unidentified assailants**

Political killings by unknown assailants continued to become fewer in 1999. But at the same time killings of the radical Islamic organization Hezbollah intensified, in particular in the region under a state of emergency (OHAL). The OHAL governor declared that 267 operations had been carried out against the organization; 1,336 people had been detained and 420 of them had been remanded.

Like in the years before, no important step was taken to clarify the background of the political killings in previous years. In most cases the investigations produced no result. In the few trials that were opened no important development was achieved.

In the case of the student Ali Serkan Eroğlu, for instance, no case was launched. The student had been found hanging in the toilet of the Faculty of Communication at the Aegean University in İzmir on 24 December 1997. The Forensic Institute found proof that he was killed. His lawyer Gül Kireçkaya said that the investigation was still conducted under "unsolved cases" but they could not approach the ECHR because his father did not empower them as lawyers.

Düzce Criminal Court started a case against Yaşar Öz according to Article 450/4 TPC for having killed the Kurdish businessmen Savaş Buldan, Hacı Karay and Adnan Yıldırım on 3 June 1994. Öz was released during the hearing of 21 May. Intervening lawyer Sinan Tanrıkuş stated that they had asked to put Tansu Çiller, Prime Minister at the time, on trial because she had said, 'we have the list of Kurdish businessmen, who support the PKK. They will have to account for it.' He argued that the killings had been clarified on State level, but were hidden from the public. The enlightenment of these killings would contribute to democracy in Turkey.

28.01.1999/Hürriyet/Enis Berberoğlu

#### **Danger of extra-judicial execution among the police**

Killings by unknown assailants should be accepted as an early warning system for the power of security and judiciary in a country. Because there is no killing without an assailant. There are certain crimes, for which it appears appropriate that the perpetrator remains anonymous.

Police and the courts have no preferences among crimes and criminals. They cannot say, 'this crime is for the benefit of society, so I will ignore it'.

If the true enemies of the republic the most likely candidates are those, who take away the blindfold of the justice angel and twinkle an eye in order to persuade her.

\* \* \*

Yesterday I wrote in this column about two people with a criminal record on narcotics, who became the victim of execution in Avcılar on the least days of 1997. The Dutch police clarified these killings by tapping the phones of the international drug smuggler Hüseyin Baybaşın.

It was established that the two men, one of them an Iranian and the other one a Turk, were killed, because they had not send the narcotics for which they received DEM 3 million.

One possible gunman was Kemal Sarıtaş. Following the arrest of Baybaşın in April the possession of the Sitoçi family in Turkey was confiscated. Kemal Sarıtaş, a member of the Sitoçi family had been living in Germany until 1991.

He was captured in England and accused of dealing with drugs. Kemal Sarıtaş was killed in June, two months after the arrest of Baybaşın. His brother immediately returned from Spain, where he was living. Two weeks later he was also killed.

The name of Hüseyin Uzun was mentioned in connection with these killings. The scenario was that a dispute in the Baybaşın clan had lead to the killings.

Months later Hüseyin Uzun felt the need to surrender to the police. He rejected the killings and accused some police officers. He died in detention. It was said to be suicide.

\* \* \*

Wherever you start with the double execution you end up with arrows pointing to the police...

Is it false to suspect that the police, who do not clarify the unsolved cases, want to cover up the crime? Did Hüseyin Uzun, aged slightly above 40, who went to confess on his own free will, not find another place to die?

Never ending questions...

But there is the other side of the medal. The accused police officers carried names of success in the fight against drugs... There were heroes we believe that they are fighting against the smugglers risking their own lives...

Police officers, who the smugglers sometimes try to liquidate by using bullets and sometimes by executions of honor. It is a shame that their names only became public, when a smuggler with a criminal record accused them. Their victories from the past remained on the shelves.

There may be a rotten apple in each basket, putting the whole basket at risk.

But the investigation against the accused police officers has to be conducted fair and speedily... If they are guilty, they need to be punished. If they are innocent, they should return to their fight against the drugs...

The heart of unsolved cases is an extra-judicial execution.

We need to stand against extra-judicial executions of police officers.

Everybody needs justice.

*Abdi İpekçi*

Oral Çelik, a prominent figure among the ultra-nationalists was tried in connection with the killing of Abdi İpekçi, editor-in-chief of the daily Milliyet, on 1 February 1978. He was acquitted in the hearing at İstanbul Criminal Court No. 4 on 28 May. The decision was

taken on the grounds that “there were no concrete and convincing evidence to indicate that the defendant had organized and personally participated in the murder.”

In the hearing, intervening lawyer Turgut Kazan said, “Political commitment would be essential to solve the murder of İpekçi, which was evidently one of the first assault of the gang. Particularly the President, the government, the opposition, and the Parliament should have been determined to clarify the dark points in the murder, so that it might have been possible to carry out a healthy investigation. However, the case was the opposite. First, they played with a witness. Then it was disclosed that one of the testimonies had been cancelled. It was weird that two officers of the National Intelligence Organization (MİT), who interrogated the suspect of a very important murder, could not remember what he had said. Everything had been arranged to cover up certain relations.” Lawyer Kazan reminded that Mehmet Ali Ağca, in his testimony to the Versailles Court in Italy, had stated that he had acted along with Oral Çelik in the murder of İpekçi. Lawyer Kazan also asserted that Oral Çelik, according to his testimony taken by MİT on 28 October 1997, had stated that he had promised to help Mehmet Ali Ağca and to assist him in escaping from prison if Ağca were to claim the responsibility of the murder of İpekçi.

On the other hand, Oral Çelik’s lawyer İlhami Yelekçi claimed that his client would not have chosen to come to Turkey if he had committed such a crime. The trial had been launched in 1991, and an arrest warrant in absentia had been issued in 1994 against Oral Çelik, who had been abroad then. Oral Çelik had been extradited from Switzerland to Turkey on 14 September 1996, remanded on 16 September 1996, and released on 10 January 1997. He was prosecuted on remand at Malatya Criminal Court on charges of killing a teacher, Nevzat Yıldırım, on 7 June 1979. In this case he was released on 22 January 1997, after this trial ended in acquittal because of the “disappearance of the case file.” [\[18\]](#)

The 1<sup>st</sup> Chamber of the Court of Cassation confirmed the acquittal on 18 November pointing the fact that the defendant had rejected the charges at all stages of prosecution.

The arrest warrant against Mehmet Şener, another prime suspect for the killing of Abdi İpekçi was lifted on 16 August, because the time limit had exceeded. Another investigation was not started because of the same reason. The Military Court in İstanbul had issued the arrest warrant on 11 July 1979 on the grounds that Mehmet Şener had planned the murder, incited and directed the defendants, providing the gun, which he later hid. In 1982 Mehmet Şener and Abdullah Çatlı were detained in Switzerland on charges of drug smuggling. He was released in 1983 because of lack of evidence. In September that year he was once again detained in Switzerland, again for a drug offense. Heroin had been found on him. He was released after a while. Mehmet Şener returned to Turkey on 25 August, after the arrest warrant was lifted.

In February Mehmet Ali Ağca, main suspect in the killing of İpekçi, imprisoned in Italy for the assassination attempt on Pope Jean Paul II, applied to the Pope asking for a pardon, or instead being sent to Turkey. Mehmet Ali Ağca sent another letter to Necati Utkan, Turkish Ambassador in Rome, stating that he wanted to return to Turkey and that he was ready to serve the term he had received in the İpekçi case. His lawyer Magistrelli stated that he was waiting for the Justice Minister Oliviero Diliberto to sign the extradition order.

One other suspect, Yalçın Özbey, was discovered in Germany. Christian Arns, spokesman for the Interior Ministry said that Özbey might be extradited to Turkey in case that the death penalty was no option. His application for asylum had been rejected. Yalçın Özbey himself called journalists in Turkey and said that he was ready to return. [\[19\]](#)

*Uğur Mumcu*

More than five years after the killing of journalist-writer Uğur Mumcu one case started at the end of the 1998. The journalist with the daily “Cumhuriyet” had been killed in a bomb attack in Ankara on 24 January 1993. ([20]) Abdullah Argun Çetin was charged with the murder as a member of a gang according to Articles 450/4 and 313 TPC. The prosecutor demanded the death penalty, although he was unable to name the gang behind the killing.

The first hearing against Abdullah Argun Çetin was conducted on 8 January. In the hearing at Ankara SSC Abdullah Argun Çetin accepted that he had been educated in a NATO camp in Italy and had educated radical Islamists in Azerbaijan. During an on-site inspection in the street, where Mumcu lived he had said that he only measured the incline of the street without knowing who the victim would be. The presiding judge reminded him that there was no need for an expert to determine the incline of the street indicating that the defendant knew more. Abdullah Argun Çetin replied by saying that he was under pressure and at risk of being killed. He would tell more things, if he were not the only one on trial. The judge asked him about the other suspects and the defendant replied by saying that these people were aware of it. They were hiding behind Article 26 of the Law on Secret Service (MIT). The Court decided to hear Hızır Saral, brother of Ankara Chief of Police Cevdet Saral and advisor to MP Eyüp Aşık’, since Argun had mentioned him in his testimony. The Court also wanted Bakırköy Hospital for Mental Diseases to determine, whether the defendant was sane.

The medical report was announced in the hearing of 9 April Bakırköy Hospital for Mental Diseases concluded that Abdullah Çetin Argun was sane and had the penal capacity at the time of the crime.

In the hearing of 17 June the expert opinion on Argun's statements about bomb-making was read out. Cengiz Özdemir, expert at Security General Directorate Criminal Police Laboratories, argued that Abdullah Çetin Argun “had not even seen a bomb in his life and his knowledge on bombs was wrong and inconsistent.” However, the previous expert report prepared by Cengiz Özdemir, dated 3 December, which formed the basis for the indictment, read, “Abdullah Çetin Argun has theoretic knowledge on bombs but does not have the capacity to give training.”

In the hearing on 6 July the Court ordered 3 weeks’ supervision at the Forensic Institute to determine Argun’s state of mental health.

### **Political murders by unknown assailant**

The information compiled by the HRFT shows the following political killings in 1999, in which assailants could not be identified:

#### *Ahmet Taner Kışlalı*

Ahmet Taner Kışlalı, a columnist for the newspaper Cumhuriyet, former Minister of Culture and an instructor at the Faculty of Communication, was killed in a bomb attack in Ankara on 21 October. The explosion reportedly took place when Kışlalı attempted to remove a nylon bag placed on his car after he had left his house in Ankara Çayyolu Engürü Apartments at about 9.30am. The left arm of Kışlalı was reportedly pulled off in the explosion. He died on the way to the hospital.

Ass. Prof. Dr. Nuri Özgirgin, Head of Bayındır Hospital, disclosed that Kışlalı had been brought to the hospital at 10.02am, but his heart and respiratory functions had already stopped. Minister of Interior Affairs Sadettin Tantan, who carried out an examination on the spot, did not answer journalist’ questions regarding the assailants. However, Ankara Provincial Gendarmerie Regiment Commander Colonel Kemal Bayalan said, “It is said that

the İBDA-C did it.”

Democratic mass organizations and political parties reproached the murder of Ahmet Taner Kışlalı. General Publications Coordinator of Cumhuriyet, Hikmet Çetinkaya said that a woman had called him at noon after the attack, and given the name of a person, whom she claimed to have participated in the attack. Çetinkaya added that he had given this name to the security officials, and that the person was “well-known and wanted.” HRA Chairman Hüsnü Öndül asserted, “the attack was a provocation which aims to hinder the direction of Turkey towards democratization and to suppress the demands for democratization.”

The remains found on the spot were examined at the Criminal Laboratory of the Gendarmerie General Headquarters. Gendarmerie officials disclosed that the bomb had a simple mechanism, but it was strong and sensitive to movement. Many people were detained within the scope of the investigation, on the ground that “they had relations with radical Islamic organizations.” Most of them were released after testifying to the prosecutor. İbrahim Hasip Mengi, who was detained on information by Hikmet Çetinkaya, stayed longer under interrogation. Reportedly İbrahim Hasip Mengi was one of the leaders of an “Islamic-nationalist” organization during his time as university student in 1979.

Ahmet Taner Kışlalı was buried in Ankara on 23 October. Ceremonies were held for Kışlalı at the Parliament, Ankara University Faculty of Communication, Grand Theatre and Cumhuriyet newspaper. Thousands of people participated in the ceremonies, including representatives of political parties and certain associations. On orders by the General Staff Chief Office, all officers and non-commissioned officers employed in Ankara participated in their uniforms. Kışlalı was buried in Karşıyaka Cemetery.

Police and gendarmerie authorities, who examined the bomb, failed to reach a satisfactory result about the organization that had carried out the attack. One week after the incident seven people were reportedly still interrogated by a team composed of security officials from MIT, Ankara Police HQ and the Provincial Gendarmerie Brigade Headquarters. The authorities disclosed that the detainees had no direct connections with the attack, but they had certain information that would deepen the investigation. They also asserted that there were no concrete information that would prove that the radical Islamic İBDA-C organization were involved in the attack. On 26 October, 9 people were detained during the raid against the office of the journal Furkan, “an alleged publication of the İBDA-C”.

Police officers raided the office of the pro-Islamic newspaper Akit on 28 October on the grounds that “the newspaper had shown Ahmet Taner Kışlalı as a target for terror organizations.” Two police panzers, snipers on the roofs of neighboring buildings and police officers in 5 buses participated in the raid against the newspaper’s main office in Bağcılar. The search in the building was carried out by about 50 plain-clothes police officers. Mustafa Karahasanoğlu, the General Publications Director of the Akit, and Ali İhsan Karahasanoğlu, the legal consultant of the same, were detained after the search, which lasted for about 4 hours. Mustafa Karahasanoğlu and Ali İhsan Karahasanoğlu were released after 2 hours.

Akit had published a photograph of Kışlalı with a cross and a sub-title that read, “Boo, intensive despot”. The lawyers of Cumhuriyet had lodged an official complaint against Akit. The investigation launched by Bağcılar Public Prosecution Office after the official complaint, was reportedly transferred to İstanbul SSC Prosecution Office.

Out of the fourteen people, who were detained with the claim of “being members of the radical Islamic İBDA/C organization,” İstanbul SSC remanded Mahmut Çankar, Ali Yiğit,

Ufuk Altıntaş, Yahya Yıldırım, Sadi Zengin and Cem Yılmaz on 1 November. Police authorities stated that the detainees were not related to the murder of Kışlalı.

A young girl named Cansu G. (16), who was interrogated at Ankara Gendarmerie Provincial Regiment Headquarters for about one week on the accusations of participating in the attack, was remanded by Ankara SSC on 30 October on the accusations of “being a member of the Peasants’ and Workers’ Liberation Army of Turkey (TİKKO).” Cansu G. Allegedly said in detention that “the attack had been carried out by a group of people including herself,” but she had not shown the right places in Ankara, Polatlı and Çorum. Some newspapers had reported that Cansu G. was mentally incapable. It has been reported that a medical report was given to Cansu G. before she was referred to Ankara SSC, and that the report had asserted that she was mentally capable. ([21])

Mehmet Emin Akın, Abdullah Halas, Olcay Kapan, Ekmel Uzunkaya and Fazıl Bostan, who were detained on the grounds that they were “members of radical Islamic Selefiler organization” connected to the killing of Prof. Dr. Ahmet Taner Kışlalı, were remanded on 26 November by Ankara SSC. 11 persons were released to be prosecuted without arrest.

### *Atilla Osmanoğlu*

Atilla Osmanoğlu, who had been abducted by two persons, who had come to his workplace in Diyarbakır on 25 March 1996 and introduced themselves as police officers, and about whom no information could be received from then on, was found dead near Başköyü village of Silopi, Şırnak. İdil (Şırnak) Public Prosecution Chief Office sent a letter to the relatives of Atilla Osmanoğlu on 4 January 1999 stating, “the corpse of an unidentified male person, who could be Atilla Osmanoğlu, was found in Silopi on 30 March 1996.”

Upon this, HRA Deputy Chairman Osman Baydemir, HRA representative Hanefi Işık and relatives of Atilla Osmanoğlu went to İdil and Silopi on 6 January. Afterwards they released a report on their observations. The report stated that Atilla Osmanoğlu’s father Muhyettin Osmanoğlu had applied to Diyarbakır SSC Prosecution Office and the OHAL Governor after the disappearance of his son, but was told that his son “had not been detained.” Muhyettin Osmanoğlu had not been able to identify the body by the photographs at İdil Public Prosecution Office, and then the delegation had gone to Silopi, but again he could not be positive regarding the identity of the body. The wife of Atilla Osmanoğlu expressed that the sweater on the body and the sweatpants found in a small bag nearby the body belonged to her husband.

The findings of the autopsy were listed in the report as follows: “...the autopsy report found that the soft tissue in the head of the body, starting from the left ear down to the lower lip had been cut completely, that there had been many cuts and fractures of the head, there had been a trace of a hanger starting from the chin to the neck and that hanger and blows and ill-treatment had caused the death.” The report added, “His wife expressed that two sweaters seen on the body in the photographs taken when the body had been found in a tar reservoir used by road workers and the sweatpants found in the tank belonged to Osmanoğlu. Although the clothes listed in the case file are not complete, the sweaters can be clearly seen in the photographs. Yet, the damage to the face made it quite impossible to identify the body. As a result, the identification is not accurate.”

The report accused the authorities of not having conducted an effective investigation, including the autopsy report, that the clothes were not protected, and the case file did not include any information regarding the place of burial. The report read in the conclusion part: “The body was not identified with certainty, but his wife’s recognition of the clothes

strengthened the opinion that it was the corpse of Atilla Osmanoğlu. In any case, the body belonged to a missing person, a “disappearance” that had been denied by the authorities.

During the visit to Silopi on 6 January, it was discovered that Mehmet Fındık, Ömer Fındık and Ömer Kartal went missing on 31 December 1995, Kereven İzmez on 9 October 1995, Yahya İpek on 23 July 1998, and Mehmet Mungan on 18 July 1998. No progress was made in the investigations launched on the official complaints about the disappearances of these persons. According to general belief the disappeared persons were executed in the triangle between Silopi, Cizre and İdil. We also have the strong belief after the studies we conducted in the region between November 1998 and January 1999 that there is a mass grave other than the cemeteries in Silopi and Cizre. A central investigation body should be established immediately.”

#### *Kenan Hıdıroğlu*

Kenan Hıdıroğlu, Secretary of the Zonguldak Branch of Genel-İş Trade Union affiliated to DİSK (Confederation of Progressive Trade Unions), was found dead in an irrigation channel near his house on 6 January. No information was available on his whereabouts since 3 January. People had searched for him, because his house burnt down and he did not come to work.

#### *Ademi Efe*

On 12 January the corpse of Ademi Efe (17), student at a grammar school in İzmir-Bornova, was found in the after reservoir hanging from a rope. He had gone missing on 7 January. Reportedly the rope for strangulation had broken and was fixed again

#### *Zübeyir Özkartal*

Zübeyir Özkartal (40) died in Diyarbakır-Sur Town in the evening of 18 January as a result of an armed attack.

#### *Fıraç Yıldız*

Fıraç Yıldız (30), working as ‘imam’ (preacher) in Batman died on 19 January as the result of an armed attack in front of his house.

#### *Kemal Türk*

Kemal Türk, an informer for the gendarmerie, was found dead in Silvan District of Diyarbakır in February. He should have testified on 6 May in a trial against Captain Coşkun Bayar, the Chief of Smuggling Branch of Çermik Gendarmerie Headquarters, non-commissioned officer Levent Toğrul, and enlisted men Serdar Karabulut, Mehmet Yüksel and Mustafa Alnak, and a person named Ali Yıldız at Diyarbakır SSC on 6 May. In the trial, the defendants were indicted for killing Fethi İpek in Çermik District of Diyarbakır on 28 September 1998 and establishing a gang to sell drugs. Hüseyin Tayfun, the lawyer of the relatives of Fethi İpek, claimed that Kemal Türk had been killed because he would not testify in favor of Captain Coşkun Bayar. Coşkun Bayar’s lawyer Yaşar Altürk demanded to hold a secret session in order to hear Major Zahit Engin, who had carried out the investigation into the killing of Kemal Türk, and enlisted man Cemal Yaşar and Mahir Balcı. This demand was accepted, and a secret session was held for about 15 minutes. In the hearing, Ali Yıldız, who was accused of being the gunman, said that Fethi İpek had been killed by enlisted men Mehmet Yüksel and Serdar Karabulut for money. Ali Yıldız gave the cellular numbers belonging to these soldiers to examine the phone calls made via these telephones.

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On 7 February an unidentified male corpse was found near Diyarbakır Saraykapı Prison.

*Ali Çağatay*

On 18 February Ali Çağatay died as a result of an armed attack in front of his house in Mersin Yenipazar quarter.

*Veysi Selimoğlu*

On 25 February three armed men attacked and killed Veysi Selimoğlu (28), who was reportedly wanted as an alleged member of Hezbollah, in Diyarbakır.

*Murat Baytemur*

Two unidentified armed men attacked and killed Murat Baytemur in Diyarbakır Dağkapı quarter on 3 March.

*Ali Gün*

On 2 March the corpse of Ali Gün (30), a tailor from Çekerek district (Yozgat) was found at the roadside in Çiçekdağı district (Kırşehir). The police announced that Ali Gün had been tortured, his arms were broken and he had been killed by shots to his head.

*İskender Uçar*

On 12 March the folk singer İskender Uçar was killed in Darıkent town in Mazgirt district (Tunceli).

*Hasan Baytemur*

On 14 March unidentified armed men killed Hasan Baytemur in Diyarbakır Bağlar quarter. His brother Murat Baytemur had been killed on 3 March.

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During the raid of a house in Kızıltepe district (Mardin) the corpse of a male person was found in March. The house reportedly belonged to Hezbollah.

*Önder Onat*

Önder Onat (27) died in armed attack in Batman on 29 March.

*Sait Çelik, Cüneyt Kutlu*

On 13 April armed men blocked the road between Tunceli and Erzincan. They kidnapped Sait Çelik (27) and Cüneyt Kutlu (17). Their corpses were found on 14 April. Both men reportedly were members of the MHP.

*Hasan Hüseyin Mercan, Yıldırım Taş*

The corpses of Yıldırım Taş and Hasan Hüseyin Mercan were found in a house in Avcılar district İstanbul on 10 May. Both men were alleged members of DHKP-C and reportedly had earlier been detained for that reason. The police announced that the militant Aysel Alhan had rented the flat one month ago.

*Hüseyin Tuncer, Enver Aktaş, Ali Aslan*

On the Konya-Antalya road near Akyokuş region the corpses of the teacher Hüseyin Tuncer (28), Enver Aktaş and Ali Aslan were found after 26 May, one day after each other. All three were reportedly connected to Hezbollah.

*Kenan Aşçı*

The corpse of Kenan Aşçı said to have been killed on 26 May, was found in İstanbul

Beykoz on 30 May.

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On 1 June the corpse of an unknown man, aged 19, was found in İstanbul Gazi quarter. He had been killed by a single shot.

#### *Hasan Kahraman*

The student Hasan Kahraman (23) was attacked by three armed men in Bahçelievler quarter of İstanbul at 11.30pm on 11 June. He died on his way to hospital, because of a bullet wound to his head. Hasan Kahraman reportedly was a member of TIKKO.

#### *Osman Kaya*

Osman Kaya (40) died on 21 June as the result of armed attack on him in Nusaybin district (Mardin). He was said to be an adherent of Hezbollah.

#### *Abdülcelil Güngör*

The corpse of Abdülcelil Güngör was found near Güneyyaka village (Şırnak) on 24 June. In May Diyarbakır SSC had sentenced him to 45 months' imprisonment for supporting the PKK. On 20 June he had appealed against the verdict and "disappeared" on that day.

#### *Kalabalık Yıldırım*

Kalabalık Yıldırım, leader of the Başimi tribe "disappeared" from Eski Harman village in Ağrı at the beginning of 1999. His corpse was found at the road cross to Çobanbey village in Ağrı province on 30 June.

#### *İbrahim Halil Gülen*

On 19 July armed people attacked and killed İbrahim Halil Gülen in Diyarbakır Balıkcılarbaşı quarter in front of the Ulucami (mosque).

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In July three male corpses were found in Antalya, Kırklareli and Edirne. The man found at the Manavgat River (Antalya) was said to be 40 years old. The one found in Kışlacık village in Vize district (Kırklareli) was suspected to be from Romania or Bulgaria. The one found at the Meriç River (Edirne) was estimated to be aged between 25 and 30, 1.70 meters tall and weighing 85 kilograms.

#### *Erdoğan Beyazgül*

The hotel owner Erdoğan Beyazgül was shot to death near Tornova village in Ovacık district (Tunceli) on 3 August.

#### *Süleyman Kılıç, Mehmet Emin Biter*

Armed men attacked and killed Süleyman Kılıç and Mehmet Emin Biter in Batman Bağlar quarter on 3 August. One week later Mehmet Salih Kızılırmak was detained on charges of having killed the two men. In the first hearing on 20 October Kızılırmak pleaded not guilty. His lawyer Oktay Bağatır said that his client could not have committed such a crime, because of his bad eyes. The gun found at his home was apparently not used in the incident.

The daughter of Salih Kızılırmak, Bahar Kızılırmak, stated that her father had been at home at the time of the crime. The victims had been friends of her father. He had been forced to confess at the police station, but he had rejected the charges in front of the prosecutor. The son of Süleyman Kılıç, Aydın Kılıç, stated that they did not believe that

Kızılırmak had committed the murder. Police officers had asked him whether he knew of his father's connection to HADEP, suspecting that Hezbollah might have killed him. He had told them that it was their duty to find the killer. Otherwise they would suspect the State of being the killer.

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On 8 August a male corpse, aged about 45, was found in Bingöl. The hands were tied on the back and he had been shot in the eyes and forehead.

#### *Ali Dündar*

Ali Dündar (43) former chairman of MHP for the central district of Diyarbakır was killed by an unidentified man on 16 August. Diyarbakır Governor Nafiz Kayalı stated that five suspected Hezbollah members had been detained after the crime and the arm used in the killing had earlier been used in the killing of two other persons. Ali Dündar was said to be a retired police officer, who had been injured in an armed clash, when he was working in a special team.

#### *Şeyhmus Yıldırım*

On 7 September the corpse of a male person was found at the Tigris River near Erimli village (Diyarbakır). Hands and feet had been tied and the corpse had been put into a bag. First, the identity could not be established, but it was said that the person had been strangled to death. Later the corpse was identified as Şeyhmus Yıldırım (21), son of the owner of Yıldırım Petrol Station, who had been kidnapped 8 days ago.

#### *İhsan Tunç*

İhsan Tunç (45), from HADEP in Adana province, Yenibey quarter, was killed on 8 August. Reportedly two men shot at him in the evening hours, when he was on his way home.

#### *Mahmut Ergün*

Armed men attacked and killed Mahmut Ergün in Diyarbakır Balıkçılarbaşı quarter on 19 September. Mahmut Ergün reportedly was a leading figure of Hezbollah, who had been under detention in 1994.

#### *Ahmet Uluğ, Hasan Duran*

Unidentified men killed Ahmet Uluğ in Diyarbakır on 5 October and Hasan Duran on 8 October. Both men were reportedly on trial for supporting Hezbollah. Police officials announced that 13 people had been killed in the first nine months of the year as a result of clashes between the İlim and Menzil wings of Hezbollah.

#### *Faik Demir, Nurettin Bozkurt*

Faik Demir and Nurettin Bozkurt died in an armed attack in Bahçeli village (Bingöl). Sami Demir was injured in the attack.

#### *Yılmaz Kara*

Armed people attacked and killed Yılmaz Kara (22) in Diyarbakır Bağlar quarter on 13 October.

#### *Abdülhalik Alpay, Hasan Kurt*

On 19 November armed people killed Abdülhalik Alpay (27) and Hasan Kurt (24) near Keskinağaç village (Diyarbakır). They had been on their way home, when masked men stopped them. After a short discussion the two workers were killed, while a third colleague

managed to escape.

### *Ökkeş Beyazlat*

The corpse of Ökkeş Beyazlat, who “disappeared” in İskenderun district (Hatay) in 1998, was found in a graveyard. The family received the information from a person, who did not want to identify himself on the phone. In the presence of a prosecutor the grave was opened and a fifth corpse was found in the grave of a family, where four people should have been buried. Ökkeş Beyazlat was identified by his clothes, shoes and a ring he was wearing.

### *Sulhattin Kızıldaş*

Sulhattin Kızıldaş, deputy chairman of the MHP in the central district of Van, was killed by unidentified people on 6 December.

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On 30 December the male corpse of a person, aged around 25, was found between Büyükkadı and Özekli village (Diyarbakır). The person had been tortured and half of the body was buried.

## **3.4 Explosions of Landmines etc.**

Like in the years before the explosion of landmines, bombs, mortars or bombs resulted in deaths and injuries of people. For the year 1999 the HRFT determined that at least **37** civilians lost their lives, while at least 45 were injured.

The most important development in 1999 was the entering into force of the Ottawa Treaty on 1 March. The treaty had been discussed for along time and, although the countries producing landmines had not signed it entered into force. Joel Williams, chairing the campaign for an international ban of landmines had received the Nobel Peace Price in 1997. According to the Ottawa Treaty the use, production and sale of landmines is forbidden and existing landmines have to be destroyed.

Turkey was the only NATO country that did not sign the treaty, but announced that it would do so in the next five years.

The campaign for the ban of landmines presented the following information:

- Every 20 minutes one person dies from landmines
- 90% of the victims are civilians, most of them children
- Mines are in use since the beginning of the 20<sup>th</sup> century
- One mines costs appr. \$ 3
- The extinction of a mine costs appr. \$ 1,000
- In more than 70 countries without an actual conflict mines are in use
- Experts estimate the number of mines that have to be destroyed at 70 to 110 million
- It would cost about \$ 30 billion to clear all area
- Most mines can be found in Egypt (24 million)

In August the Defense Commission in the GNAT agreed on a contract with Bulgaria to

clear the border region from anti-personnel landmines. A representative of the Foreign Ministry spoke at the Commission and stated that Greece had not responded and Georgia had stated that such an agreement could be made, if the Russian troops had moved out of the country. So far Turkey had not approached Syria, Iran and Iraq on the question.

### **Villages used on minefields**

The villagers from Tekevler and Kel Hasan villages

The investigation into allegations by inhabitants of Tekevler and Kel Hasan villages in Sason district (Batman) to have been forced to search for landmines in December 1996 and February 1997 did not develop further in 1999. In June 26 villagers testified for a third time. They first went to the court hall and were sent to the gendarmerie station of the district. The commander asked them to take back their complaint. He informed them that the case would be heard at Batman Criminal Court.

However, on 21 September the investigation of the public prosecutor in Sason resulted in a decision not to prosecute lieutenant Hakan Başakçı from the gendarmerie unit in Sason.

#### *A. Baki Korkmaz*

On 9 May special team members stopped a minibus driven by Süleyman Beğendi on its way from Genç district to Bingöl. The special team asked the passengers, who knew the area well, to come with them. Since nobody left the minibus the special team forced İzzet Bahar, Cemal Çimenli, Ramazan Hadır and A. Baki Korkmaz to come out of the vehicle and accompany them. Reportedly they had to walk the whole day. İzzet Bahar, Cemal Çimenli and Ramazan Hadır were set free on 10 May, close to the place where they had been “kidnapped”. They said that they had been used as “experimental animals” to find landmines.

A. Baki Korkmaz was released on 23 May. His brother Mehdi Korkmaz stated: “He called us after he had walked until the district center. We went to get him. He was in very poor health and said that he was forced to walk in the countryside for days in mined areas. When shelters were found he had been the first to enter. For five days he had been held in a cell at a military compound in Lice.”

#### *Five villagers as experimental animals*

On 28 July soldiers from the gendarmerie in Bingöl stopped a minibus on its way from Solhan district to Bingöl near the Dallitepe region. After an ID check they detained Remzi Çiçek, Vedat Güzel, Cuma Kerpiç, Adnan Ekinci and an unnamed person. The minibus was asked to drive on, while the villagers were taken to two shelters with food inside. Fearing that these places might be booby-trapped the villagers were forced to enter first. Afterwards the soldiers searched the places, before destroying them with bombs.

#### *Court cases*

Erzurum Administrative Court ordered the Ministry of Defense to pay TL 2.8 billion to the family of Serhat Sandemir (7). He had lost his life, when on 25 April 1998 he played with a mortar that he had found in the waste of a mechanic unit in Erzurum. The decision was taken in October.

Lawyer Tuncer Aktaş stated that the State was responsible for damages resulting from its actions. It was quite obvious that the device had left the military compound, which meant a misconduct of duty. Other sources said that 19 children lost their lives in the same quarter while playing with bullets that had still been intact.

#### *Explosions*

In the evening hours of 9 January an explosion occurred at the Culture Center that was constructed by the governor of Ankara in Sincan district. The construction was destroyed. One person died and two were wounded. The police found many fuses at the site. Samet Uğraş (9) died on the way to hospital and İslam Toy (10) and Mehmet Hışır (11) were injured.

On 14 March Tugay Ergin (10) died, Suat Evin (7) and Servet Evin (8) were heavily wounded, when they played with a hand grenade in Hani district (Diyarbakır).

Uğur Erçe (10) died on 13 May, when a bomb, he had found in a dustbin in Kozluk district (Batman). On the same day the siblings Kenan Oğuz (9), Ferdi Oğuz (2), Deniz Oğuz (12) and Cansu Oğuz (6) died, when they played with a rocket they had found among military waste. The father Mirza Oğuz and their sister Semra Oğuz were wounded.

On 27 May Keleş Atabey (20) died near Başkale district (Van), when a van drove on a mine that had been planted on the street. Yadila Atabey (32) was seriously wounded.

At the end of May a tractor with village guard hit a landmine near İkizce village (Şırnak). The PKK was held responsible for the mine. Şerif Yıldırım (4) and Ahmet Demir (14) died and 8 village guards and the commander of a special team were wounded. In Başkale district (Van) the vehicle of Nedim Atabey hit a mine when he wanted to take material to the gendarmerie station. Nedim Atabey (20) died and his brother Hamza Atabey (18) was seriously wounded.

The village guards Halit Kaplan, Cemal Kaplan, Tayyar Kaplan, Tahir Demir and Şahin Demir and Kerim Vermez from the same village died on 6 June, when a minibus hit a landmine near Konur village on Şemdinli district (Hakkari). 5 village guards were wounded. The military wing of the PKK, ARGK, announced that they had not placed the mine.

At the beginning of June children played with a hand grenade they had found near the Nazik Lake in Ahlat district (Bitlis). Yusuf Demir died, his arm of his brother Halis Demir was ripped off and the other brother İsmet Demir was wounded to the leg.

Kerem Demir died on 5 July, when his minibus hit a mine near Durankaya town in Hakkari province. The village guards Emin Bayram, Aziz Bayram and Yusuf Ayva and the passengers Ali Çivi and Asiye Kuş were wounded.

Ahmet Geçgil had been detained in İskenderun district (Hatay) together with the alleged PKK militants Murat Tekin, Nevzat Çelik, Çetin Yıldırım and Emin Yıldırım. On 22 July the security forces took him to a place, where he should show them material of the PKK. Near Taşoluk village in Kırıkhan district he stepped on a mine and died.

On 1 August 8 children found a mortar near a military compound in Elazığ. Fırat Çiçek (13), Onur Şahin (15) and Sedat Karakoç (14) died; Ersin Yalçın (12), Ergün Haydaroğlu (11), Engin Haydaroğlu (12), Alican Dönmez (13) and Kubilay Göktaş (13) were wounded, when it exploded. On the same day M. Sıddık Temel died, when he played with a hand grenade he had found in Çalıldüzü village (Bitlis). Two persons were wounded.

At the end of August Selami Ak (20) died, when he stepped on a mine in the rural area of Yüksekova district (Hakkari), while he was grazing sheep. Nizam Süer was wounded

On 28 September the tractor of Hadi Çetin hit a mine, when he had left Taşdelen village in Uludere district (Şırnak) to collect wood. As a result of the explosion Hadi Çetin, Ramazan Dündar and Abdülkerim Zeybek died.

On 26 September a tractor hit a landmine on its way from Genç district (Bingöl) to Modan (Meşedalı) village. The driver Cihan Kaya died. Remzi Kaya and Hasan Yılmaz were

wounded and taken to Bingöl State Hospital. The villagers complained that the mines endangered their lives and asked for a removal of them. They said that 2 people had been killed and 8 wounded in just one month.

Selahattin Akan (19) died on 29 September, when he inspected a hand grenade that he had found in Eruh district (Siirt), while he was collecting wood.

Ahmet Güneş (24) died on 17 October, when a tractor hit a landmine near Sivritepe village in Ömerli district (Mardin). Ramazan Güneş and Mehmet Kul were wounded.

On 30 October Mesut Nas (10) died, when he played with a bomb he had found in Yavuz Selim quarter of Batman

Şemsettin Bayram (13) died on 12 December, when the bomb that he had found near Demirli village in Kulp district (Diyarbakır) exploded. On the same day Osman Demir (14) died, when a mine exploded near Selman village in Eğil district (Diyarbakır).

On 30 December İsa Genç (18) died in Şirvan district (Siirt), when he stepped on a mine.

### *Injuries*

Halil Ergül was wounded on 3 January, when he stepped on a mine in Üçkoz Plateau in Erzincan district (Hatay). His right foot had to be cut off.

On 3 January Ahmet Demir (8) and Ahmet Aslan were wounded, when the hand grenade they had found near a cemetery exploded.

The shepherd Ramazan Gevaş (13) was seriously wounded on 16 April, when he mortar he had found in the rural areas of Sîte (Çaypınar) in Midyat district (Mardin) exploded.

On 11 May İbrahim Tatlı found a mortar near the 40th Regiment. He took it home to sell it as used iron. The mortar exploded, when he tried to heat it over a fire. Tatlı survived the incident without injuries.

On 10 June a minibus drove on a mine near Kulp district (Diyarbakır). Mustafa Sucu and Yasin Bakay were wounded.

On 19 July a minibus hit a landmine on the way from Belanoluk (Hişet) village to Pervari district (Siirt). The driver Fazıl Batıhan, Hüseyin Acar and Halit Batıhan (20) were wounded. They were taken to Pervari State Hospital. It remained unclear, who had planted the mine.

On 30 October 5 refugees from Northern Iraq died in the minefields between Turkey and Greece. The Greek police announced that 35 people had crossed Meriç River, but entered a minefield near Kipi control post. 5 people were killed and 10 wounded.

The brothers Muhtedesen Kaday (13) and Serdar Kaday (10) were wounded on 9 November, when they inspected a bomb they had found on the waste of the gendarmerie in Diyarbakır. The bomb exploded, when they tried to destroy it with stones. Passers-by took them to Diyarbakır State Hospital. After treatment the police took them for an onsite inspection.

In August, Prof. Dr. Serdar Necmioğlu, chair of the Orthopedic and Traumatology Department at the Medical Faculty of Dicle University, declared that cases of injuries increased in 1991-1992. They went down after 1995. He stated that 210 people had been wounded in the last five years, because of anti-tank and anti-personnel mines that had been planted on paths and roads to villages. Adding the number of 64 people, who had been wounded by pistols and 274 people, who had been wounded by rifles, into account the total number of wounded persons had been 548; 209 of them had remained disabled.

Necmioğlu maintained that the decrease of case after 1995 was the result of better technology for the detection of mines that could be destroyed afterwards.

### **3.5 Armed Organizations and the Right to Life**

Armed organizations conducted less attacks against civilians in 1999, but continued to do so. The most striking examples were the assassination attempt on the governor of Çankırı, Ayhan Çevik, and the bomb attack on Blue Bazaar shopping center in İstanbul. ([22])

#### **Deaths in Armed Attacks on Civilians**

Unrecognized people opened random fire on the coffee shop Mahir Köşk in Şanlıurfa on 4 January. In the attack with automatic rifles Reşit Aktabur and Fevzi Aktabur died; Ali Dağmacı was seriously wounded.

On 23 January two noise bombs were thrown into a coffee shop in Samandıra-İstanbul. Şaban Akbaş ran after the attackers, who shot him dead. On 30 January 5 alleged PKK members were detained. Among them, Adem Öztürk and İsmet Elmas were accused of having thrown the bombs and killed Akbaş.

A group of unidentified people shot at a coffee shop in Genç district (Diyarbakır) at 10pm on 25 February. Cihan Bozkır, Halim Kandemir and Mehmet Sanık died in the incident. Aydın Sağ, Veysel Sağ, Hikmet Tezer, İbrahim Tezer and Hüseyin Bağlı were wounded.

#### **Bomb Attack on the governor of Çankırı**

On 4 March 4 people died in Çankırı as the result of a bomb explosion. The bomb had been planted in a stolen car. Çankırı Governor Ayhan Çevik was wounded. The car with the bomb had been parked in front of a shop selling gas cylinders. The bomb was detonated, when the car with the governor passed. Body guard Nurettin Cinsoy and the passers-by Fatma Dönmez and Emrah Ersoy died on the spot. Alpay Evirgen, who was wounded in the incident, died in Ankara Numune Hospital on 14 March. ([23])

On 6 March Kemal Ertürk (Mustafa Eren) was detained in Sivrihisar district (Eskişehir) and his cousin Bülent Ertürk was detained in İstanbul. They had allegedly been involved in the attack. Also in March Lale Açık was detained in Tokat. She was alleged to be a member of TIKKO, the suspected organization behind the attack. About 18 people had been detained during control in the region of the attack. All of them were released, since it turned out that they were not linked to the incident.

Ankara SSC remanded Kemal Ertürk on 13 March, Bülent Ertürk and Lale Açık on 14 March. The prosecutor at Ankara SSC indicted Kemal Ertürk, Bülent Ertürk, Lale Açık and Nihat Konak on 30 April, demanding the death penalty according to Article 146 TPC. The other defendants Şener Kökten, Özgür Deniz Demirdiş, Sevinç Güden, Selahattin Yurdaer, Murat Demirdiş, Turan Açık and Arap Deniz were accused of membership of an illegal organization according to Article 168 TPC and had to expect sentences of up to 22 years' imprisonment.

In May Bülent Ertürk and Kemal Ertürk, who had been put in Eskişehir Prison, started an indefinite hunger strike on the grounds that their life security was at risk. They rejected to testify in the first hearing for the same reason.

Further detentions were made in İstanbul in August. Muharrem Horoz and Yalçın Özbek were remanded on charges of membership to TKP/ML-TIKKO and participation in the attack in Çankırı. On 5 October Mesut Deniz was detained in Havza district (Samsun). Ankara SSC remanded him on 12 October. He was indicted under Article 146 TPC. The

files of Horoz and Özbek were combined with the main case in Ankara. The trial at Ankara SSC did not conclude in 1999.

### **The “Blue Bazaar”**

Fire broke out in the shopping center “Blue Bazaar” in İstanbul-Göztepe, when on 13 March Molotov cocktails were thrown at it. 13 people died and 6 were wounded, two of them seriously. The victims were: İbrahim Taslı, Ayşe Akın, Seval Balcı, Zeynep Nezahat Beyazgül, Şen Yeşildağ, Meltem Özkılıç, Filiz Soydemir, İlknur Keleş, Neşe Rusçuk, Fevziye Şahinöz, Ümit Ayyürek, Sonnur Atalay and Hüsnü Kenar. Remziye Şahinöz, Selami Demirci, Senem Ayyürek, Tolga Ak and Hakan Savcı were wounded. The attackers were said to have been four people. The PKK was suspected to be behind the attack.

The media accused the HRA of protecting the terrorist. HRA chairman Hüsnü Öndül replied by saying that the protests of the HRA against attacks on civilians were not published. According to the daily “Özgür Politika”, published in Europe, the PKK was not responsible for the attack. A group under the name of “Nationalist Kurdish Revenge Forces” had claimed responsibility.

Some 100 people were detained after the attack. Among them İsmail Ekinci was remanded on 19 March on charges of having supported the attackers. Neytullah (Beytullah) Getiren, Hakim Yavaş, Ayetullah Yavaş, Veysi İyi and Ali Yeşiltepe were detained as the ones, who had carried out the attack. They were also accused of having planted a bomb under a car in the shopping center Atrium. On 23 March General Director for Security, Necati Bilican, alleged that Hakim Yavaş and Ayetullah Yavaş had planted the bomb in the shopping centers Carrousel ([24]) and Atrium, while he accused Bilican, Getiren, İyi and Yeşiltepe of having thrown the Molotov cocktails at the “Blue Bazaar”. ([25])

At the end of March Metin Yamalak was detained in Mersin. İstanbul SSC remanded him on 6 April on charges of having participated in the attack. On 31 March lawyer Gülizar Tuncer stated that İstanbul SSC had charged her client Neytullah Getiren, Veysi İyi and Ali Yeşiltepe, whom the General Director for Security, Necati Bilican, had shown as the assailants, only with membership and support of an illegal organization and not the attack on the “Blue Bazaar”.

The prosecutor at İstanbul SSC demanded the death penalty for Yamalak. The indictment of 30 April also asked for the death penalty of Azime Işık, Ergin Atabay and Abdullah Günay. Their trial started on 14 July at İstanbul SSC. Metin Yamalak alleged that there was a plot against him, since he was an executive of HADEP.

In the hearing of 3 December Metin Yamalak repeated that he was working in the Youth Commission of HADEP and complained about frequent detentions and threats by the police. On 5 March he had gone to Mersin in connection with the upcoming elections and he had heard of the incident on TV. Abdullah Günay stated that he was working for HADEP. Police officers had kidnapped him on 24 April and his statement to the police had been extracted under torture. Belgin Açkanıran was heard as witness. She stated that she was shown a drawing at the police station, but she had asked to see Metin Yamalak in person to identify him. She had been told that the person in question had lost 15 kilograms in 10 days and she would not recognize him, if she saw him. Witness Ahmet Büyükkayıkçı stated that the attackers had not hidden their faces. He had identified Metin Yamalak from the drawing. Among the defendants the witness later identified Ergin Atabay as Metin Yamalak. When the judge asked him about the fact that the attackers had come in a car, Büyükkayıkçı said that he had not said it. The police had written that part of his testimony. Defense lawyer Eren Keskin stated that the testimony of the witnesses showed the

contradictions of the indictment. The fact that her name was also mentioned in the indictment was an indication that the whole case was just a plot.

On 13 December Çimen Işık, brother of Azime Işık was remanded by İstanbul SSC on charges of membership to the PKK.

### **Further Cases**

On 16 March an explosion occurred in car with a foreign license plate near Kırıkhan district (Hatay). The Bulgarians Dimitri Dimitrov and Jivkov İvanov died.

Celil Gür and Bayram Acar were found near Aksu village in Suşehri district (Sivas) on 5 April. They had been strangled to death.

On 3 May unidentified people stopped three cars near Koyulhisar district (Sivas). They forced the passengers to get out of the cars and killed Ali Yıldırım (19) and Ali Kaya. Hasan Yaylacı was wounded and the attackers escaped.

An armed group attacked a repair station of the national village service in Çat district (Erzurum) on 11 May. They killed the guard Cevdet Polat and wounded the staff Salih Güven, Nejdet Özbay, Fuat Çeçen and Mustafa Kurt.

Unidentified people shot at a coffee shop on Yenimahalle district (Elazığ) on 1 July. Ferhat Bulut, Şükrü Tuna, İdris Yeter and Bilal Cömert died in the attack, while Levent Gülkan, Murat Çiçek, Nihat Orhan, Mehmet Aslan, Serdar Yavuz and Fatih Kanter were wounded. In the ensuing police operation Şükriye Kaymaz and an unnamed PKK militant were killed. In the clash police officer Hüseyin Mustafa Demircan was wounded.

Faik Handemir (39) died, when on 4 July a bomb exploded in a park in İstanbul-Avcılar. 25 people were wounded, 7 of them seriously. The names of the seriously wounded persons were: Şaban Gören, Batuhan Gören, Şefik Gören, Arife Yıldız, Erkan Karaca, Derya Handemir (wife of Faik Handemir), İskender Handemir (son of Faik Handemir).

On 14 July unidentified people killed the villagers Hakan Akçagöz, Ahmet Akçagöz, Vedat Akçagöz and Fatih Doğan near Aydoğan village in Refahiye district (Erzincan). Murat Ayyıldırım was wounded.

Street vendor Erkan Çam was killed by armed people in İstanbul-Kadıköy on 26 July. The DHKP/C was held responsible for the attack. On 27 July Ziya Adıgüzel was wounded to his leg with a knife. Both incidents in Kadıköy were allegedly linked to each other. The allegation said that the people introducing themselves as DHKP/C members had asked both men for money.

### **Injuries**

On 11 February a bomb exploded in front of the building of İstanbul Bar Association in İstanbul, İstiklal Road. Celal Demirci and İbrahim Boğaçhan were wounded.

On 19 February a group of people attacked a bus from the municipality on duty between Taksim and Mustafapaşa with stones and sticks. Ahmet Altın was wounded by a stone in his face.

A hand grenade was thrown into Harvard Café in İstanbul-Etiler on 25 February. Müge Sungur, Çetin Tuğal and Murat Görkay were wounded.

On 28 February a group of 4 people threw a splinter bomb into a coffee shop in İstanbul-Esenler. Kazım Kalaycı, Kenan Kalaycı, Mustafa Yılmaz, İbrahim Kalaycı, Erdal Demir, Ahmet Yılmaz, Sadettin Sezgin, Yıldırım Durur, İbrahim Çiftçi, Zeki Çokaçkan, Cumhur Gürsoy, Ergun Gürsoy, Ahmet Kalaycı and Erdur Yılmaz were wounded.

One woman was wounded at the beginning of March, when a bomb exploded in a vehicle parked in Ankara-Gaziosmanpaşa.

Selçuk Sancak (17) and Soner Aksoy were wounded on 14 March, when a bomb under a lorry in İstanbul-Yenibosna exploded.

On 15 March a Molotov cocktail was thrown at a car on Uğur Mumcu Road in Ankara. The passer-by Semra Özmen was wounded.

On 18 March a bomb was thrown into the saloon of people from Erzincan in İstanbul-Ümraniye. Duran Ay, Dursun Soydaş, Nazım Acar and Fazıl Gürbüz were wounded.

The soldiers Ramazan Çubuk, İsmail Orhan, Göksun Tor, Gökhan Tezgahtür, Selami Işık, Mahir Sosyal and Hakan Yılmaz and the guests İbrahim Avcı, Rifat Kutlu and Mehmet Aksoy were wounded, when on 16 May a bomb was thrown into a coffee shop in Atatürk Street in Dört Yol district (Hatay).

The German citizens Patrick Klein and his wife Süreyya Klein were wounded on 2 June, during a bomb attack on Masal Bar in İstanbul-Kadıköy. Allegedly İBDA-C militants carried out the attack.

On 4 July Abdülselem Tural injured Hüseyin Mert and İsmail Aydemir with a knife, after he had entered the building of the İP.

On 11 July a bomb exploded in the cellar of a café in Van. Muammer Bayrakçı, Orhan Arslan, Nedim Karakaya, Emin Aras, Kenan Şahin, Nezir Haktanır, Faruk Binici, Mehmet Ali Ağataş, Hüseyin Aras, Alaattin Yurdakul (Yurdakalan), Remzi Menteş, Sıddık Karagülle, Metin Kalkan, Nurten Kalkan, Şerife İşgör and Mehmet İşgör were injured.

On 12 July a bomb exploded in a taxi-bus in İstanbul-Şirinevler. Funda Sokur and Cemal Özdemir were injured.

Shots were fired at the house of Rıdvan Başabaş in Siverek district (Şanlıurfa) on 5 August. Rıdvan Başabaş and his daughter F. B. (15) were seriously wounded.

On 25 August unidentified people shot at minibus on its way from Diyarbakır to Derik district (Mardin). The passenger Hikmet Güneş was wounded.

An explosion occurred on 10 September in the building of the Treasury for the Marmara Region in İstanbul-Şişli. 23 people were wounded, one of them seriously. On the same day another bomb was found in the building of the employment office in Unkapanı. The DHKP/C claimed responsibility for both incidents.

As a result of a bomb explosion in the building of the Economic Development Foundation in İstanbul-Şişli on 6 October the passers-by Yalçın Balkış, Remziye Çelik, İlknur Ark, Zennure Akpınar, Serap Köprülü, Zarifiye Erbaş, İbrahim Erbaş and Nevin Yılmaz were slightly wounded.

A bomb that had been planted in the section of alcoholic drinks in the shopping center Carrefour in İstanbul-Kadıköy exploded on 19 December, injuring the woman Ayfer Sağbili slightly. In the parking space of the shopping center another explosion occurred. İBDA/C took responsibility for the acts.

### **Kidnappings**

Ahmet Aydın, the imam (preacher) of Benlizade Mosque in Tarsus, Mersin, was abducted on 19 March by alleged Hezbollah militants. Ahmet Aydın's wife Fatma Aydın disclosed that her husband had continuously been threatened by Hezbollah, and said, "The members of the Hezbollah demanded my husband to keep the doors of the mosque open

from the evening prayer until the night prayer. However, my husband did not do so as it was against the law. The discussions on this matter intensified after the summer. They told my husband, 'If you go on to act like this, we will erase you'." During the operations carried out after the kidnapping of Ahmet Aydın, 11 people were detained. Five of these people were later remanded.

On 13 February 10 TIKKO militants kidnapped Mustafa Aydın and Selahattin Öztürk in Erbaa district (Tokat).

On 25 April 6 TIKKO militants raided the concrete factory Tokbesan in Tokat. They set the vehicles on fire and abducted the guards Cihangir Uygun and Abdullah Cinger.

PKK militants raided Alaniçi village (Muş) in 6 May and kidnapped Abdülkerim Gültekin (55) and his son Bayram Gültekin.

On 16 May PKK militants kidnapped the teachers Cengiz Tan and İbrahim Tanrıoğlu, on duty in Sarmaç village (Van).

Six village guards, who had been kidnapped by PKK militants near Ağaçdibi village, Çukurca district (Hakkari) at the end of October, were released at the beginning of December. Bedel Korkmaz died on the way of return.

Incidents of kidnapping increased after November. During this time Hezbollah was held responsible for the kidnapping of İzzetin Yıldırım, chairman of the Zehra Education and Culture Foundation, Mehmet Salih DüNDAR, Mehmet Sait Avcı, İsmail Aksoy, Ramazan Yaşar, Cihangir Gufrandi (Gaffari) Neğiş, Mehmet Kanlıbıçak, Ahmet Atçı, Ömer Çınar, Şuayip Yetiş, Kadri Tüzer and Mehmet Sümbül.

### **Killed Soldiers and Police Officers**

On 24 March unidentified people opened fire on a vehicle of the gendarmerie in İstanbul-Esenyurt. The soldier Hikmet Ünal was killed.

In an attack on a control post of the police in the center of Van on 1 July, one police officer was killed and another one was wounded. The next day fire was opened on a control post of the police on the road between Van and Özalp. The police officer Ayhan Sarıçiçek was killed and Hasan Basu was injured.

On 18 July retired police officer Muzaffer Gürsakaya was shot in front of his house in Sakarya, where he was running a coffee shop. He died on the spot.

### **Suicidal attacks**

In Batman the PKK militant Nezahat Boyacı conducted a suicidal attack on a police station with a bomb on her body. She came to Şehit Kaplan Kıran Police station at 2.30pm on 5 March. When she met with warnings and preventive movements of the police officers she exploded the bomb. Nezahat Boyacı died in the incident. The police officer Yakup Eken and İsmetullah Dövek plus two children were wounded.

On 20 March the PKK militant Taceddin Şahin conducted a suicidal attack near the Traffic Directory in Van. He died in the incident, while the police officers Özer Sönmez and Ferhat Çahan and the civilian Veysi Öz were injured.

During the suicidal attack on İstanbul Taksim Square on 27 March the PKK militant Meral Mamyak died and 11 people were wounded. The woman came towards a police car around 12.40am, but was stopped 20 meters away from it. She raised her hands and exploded the bombs, when the police officers approached her. As a result of the attack the police officers Duran Gökçek, Mustafa Tokalaş and Yılmaz Erdoğan and the civilians

Alparslan Göktaş (31), Akın Günaydın (39), Ezgi Gürlevik (12), Çiğdem Kılıç (Gürlevik-22), Serpil Ercan (24), Esmâ Yurdakul (21), Göksal Uysal (16) and a child with the first name of Mustafa were injured. Reportedly two more people run away after the attack.

On 4 April Canan Akgün (27) died in Erdemli village (Tunceli), when the bomb on her exploded. Police officers alleged that the bombs exploded, before she could conduct a suicidal attack.

On 5 April the PKK militant Baki Tatlı conducted a suicidal attack against Bingöl Governor Süleyman Kamçı. Baki Tatlı and Nuray Balülken (16) died, while 20 people including 4 police officers were wounded. The governor survived without injuries. The incident was reported as follows:

At 1.30pm two people came towards the governor, when he stepped out of his car. One of them was running and exploded the bomb, when he thought he was close. However, the hand grenade throw into his direction, too, had no effect. The PKK militant and Nuray Balülken died, while the police officers Erden Ekşi, Ahmet Keleş, Ahmet Tokgöz, Ahmet Şentürk, the driver Faik Şenlik and the passers-by Zehra Baylaz, Bilal Bugurlu, Nurettin Erden, Osman Bulut, Salih Atala, Zeynep Baluken, Gülşah Baylaz, Hatun Doymuş, Yaşar Turan, Hakan Doğru, Aydın Azak, Mücahit Yolagelen, Hüseyin Ayata, Rahmi Solhan and Mehmet Şenlik were wounded.

On 8 April a suicidal attack was carried out against Hakkari Governor Nihat Canpolat in Yüksekova district. The PKK militant and Çetin Deniz, the driver of the Governor, died in the attack, whereas 5 persons were wounded. In the attack, which was carried out at 3.50pm on Cengiz Topal Street, Governor Canpolat, Hakkari Provincial Gendarmerie Regiment Commander Colonel Tahir Çebi, guarding police officer Nesim Saz and driver Çetin Deniz and two persons were wounded. Canpolat and the 2 persons, whose names could not be revealed, were discharged from hospital after a brief medical treatment, whereas Çebi, Deniz and Sav were transferred to Van Medical Faculty Hospital via a helicopter. Çetin Deniz died on the way to the hospital. A curfew was announced in Yüksekova after the attack. The PKK militant who carried out the attack was reportedly male, aged 25-30. Meanwhile, cameramen from NTV, TGRT and SHOW TV were prevented by the police when they wanted to take pictures of Governor Canpolat. The police seized the cameras and the equipment of the journalists.

On 2 June, an explosion took place in the vicinity of the 23rd Gendarmerie Division Headquarters in Şırnak. It was claimed that a PKK militant, who would carry out a suicide attack against the Division Headquarters, detonated the bomb strapped to his body when he was halted by a village guard named Halit Bayar, who was working on his field near the Division Headquarters. Ceylan Bayar (7), the daughter of the village guard, was reportedly wounded in the explosion. It was also claimed that another PKK militant survived the explosion and managed to run away.

In Adana, a 19-year old PKK militant, Ruşen Tabancı with the code name "Berfin-Zozan," carried out a suicidal attack against the building where the Financial Branch and Wireless Communication Center of Adana Security Directorate is located. In the attack on 5 July, the female PKK militant died when she exploded the bomb strapped to her body, whereas police officers Hasan Genç, Levent Beler, Bayram Kuru, Yaşar Dogan, Mehmet Telsiz, Nuri Conker, Hasan Akça, Alay Rençber, Nermin Yıldırım, Erdogan Aslan and Hüseyin Köse, and the civilians Ahmet Taşa, Alaattin Özkiran (12) and Salih Çelik were wounded.

The trial launched against 14 people in connection with the attack ended at Adana SSC on 14 December. In the trial, Ruşen Tabancı and Nusret Pirinççioğlu were each sentenced to

12 years 6 months in prison on charges of “being members of the PKK,” whereas Mevlüt Karayigit, Hüsnü Çilgen and Şahibe Gergersoy were each sentenced to 3 years 9 months in prison on the accusations of “aiding the PKK.” The defendants Uğur Gürü, Bedri Şen, Mithat Aksu, Mahmut Gergersoy and Hamza Aktaş, who were prosecuted without arrest, were acquitted.

Veli Şen died on 27 August, when he wanted to conduct a suicidal attack on a control post of the police near the Directory for Village Services in Tunceli. Reportedly the bombs on the alleged TIKKO militants exploded, when he was 75 meters away from the control post.

### **Killed Confessors**

Halil Taş (39) was killed in his house in İstanbul-Sarıgazi on 23 July. His wife Hanife Taş was injured. Allegedly Halil Taş was killed by TIKKO on the grounds that he was a police informer.

On 17 September Cavit Çiftçi was attacked in his house in İstanbul-Maltepe. He died in hospital on 18 September. Reportedly Cavit Çiftçi had become a repentant confessor, when he was imprisoned in Ceyhan as an alleged TIKKO militant. He participated in the hunger strikes in 1996 and had been released shortly after becoming a confessing militant.

On 12 October the villager Hasan Şahin was killed in Soku village, Suluova district (Amasya). The assailants were not identified, but it was reported that Hasan Şahin was killed, because he provided the security forces with information about TIKKO militants.

### **Cases Continuing from Earlier Years**

#### *The Egyptian Bazaar*

On 9 July explosions in the Egyptian Bazaar in İstanbul-Eminönü resulted in the death of 7 persons and wounding of 127 others. In December 1998 15 people were indicted in connection with the incident. The death penalty was sought for sociologist Pınar Selek ([26]), Abdülmecit Öztürk ([27]), Alaattin Öğüt, İsa Kaya and Kübra Sevgi under Article 146 TPC, and prison terms between 3 and 31 years were demanded for Baran Öztürk, Heval Öztürk, Ercan Alır, Maşallah Yağın, Delibaş Arat, Menderes Öğüt, Erkan Öğüt, Hasan Kılıçdoğan, Alican Öğüt and Suat Kaya.

The first hearing was conducted on at İstanbul SSC on 14 April. Sociologist Pınar Selek stated that she was seeking to understand the gap between Kurdish and Turkish people: “I was willing to meet PKK leader Abdullah Öcalan. In order to understand this party one has to understand Abdullah Öcalan. While I starting this research, I was well aware that I would be prosecuted here, but I could not imagine such a big plot against me.” Pınar Selek did not accept the accusations that bombs and equipment used to make bombs had been found in the workshop she worked in Beyoğlu, İstanbul. The other defendants in the trial also pleaded not guilty and stated that they were not repentant, thus they wanted to be transferred to some other prison than Kırklareli Prison.

The trial continued at İstanbul SSC on 5 July. A bomb expert, Nazmi Nuri Çelik, was heard in the hearing. He said, “As a result of our examination on the dead and wounded persons, we could not find a sign or evidence that would prove that the reason was a bomb explosion. Most important of all, we could not find the center of the explosion. If a bomb blasted, there should have been a hole of at least 50 centimeters deep. We concluded that the reason of the explosion was a leak from a liquid gas cylinder in the buffet.” In the hearing, Pınar Selek said that she had been detained two days after the incident, and she had not been asked any questions regarding the explosion. The defendants from Kırklareli Prison disclosed that they could not prepare their defenses in the prison, and that they had

begun a hunger strike on 31 June demanding their transfers to Gebze or Ümraniye prisons.

The debate on the reason of the explosion continued after the testimony of bomb expert Nazmi Nuri Çelik. Authorities from İstanbul Police HQ asserted that a bomb had blasted. They claimed that the remains of the bomb could have been annihilated due to the high temperature because of the TNT or during the rush after the explosion. The police authorities stated that examinations in 3 different laboratories in İstanbul and Ankara had indicated that the reason of the explosion was TNT, and they also stated “the suspects had assumed responsibility for the bombing during their interrogation by the police.” Three memoranda written on 9, 10 and 13 July 1998 by Nazmi Nuri Çelik and bomb expert police officers, on the other hand, read that “there was no sign of a bomb.” The expertise report that was prepared on the basis of the examination at the Police Criminal Laboratory stated that “acetone-phased nitrocellulose remains and nitrate ions had been found.” Yet the report continued as follows: “However, it could not be determined whether the explosion at Ünlüoğlu Buffet had taken place due to gasses or a bomb, or whether a substance, the danger of which could not have been estimated and which might have been kept in the buffet for a long period, had caused the explosion when hit by any material that affected the substance on the day of the incident. Any remaining which could have been a part of a bomb was not found neither in the buffet or in the vicinity.” A report prepared by İstanbul University Forensic Institute Natural Sciences Department, read that the reason of the explosion was not a liquid gas cylinder, but explosives that contain nitrocellulose.

In the hearing of 13 September contradictions on the date of Pınar Selek’s detention were discovered. The defendants did not testify in the hearing, protesting the conditions in Kırklareli and Ümraniye Prisons. Superintendent Selim Öztürk and police officers Yusuf Hacıoğlu and Mustafa Kara were heard as witnesses. They said that they did not remember the details, but the minutes were correct. Deputy superintendent Hüseyin İslamoğlu said that they had found a bomb at “Street Artists Workshop” when defendant Pınar Selek had shown them her place. The defense lawyers criticized the testimonies of the police officers, stating that they had claimed that the minutes were correct, although they did not remember the details of the operation. Meanwhile, Pınar Selek’s father, lawyer Alp Selek said that there was a note that his daughter had been detained at 6pm on 11 July 1998, and a report which read that she had helped to find the bombs during the search at the workshop on 12 July 1998. Selek stated that the report on the examination of the bombs was written around 5am on 11 July 1998 and said, “If you look at this, you will see that the examination of the bombs had started and the defendant’s fingerprints had been taken before she was actually apprehended.” Bahri Belen, one of Pınar Selek’s lawyers, stated that the minutes had shown that Pınar Selek had been detained 13 hours after the search at the workshop.

In the hearing of 6 December two employees from the Egyptian Bazaar were heard. The case was not concluded in 1999.

### **Killing of Sabancı**

The trial launched against 11 people in connection with the killing of businessmen Özdemir Sabancı (55) and Haluk Görgün (43), and Secretary Nilgün Hasefe (40), on 9 January 1996, continued at İstanbul SSC on 26 January. In the hearing, Galip Akbaş, one of the security officers of the Sabancı Center in İstanbul, was heard as an eye-witness. Galip Akbaş said that he had checked the IDs of the defendants on the day of the assassination before letting them in, and he had entered the ID information on computer. He added that he had let them in without a search, as they had been searched at A Entrance.

In this trial the defendants Mustafa Duyar, Fehriye Erdal, İsmail Akkol and Ercan Kartal were charged under Article 146/1 TPC, which requires the death penalty. Lawyer Metin Narin, Fatma Erdem, Ejder Güngör, Mehmet Gökmen, Ferhan Taş, Nazlı Güngör, Murteza Deveci and Melek Akkaya were charged with supporting an illegal organization.

Meanwhile repentant confessor Mustafa Duyar was killed in Afyon Prison on 15 February. (For details see the chapter on deaths in prison.) In the hearing of 6 April defendant Ercan alleged that the Sabancı family had ordered the killing of Duyar and claimed that the DHKP/C was not responsible for it.

On 8 June the arrest warrant against Murteza Deveci and Ferhan Taş were lifted.

Fehriye Erdal, wanted with an arrest warrant in absentia was detained in Belgium on 26 September. She was carrying an ID on the name of “Neşe Yıldırım” and was accompanied by Musa Asaoğlu, Kaya Saz and Hasan Ekici. On 3 November the Turkish Justice Ministry presented the file with the demand of extradition to the Belgium Foreign Ministry.

During the hearing of 4 November İstanbul SSC quoted from the extradition request. Stating that Fehriye Erdal would be charged under Article 146 TPC requiring the death penalty the Court had asserted that the defendant would benefit from all rights laid out in international conventions. Defendant Metin Narin stated that the Court should not expect an extradition to a country with so much torture and human rights violations. In the same hearing Ercan Kartal presented a report to the court on the traces of torture he had been subjected to 4 years ago. The Court decided to wait for an answer of Belgium on the extradition request.

On 16 December Fehriye Erdal’s lawyer Raft Jaspers declared that his client had applied for asylum.

### **The Marmara Hotel**

The court case in connection with the bombing of The Marmara Hotel in İstanbul on 30 December 1994 that resulted in the deaths of journalist-writer Onat Kutlar and the archeologist Yasemin Cebenoyan continued at İstanbul SSC No. 3 throughout 1999. In this case 20 alleged members and supporters of the PKK are on trial.

The prosecutor at İstanbul SSC requested the death penalty according to Article 125 TPC for the defendants Deniz Demir and Hicran Kaçmaz (both repentant confessors), Hasan Kızılkaya and Abdülcelil Kaçmaz. The other defendants, Zeydin Güleç, Nimet Kaçmaz, Abdullah Çolak, Ömer Filizer, Sait Aytemiz, Abdulkadir Er, Abdulrezzak Aydın, Ramazan Gülle and Mehmet Ali Güneşlu were charged under Article 169 TPC for supporting the PKK. The prosecutor later demanded acquittal for the defendants Mehmet Şah Altan, Abdulhalik Yunus and Mehmet Uğurlu, but the Court did not conclude the case in 1999.

### **Attacks by extreme right-wing groups**

Extreme right-wing groups continued their attacks in 1999. An increase was observed in attacks on lyceum students and pressure on organizational activities at grammar schools. Besides attacks of the extreme right on students at universities attacks on HADEP and left-wing parties by the extreme right and the security forces increased in 1999, since it was a year with elections.

In February Interior Minister Cahit Bayar answered a question tabled by Mustafa Kul, MP for the CHP from Erzincan. He stated that 45 rightist students had been detained in connection with incidents at the universities in 1998. Two of the students had been remanded. Bayar did not present figures for the attacked students, but stated: “Legal

publications of leftist terror organizations claim that the 'idealist youth' is attacking leftist students systematically and the police is inciting and protecting them. When the leftist students defend themselves or are just the attacked party, the police allegedly detain them. Such claims are seen as plans to push the country into chaos."

In 1999 at least 64 people, most of them students, were wounded in attacks of the extreme right. Following the attacks 170 persons were detained, most of them left-wing students. On 24 April right-wingers shot and killed İbrahim Alagöz in Groningen, Netherlands. Hacı Resul Baran was wounded. After the attack three people were detained. On 1 June idealists attacked the Federation of Migrant Workers in Germany in Cologne and killed the staff members Erol İspir.

### **Incidents**

On 22 December 1998, students adhering the Nationalist Action Party (MHP) attacked left-wing students at Ankara University, Faculty of Science, Department of Physics. In the incident, in which two students were wounded, one of the MHP adherents opened fire into the air. The police dispersed the MHP adherents, who also attacked the building in which the left-wing students took shelter. Left-wing students closed the doors of the university, and demanded that the police should leave the university and they should be given permission to make a press statement. When the students did not leave the university, the police entered the building from the back door and detained 40 of the students.

In İstanbul Marmara University Faculty of Communication, some 20 adherents of the MHP attacked left-wing students on 30 December 1998, wounding a left-wing student named Ümit Kraals.

On 4 January, a group of right-wing students attacked with meat-cleavers, stabs and clubs left-wing students at İstanbul Marmara University Faculty of Communication. The left-wing students took shelter in the faculty building. The right-wing students gathered with another group coming from outside. The left-wing students did not leave the building until the police arrived. About 10 persons were detained. Some students were hospitalized. 3 of them were detained after medical treatment at the hospital. The names of the students hospitalized after the attack were: Hasan Güler, Abdullah Demir, İrfan Yirmibeş, Kudret Özen, Ekrem Hacıhasanoğlu, Ümit Karahasan, Hüseyin Dağ and Hüseyin Asal. One finger of Hüseyin Asal was cut in the attack with meat-cleavers, and he was operated.

In Harran University in Urfa, rightist students attacked left-wing students in the evening of 11 January while the left-wing students were leaving the school. Ali Yavaş and Berat (surname not known) were wounded during the attack. Faysal Sarıyıldız, Gazi Gürbüz, İsmet Turgut, Uğur Aktaş, Ferda Aktaş, Eyüp Kanat, Muammer Özdil, Sedat Önalın, Berat, Taner, Mustafa and Kenan (surnames not known) and four left-wing students, whose names could not be established, were detained after the incident.

The nose of Hüseyin Özdemir, a student at Çanakkale 18 Mart University, was broken during the attack of rightist students in the cafeteria of the Faculty of Science and Literature on 12 February.

Zeynel Polat, the Deputy Director of İstanbul Ümraniye Industrial Vocational High School, was attacked on 12 March by alleged adherents of the MHP. The assailants stabbed Zeynel Polat in his lower belly when he came to the school at about 8am, and then ran away. Executive members and members of the Eğitim Sen Trade Union (Trade Union of Education, Science and Culture Laborers), who gathered in front of the school, were dispersed by the police. Eğitim Sen Branch No. 2 Secretary Vedat Odabaşı was detained by the police.

At the end of February the students Serdar Fedia and Deniz Dağ from Malatya İnönü University were wounded in an attack by MHP followers. One of the attackers, Salih Bayrak, was reportedly also involved in the killing of the student Ümit Cihan Tarho.

On 23 March the student Ercan Kalener from the Faculty of Literature at İstanbul University and member of the ÖDP, was attacked by some 10 MHP followers. He was wounded to his head by a hatchet and had to be treated in the urgency unit of Esnaf Hospital

On 27 May, students close to the MHP attacked left-wing students at Ankara University Faculty of Statistics, History and Geography (DTCF) with clubs. The incidents started at the History Department of the school, and spread with the participation of students from other departments. In the attack the students Aydın Kıvrak, Şerife Aslan, Didem Eraş, Murat Önür and Aytekin Akar were wounded.

In the morning of 28 May, two MHP followers, who had participated in the attack on 27 May, were beaten by a group of students. Around noon, Ertuğrul Düz, a leading figure among the rightist students, and a group of MHP followers walked on the leftist students with knives in their hands. In the aftermath, the police in the university detained the leftist students under beating. The police reportedly threw pieces of broken windows on the students who took shelter at the Theater Department and directed their guns at the students. During the incidents, 71 students were detained. Aydın Kıvrak and Murat Ömür, the students who had been wounded in the incidents on 27 May, were detained in the morning on 28 May after they were discharged from hospital. These students were reportedly confronted with the MHP followers at Seğmenler Police Station and identified Halil Ferah, Fatih Küçük and Ertuğrul Düz. Still, the three students were released without appearing before the prosecutor. After the incidents, the police also intervened in the press meeting of the HRA, held in front of the Human Rights Monument on Yüksel Street on 28 May. The police detained HRA Ankara branch executives Gökçe Yılmaz and Saadet Erdem and the students Uğur Keskin, Ali Güldönmez, Seçil Erdem, Murat Cankara, Suphi Öztaş, Hüseyin Sağlam, Sinan Cem Uzungeç and Yener Esen. The ones detained in front of the Human Rights Monument were released in the evening on 28 May and 41 of the students detained in the Ankara University were released on 29 May. Meanwhile, the examinations at the Faculty of Linguistics, History and Geography were postponed for 5 days.

On 8 April 15 MHP followers came to the Celal Bayar University in Malatya and stabbed the student Güngör Kızılkaya twice. They escaped with a car.

On 15 April Yavuz Tilki and other members of the BBP attacked the student Selami Akçam from the Faculty of Literature at İstanbul University. He had to be taken to hospital. The police intervened into a protest march and detained 41 students.

On 26 April extreme right-wingers attacked students from Ankara Vocational Highschool with knives. Çağdaş Çitkaya was wounded with a knife and 7 students were wounded by sticks. Çitkaya had to undergo an operation at the Hospital of Hacettepe University. Two of the attackers were beaten by left-wingers. They were wounded and the police took them away. After the incident the students İsmail Türker and Okan Özçelik were beaten by right-wingers in front of the police.

Muammer Kalçık, who was detained in Van on 12 May in connection with an ordinary crime and who was released by the prosecution office the next day, was reportedly beaten by MHP followers. After release he was forcibly taken to the Ülkü Ocakları (Idealists' Union). He was beaten there and suffered dislocation of the right shoulder and nasal

fracture. Two of his fingers were broken because of the beating. Necmi Kalçık, the brother of Muammer Kalçık, said that he had gone to the Ülkü Ocakları in order to get back his brother's ID card, but the MHP adherents did not give it. Necmi Kalçık added that the MHP adherents had threatened his brother, saying that he should not file a complaint and should not go to hospital.

It was reported that the folksingers Dilaver Eren, Yılmaz Çelik and Erdal Erzincan sustained injuries in an armed attack by an armed group of MHP followers, who raided their house in İstanbul on 12 May. Dilaver Eren was seriously wounded in the attack and hospitalized, whereas Yılmaz Çelik and Erdal Erzincan were slightly wounded. MHP adherent Ayhan Şakar, who was detained after the attack, reportedly made the sign of a wolf head and said, "I am an *ülküçü* (adherent of the MHP)." Ayhan Şakar was remanded.

Highschooler S.C., who was kidnapped in Denizli by adherents of the MHP, disclosed that he had been tortured by these persons. S.C. stated that he had previously been kidnapped and threatened by them. Recently MHP members had stopped him at the backyard of the stadium where he had gone to participate in the rehearsals for the 19 May National Festival of Youth and Sports. He said that these persons had carved a slogan, "The Nationalist movement cannot be stopped," and the emblem of the MHP, the three crescents, on his arms and feet.

Mustafa Karakuş and Tuncay Nuralı, students at Kastamonu Faculty of Education, were beaten by some MHP adherents who came to the Student Dormitory of Credit and Dormitory Institution on 27 May. Tuncay Nuralı was reportedly detained after the incident and Mustafa Karakuş was taken to hospital.

In Kırşehir-Kaman the teacher Sami Sağır was attacked by some 15 people, including pupils from the grammar school. After the attack of 31 May the teacher was certified 10 days' inability to work.

On 8 June a group of some 30 MHP followers attacked student from the Gürçeşme Lyceum in Buca (İzmir). Eight students were wounded. Erkan Günay, Erhan Bekmez and Ulaş İldan had fraction of their heads and noses.

Erhan Taş and a friend with the first name of Murat, who had graduated from İbrahim Turhan Lyceum in Esenler-İstanbul in 1999 and belonged to the Democratic Lyceum Union of İstanbul, were attacked by MHP followers in mid-June. Taş sustained injuries to various parts of his body, while Murat was slightly wounded.

In Sultanhisar district of Aydın, a group of MHP adherents attacked Sabahattin Karabulut and Aytaç Karakuş, members of the People's Democracy Party (HADEP), with knives and clubs on the night of 1 August. Karabulut and Karakuş, who got wounded in the attack, were detained after receiving medical treatment. Reportedly the attack took place at the park across the police headquarters, but the police did not intervene.

In İzmir-Erenler the juveniles Nihat Demirtaş, Zeynel Türkmen, Vedat Demirtaş and Kemal Oktay Aydın were attacked on 3 August by a group of 15 to 20 people, alleged to be members of the Bayraklı Idealists' Union. Vedat Demirtaş was wounded to his right arm and Kemal Oktay Aydın to his shoulder.

A group of MHP followers injured Ali Arslan, Ejdar Vurgun, Hasan İlhan and Ayhan Ekinci in Yenimahalle quarter of İstanbul-Bağcılar on 7 August.

On 20 October students from the Technical University in Giresun were exposed to an attack of MHP followers. Doğu Kahramantürk and a student with the first name of Eyüp were wounded.

Bülent Çelebi, student at the Faculty of Law at Marmara University, was beaten by MHP followers on 20 December.

Leftist students were attacked with knives and sticks by MHP adhering students at Marmara University Law Faculty on 22 December. It was reported that the police did not intervene in the attack on the students, who had come to the university early in the morning for their examinations. Ahmet Ergin Ciritçi, Sabir Canbaz and İbrahim Bilmez were hospitalized during the incidents. It was determined that one of the students was wounded by a cleaver and the other by an iron bar.

### **Court Cases**

#### *Aysel Çelikel*

10 months after the official complaint student Zafer Özbek was indicted for having threatened Prof. Dr. Aysel Çelikel, Dean of the Law Faculty at İstanbul University, over the phone. The indictment of 7 March charged him under Articles 188/3, 191/2 and 273 TPC, because he had used the name of an illegal organization. He had to expect a sentence of up to 32 months' imprisonment.

#### *Deniz Top*

The trial launched against Metin Irmak, who stabbed Deniz Top, a student who was selling a booklet "What does the headscarf cover?", criticizing Islamic students, on 7 September in Ege University campus, ended at İzmir Criminal Court No. 4 on 3 November. Metin Irmak, who was charged with "attempted murder" under Article 448 TPC that requires a sentence of up to 24 years' imprisonment, was sentenced to 2 years 2 months in prison.

#### *Kenan Mak*

The trial launched against 20 persons in connection with the killing of Kenan Mak, a student at İzzet Baysal University in Bolu, on the night of 3 May 1998, continued at İzmir Criminal Court No. 4 on 6 January. Soner Gökgül (17), the only arrested defendant in the trial, participated in the hearings of the trial for the first time. Soner Gökgül said that he had killed Kenan Mak himself and that there had been nobody along with him at that time. Soner Gökgül claimed that Kenan Mak had attacked him when he had left the Idealists' Union office. Kenan Mak had attacked them with a knife, and that he had captured the knife of Mak after a short fight and stabbed Kenan Mak a few times. Soner Gökgül added that he had returned to the office and left the knife on the balcony. Lawyers of Kenan Mak ([28]) reminded that Soner Gökgül told the police that there had been some other persons with Kenan Mak, all with knives, and demanded to consider the video tape in connection with the incident. The court board decided that Soner Gökgül should remain under arrest. The prosecutor originally demanded a prison term between 24 and 30 years for Soner Gökgül, for "intentional murder," prison terms from 6 months to 6 years 6 months to the other 15 adherents of the MHP for "taking part in the quarrel." The prosecutor also requested to sentence Mak's friend Mustafa Orhan, who was with Mak during the quarrel, and Sezai Koçyiğit and Ferit Öncel, who took him to hospital, on the same accusations.

In the hearing of 10 May lawyer Nedim Değirmenci stated that the sub-plaintiffs did not accept the report by Bolu Forensic Institute. Therefore, they had asked İstanbul Forensic Institute for an opinion.

This report was presented to the court on 9 June. İstanbul Forensic Institute pointed at some deficiencies in the report. Therefore, the intervening lawyers asked for a new report.

In the hearing of 8 July the intervening lawyers once again asked for an inspection of the

video taken during the fight. The court had earlier rejected their demand, because it was not clear, who and how the images had been taken. The prosecutor summed the case up and demanded to sentence Soner Akgül according to Article 448 TPC. He wanted Abdullah Ayan and Kürşat Şahin to be sentenced according 454/3-4, Galip Ayyıldız and Resul Güven according to Articles 456/4 and 464/3 TPC, Özay Gündüz according to Article 464/4 TPC and the remaining defendants according to Article 463 TPC. Because of the hearing the entry and exit of the HADEP offices in Konak were blocked by the police.

The trial ended at İzmir Criminal Court No. 4 on 8 September. Soner Gökgül, the only remanded defendant in the trial, said in his final words that Kenan Mak and his friends had “almost made propaganda of the PKK” while passing the Idealists’ Union building. This had lead to the fight. Gökgül claimed that he had not intended to kill Mak, but intended to take the knife from him and end the fight. The court passed the following verdict. Soner Gökgül was sentenced to 15 years in prison. Other MHP members, who were prosecuted without arrest, Abdullah Ayan, Fahrettin Tunç, Kürşat Şahin, Özay (Rıza) Gündüz, Galip Ayyıldız, Resul Güven, Fatih Yıldırım, Bülent Eken, Tuncay Yılmaz, Hüseyin Aktekinoğlu, Mustafa Emin Yardak, Kürşat Duygulu, Erhan Bayram, Serkan Karadeniz, Fazil Ali Merdanol and Erhan Altun were each given imprisonment terms between 3 months and 6 months, but these sentences were commuted to a fine, and then reprieved. Mustafa Orhan, the friend of Kenan Mak who was along with him during the incident, was given 25 day’s imprisonment. This sentence was also commuted to a fine and then reprieved. Serdar Koçyiğit, Sezai Koçyiğit and Ferit Öncel, who had taken Kenan Mak to hospital after the incident, were acquitted.

#### *Ümit Cihan Tarho (1291)*

The trial launched in connection with the killing of Ümit Cihan Tarho, a student at İnönü University in Malatya, on 11 January 1998 by extreme-rightists because he did not fast in Ramadan, continued at Malatya Criminal Court on 8 March. In the hearing, the Forensic Institution’s report was heard. The report read that Ümit Cihan Tarho was not killed with the knife of Caner Öztürk, who claimed responsibility for the murder, but with the one belonging to Kadri Kılıç. Upon this, Kadri Kılıç said that he would make important statements, and demanded a secret hearing. However, the court board rejected his demand of holding a session in private. Upon this, Kadri Kılıç said that he had no life security in prison and that he was not allowed to meet his lawyer. In the hearing, the intervening lawyers demanded that the life security of Kılıç be maintained. Later, the Presiding Judge accepted the demand by Kılıç, and took the spectators out of the hall. However, Kadri Kılıç wanted that the lawyers also be taken out of the hall. The Court Board rejected this demand, and adjourned the hearing. The defendants in this trial were: Kadri Kılıç (remanded), Caner Öztürk (remanded), Bedri Yaylagül, Mehmet Fatih Gökalp, Mehmet Hanefi Azdikoğlu, Muhammed Şahiner, Korkut Özalp, Levent Mutlu and Memuş Dündar.

The hearing continued at Malatya Criminal Court on 2 June. In the hearing, the defense of defendant Kadri Kılıç was heard. He stated that so far he had not spoken, because he did not believe that he would be convicted. Kadri Kılıç claimed that not he but that Salih Bayrak, Caner Öztürk and Hanifi Azdikoğlu had killed Ümit Cihan Tarho. The intervening lawyer pointed to the fact that Salih Bayrak was not among the defendants and had not even been interrogated, although Caner Öztürk had named him. They asked the court to file an official complaint.

In the hearing of 29 June Kadri Kılıç stated that he was in prison for 16 months already. Now he wanted to tell the whole truth. On that day he had stepped from a bus and started

a quarrel with Erdal ıtkır. At the same time Caner ztürk had quarreled with the victim. He had had a knife, but that had fallen to the ground. When Salih Bayrak and Hanifi Azdikođlu saw that their friend Caner ztürk was losing they hit the victim with their knives. After Caner had come to his feet he had stabbed the victim once. All three had taken the victim to a building and he had not seen what happened there. Defendant Caner ztürk asked for time to consult his lawyer.

In the hearing of 10 November a written statement of Kadri Kılı was read out. He held the MHP responsible for the act and alleged that earlier petition had been forwarded to the MHP in Malatya and he had been put under pressure because of the petitions. Kılı also alleged that Salih Bayrak was mainly responsible, but on intervention of the MHP he had been kept out of the trial.

Salih Bayrak was invited to the hearing on 10 December, but did not appear. The case did not conclude in 1999.

#### *Bilal Vural, Hakim Atik*

The trial launched against Murat ap (17) and Dođan akmak (18) in connection with shooting and killing Bilal Vural (20) and Hakim Atik (died at hospital on 18 May 1998) on 4 May 1998 in Seyrantepe, İstanbul, concluded at İstanbul Criminal Court No. 4 on 1 February. The court initially gave the death penalty for Dođan akmak but the death penalty was later commuted to a prison term of 25 years and a fine of TL. 1.500.000. Murat ap was sentenced to 1 year 8 months in prison.

## 4. Enforced Migration

The practice of evacuating villages that started in the 1990s continued in 1999, but on a smaller scale. The number of completely or partly evacuated villages and hamlets in the region under a state of emergency (OHAL) and provinces, where an unofficial state of emergency was applied, was estimated to be at least 3,500 and the number of internally displaced people (IDP) was estimated to be about 3 million. The officials remained indifferent to the problems in housing, nutrition, health and education that these people were confronted with. No important step was taken in 1999 towards the solution of these problems. Projects such as the “village-town” project, developed without approval by the concerned population, were shown as the only way out of the dilemma.

### 4.1. Evacuation and Burning of Settlements

Here is some information on incidents in 1999:

On 11 January the Ministry of Interior deprived Uludere in Çukurca district (Hakkari) the status of a township. The settlement had been evacuated in 1996 on orders of the governor in Hakkari. Inhabitants of Uzundere staged a demonstration in Hakkari on 12 January. Some 150 people walked towards the Governor’s Office, but were stopped by the police, who detained 8 people.

Soldiers evacuated Güvenli (Xırbike) village on Nusaybin district (Mardin) on 19 January under the pretext that the population supported the PKK. The nearby İlkadım (Hebise) village was partly evacuated. Only elderly people remained in the village. Both villages had reportedly been raided in mid-January and the soldiers had beaten the villagers in order to become village guards. The inhabitants reportedly settled in Küçük and Büyükkardeş villages, close to their home villages and some moved to Kızıltepe and Nusaybin district, while some migrated to Mersin and Adana.

On 16 May soldiers raided Baharlar (Barav) village and detained the village headman Bahri Narin and some others. They asked the inhabitants to leave the village. The villagers asked for one week’s time to collect the harvest. They had to leave their homes on 23 May. 16 families reportedly settled in Dalani and Bawert villages, 5 in the center of Lice district and 10 in Diyarbakır.

On 20 May soldiers asked the population of Kürekli (Kenisipi) in Çınar district (Diyarbakır) to leave their homes, if they did not agree to become village guards. The villagers reportedly left on 25 May.

Reports from Eruh district (Siirt) indicated that soldiers burned down the houses in Hilela (Hilla) village that had been evacuated in 1994 on the pretext that the villagers had returned without permission. Allegedly the soldiers also destroyed gardens and fields of the villagers.

Balkırı village in Kemaliye district (Erzincan) was evacuated in October. On 27 October some 100 houses were reportedly burned down. The evacuation came, when the villagers asked to resign as village guards.

Tavuklu (Xirbe Miriřka) village in Ömerli district (Mardin) was reportedly raided on 18 and 22 November, after 15 families had returned to the village that had been evacuated in 1997. On 22 November soldiers reportedly burned houses and barns.

In June soldiers raided Hesena, Kola and Xırpagî hamlets of Kıpçak village in Lice district

(Diyarbakır). The village itself had been evacuated in 1998. The soldiers accused the population in the hamlets to be responsible for some bomb explosions in the area. The villagers left their homes between 17 and 20 June, because the soldiers had asked them to go. Most of them settled in the nearby Üçadamlar (Bawerde) village and in Lice district to live with relatives.

*Reports from Sevkan village in Başkale district (Van) stated that soldiers raided the village in June asking the inhabitants to leave the village, because they were supporting the PKK. Since the villagers refused the soldiers raided the village again on 28 June and, this time, forcibly evacuated the village. The villagers settled in Van and Başkale, but about 2,000 sheep and cows had to be kept in a different place.*

*On 5 May soldiers and village guards reportedly raided Kewşen village in Erciş district (Van) and set 12 houses on fire. The villagers had resigned as village guards about two years ago. Being accused of supporting the PKK they left the village on 25 May and settled in Erciş.*

Gömeç (Huri) village in Hani district (Diyarbakır) was raided on 30 June. Soldiers asked the inhabitants to leave the place. The villagers, who refused to do so, were reportedly beaten by the soldiers, who detained 15 of them. The villagers left their place on 1 July and settled in the district center and in Kırım (Qadişt) village in Lice district. Soldiers reportedly destroyed the harvest after the evacuation.

The inhabitants of Uludere village (15 houses) and Kesendere village (9 houses) in Başkale district (Van) left their houses on 6 July. In June soldiers had accused them of supporting the PKK and asked them to leave. Some villagers settled in Işıklı village in Yüksekova district and others in Van.

In July, soldiers raided Kırılan village in Lice district (Diyarbakır) and threatened the population demanding to leave the place within a week. The villagers subsequently moved to Çalabük village.

## **4.2. Further pressure on Villagers**

Besides the practice of evacuation some settlements were also subjected to measures such as embargo on food or hindrance of agricultural work. Such violations were also reported in 1999. In some cases the food embargo and ban on pasturelands, mainly imposed on the grounds of providing logistic aid for the PKK, made villagers leave their homes. In August Interior Minister Sadettin Tantan answered a question tabled by DYP MP for Tunceli province, Kamer Genç stating that neither in Tunceli nor elsewhere any kind of food embargo had been registered.

### *Food Embargo*

In June reports became public that a food embargo had been imposed on Hasköy, Cönek, Maran, Şexan, Anzeving, Avtariç and Zeyneli villages in Yayladere district of Bingöl province and in some 40 villages of Karakoçan district in Elazığ province. In Yayladere villages were reportedly allowed only once a week to go to the villages.

The Association for Social Help and Culture (KAYYDER) conducted a mission to the districts Karakoçan, Kığı, Adaklı, Yayladere and Yedisu in the provinces of Elazığ and Bingöl between 12 and 19 July. The delegation spoke to governors, deputy governors and mayors and published a report afterwards. The report stated that the embargo on food and other needs that had been implemented for years had reached a peak in June in the villages of the districts Kığı, Karakoçan, Adaklı, Yayladere and Yedisu. "Yayladere the

villages can only be accessed once a week. The villagers there are forced to get permission for buying their weekly needs. But since they are only allowed to buy very little, the population has reached the verge of starvation.” The report further stated that soldiers, police officers and members of special teams hindered the people to take their food home. Visitors had left the area because of this practice. Attention was drawn to the dangerous health situation, in particular since elderly people were not allowed to take their medicine to the villages. The people were afraid of their lives, education had come to a stand still, and the right to free movement and possession was seriously restricted. The delegation asked for a speedy solution.

Reports on embargo of food were also received from Hakkari, Siirt, Van, Bingöl and Diyarbakır provinces.

#### *Restriction on Free Movement*

Reports from Bağgöze town in Eruh district (Siirt) indicated that since the end of 1998 anybody, who wanted to leave the town, had to ask the military authorities for permission. The inhabitants of the town were asked to apply to Bağgöze Gendarmerie Station; the inhabitants of the villages to the nearest gendarmerie station one day before they left. They had to state the place they would be going and the reason for their travel and the time of absence. The information was written down in a so-called “Travel-Book” and only, if there was no objection against the travel, the villagers would be issued with a travel document.

The villagers from Soylu (Deriş) village near Sürgücü town in Savur district (Mardin) reportedly had to ask for permission, if they wanted to go outside the village, sell their animals or take someone to hospital. Exceptions were left to the discretion of the commander of the gendarmerie station and, if he did not give permission, they would have to wait until the next day. One villager narrated:

“If we do not get back to the village within 8 hours, we have to stay outside. In that case we stay with our relatives, either in neighboring villages or the district center. The next day we will be interrogated at the gendarmerie station and are beaten frequently.” Reportedly visitors of relatives in that village were subjected to the same practice. In one case, Abdülhalim Emen, who on 20 September had come from Mersin to visit his mother and siblings in the village, was removed from the village after one day. The soldiers were also reported to count the animals in the village and the villagers said that they had to inform the gendarmerie station immediately if new animals were born or old ones had died.

In Hazro district (Diyarbakır) the population was kept under a curfew, because of a military operation. Following a clash on 19 January the road between Silvan and Hazro was closed for traffic. Tanks were positioned at the street to Hazro and vehicles coming from Diyarbakır were sent back and vehicles that wanted to go there were not allowed to. The inhabitants said: “Movements between the villages and the district center were forbidden. Therefore, many of us were unable to visit the graves of our relatives in Diyarbakır. We could not see our relatives in the district center and other places.”

On 10 September soldiers raided Xalidiye village in Eruh district (Siirt) and told the population that they were not allowed to leave the village. One villager reported: “The soldiers told us that they had seen terrorists entering and leaving the village and, therefore, we were not allowed to leave the village. We should breed our stock in the barn. They threatened that something bad would happen, if we did not stick to it.”

In September the control of streets intensified in Siirt province. One passenger reported that he was controlled 4 times between Eruh and Siirt. People, who were not registered in

Eruh, would not be allowed into the district center. Otherwise the address of his stay, the length and the phone number would be registered. Other reports stated that the villagers were not allowed to graze their animals in spots that could not be observed by the soldiers.

### *Hindrance of Agriculture and Stockbreeding*

Reports from Derik district (Mardin) stated that soldiers damaged goods of villagers, when they searched for shelters. Hasan Kaya, Mehmet Can, Hikmet Balçın and 2 unnamed villagers wanted to go to their fields with notarial personnel in order to calculate the damage. Soldiers hindered them and detained Kaya and Can.

From Bağgöze town and some surrounding villagers reports were received stating that soldiers and village guards were confiscating their goods since 1996 to deposit it at the gendarmerie station. One villager stated that were only allowed to work on their fields between 10am and 3pm and afterwards they had to leave the goods at Bağgöze Gendarmerie Station. "Wheat was deposited in the gendarmerie station or the health center. But since village guards moved into the health center they now are using houses nearby as depots. Later we are given two or two cans of wheat per week according to the size of the family."

Similar allegations came from villages in Eruh district (Siirt). Villagers said that were only allowed to work for 4 hours on their fields. Those who worked longer were beaten on the gendarmerie station.

In October Selim Beyaztaş applied to the Social Law Research Foundation (TOHAV) in Diyarbakır stating that he had not been allowed to go to his fields in Hazro district (Diyarbakır). He added that the mill in the village had been destroyed, 500 beech and 500 fruit trees had been cut. He asked the Foundation for help to have his damage compensated.

Mehmet Bansi approached the HRA in Diyarbakır to complain that soldiers had set the crops and other goods on his fields and garden in Duru (Durkam) village in Lice district that had been evacuated in 1995 on fore on 25 July.

### *Ban on Pastureland*

In March Erzurum Governor Ahmet Kayhan sent a circular to all district governors ordering permission for all for nomads and beekeepers if they wanted to use pastureland or plateaus. The circular stated that the logistic support for the PKK had to be extinguished. The PKK was using in particular the southern part of the province as their "front" and last year they had been in constant contact with nomads and beekeepers, had slept in their tents, received food and logistic support, received intelligence information and from time to time they had used the nomads in their actions.

In Ağrı and Kahramanmaraş it was forbidden to go to the pasturelands. On 9 April the governor in Ağrı decided that all kinds of grazing, stockbreeding and accommodation of nomads, who came from outside the province had been forbidden for the year 1999. Officials in Siirt province informed the village headmen in the region, where many nomads spend the winter, that the governor's office in Ağrı had taken such a decision. The governor's office in Kahramanmaraş also decided to ban the use of pastureland and plateaus. It was stated that the PKK made use of the nomads and the decision was taken in order to prevent logistic support for the PKK and recruiting of new members.

The villagers of Ayvalıbağ (Tanür) in Pervari district (Siirt) were forbidden to go to the pasturelands in the mountains. They were informed that the district governor and the commander of the gendarmerie unit had jointly taken this decision.

On 7 June soldiers raided the Keşişgol Plateau in Gürpınar district (Van). 200 families were using the plateau as pastureland for their 20,000 sheep and cows. The villagers were accused of providing food for PKK militants and asked to abandon the plateau. The villagers started to abandon the plateau on 9 June.

A ban on pasturelands was also introduced in Pınarbaşı (Bulam) town, Aktaş, Balıkburnu, Kurudere and Çalgan villages in Çelikhan district (Adıyaman). The villagers approached the district governor, chief of police and the gendarmerie commander for the district to have the ban lifted, but they had no success.

Following a clash near Kayabaşı village in İslahiye district (Gaziantep) on 28 May, the villagers from Hasanlök, Tandır, Pesti, Kerkük and Altınüzüm town were banned from going to Hınzırlı, Ovacık and Karagöz Plateaus on the grounds that they would provide food for PKK militants. Villagers also had to ask for permission, if they wanted to their fields and gardens.

Peasants from Iğdır, using the Yaylacık Plateau in Selim district (Kars) appealed to the Ministry of Interior in September. They alleged that members of special teams had tortured them, forced them to give money and sexually assaulted their women. Ali Varol, Mecit Aktaş, Hasan İnanır, Kemal Abakaya, Boran Fıgan and Beşir Bakış signed the petition and accused the special team from Güle Gendarmerie HQ (15 men) to have raided their tents frequently.

“We paid TL 1.6 billion to use the plateau and TL 875 million to take our animals there. But since we got to the plateau the special team continuously disturbs us. In May they came once every second week and insulted us. Now they are coming several times every week. They beat us, make us to line up and strip us naked and curse at our honor. Saying ‘we shall fuck your wives they ask us to pay TL 4 billion; 2 billion for the headman of Yaylacık, Binali Yılmaz and 2 billion for them. They threaten us, if we do not pay we would not let us live there.”

### *Ban on Trade with Animals*

On 13 September the Ministry for Agriculture and Village Affairs sent a letter to the governors in Van, Hakkari, Ağrı, Şırnak and Iğdır informing them that the trade with animals over the border had been forbidden and the market places for animal trade had been closed. Minister Hüsnü Yusuf Gökalp alleged that sick animals were being brought over the border under the control of the PKK. The PKK had an annual income of TL 30 trillion through this.

The band of animal trading, one of the main means to make a living in Van, Ağrı, Şırnak, Hakkari and Iğdır province, caused reactions. The merchants contradicted the Minister and claimed that at least 10,000 people would become unemployed. Such a measure was an economic embargo for the region.

In order to determine smuggled animals the farmers were asked in November to fix badges to the ears of their animals.

On 20 May Tahir Aydın, Hasan Kaplan, Hüseyin Kaplan, and three people with the first names of İlyas, İbrahim and Sadık wanted to take about 20,000 sheep from Başkale district (Van) to Siirt. Soldiers stopped the lorries at the exit of the district and confiscated the sheep. Hasan Kaplan stated that the soldiers first asked for health certificates. “We showed them the certificates from the vet in Gürpınar. The answer was that these animals were from the PKK and we would not be permitted to pass. The sheep were unloaded and we had to wait for three days. Later they forwarded the sheep to the village guards in the

districts. They are still in possession of them.” Hasan Kaplan added that they complained to the public prosecutor in Hoşap on 30 May, but had not received an answer yet.

Rüştü Yıldız, chairman of the Union of Export in Southeast Anatolia said in November that the export to the Lebanon and Saudi-Arabia had been \$ 609,000 in May, 364,00 in June and 350,000 in August, but had gone down to zero in the months of August, September and October.

#### *Ban on grazing animals*

*A ban on grazing sheep was introduced in the village of Eruh district (Siirt). From time to time villagers were also not allowed to leave their settlements like in Kekliktepe (Xalidiye) village of Eyne town. Soldiers raided this village on 3 June and threatened the inhabitants. Reports from Basixre village stated that soldiers shot at the sheep on 9 June killing 6 of them, because the villagers had not obeyed the prohibition order.*

### **4.3. Problems of Internally Displace Persons**

The internally displaced people (IDPs), who had been forced to leave their homes, fields, and living conditions, did not find human living conditions in the places they moved to. The IDPs did not get any help except for some insufficient voluntary organizations in the area of education, health etc. In political and judicial terms there were treated as “potential criminals” or “terrorists”. The IDPS were threatened and attacked in their new surroundings.

In particular after the abduction of Abdullah Öcalan these incidents intensified. The IDPS in Kocaeli, for instance, stated that they had become the target of so-called “ease operations,” ordered by the governor. Their houses were frequently raided.

Many IDPs did not find work, because of their Kurdish origin or they were sacked on the pretext that they were “separatists”.

There were no attempts to compensate the victims for enforced migration and the IDPS were even hindered to continue their live struggle in their new environment. Like in Ayazma quarter, 4 kilometers from İkitelli-İstanbul, the inhabitants would not get water, electricity or be supplied with roads or their houses in the slums, where they had build them, or their tents were torn down. In Subaşı town in Torbalı district (İzmir) IDPs had bought land and erected their tents there. Yet the municipality wanted them to leave because the animals disturbed the citizens of the town. The IDPs themselves alleged that the pressure was the result of them voting for HADEP.

On 13 July the municipality of Konak in İzmir ordered the destruction of 83 houses in the Abdi İpekçi quarter. Most of the houses belonged to Kurds. The police prevented house owners to protest against the destruction.

#### **Bulletin of Göç-Der**

The statement of the headman in Alan quarter of Siirt, Şakir Şalabbulur, sums up the problems: “15 to 20 thousand people are living in our quarter. 35 to 40% of them are people forced to migrate. Our quarter has many infrastructure problems. There are almost no roads. The living conditions are very low. The migrants lead a very bad life. In the summer they go to the west to work as seasonal workers. In the winter they try to survive with the money they earned there, because they do not find work. Health is a huge problem for them. The living conditions are very difficult, the families have many members and all are struggling to make a living. There is no security for their health. People apply

for the green card, but if they were ever detained, regardless of the reason, or if they were imprisoned, but later acquitted, they would not get a green card. There is almost nobody among us, who was not detained. This is a great obstacle for medical treatment. There is no health center in our quarter. There is only one school and that is not enough. The families don't send their kids to school, because they earn the living for the family. The vast majority would like their children to study for a better future, but they do not have the opportunity for it. Saying that there is no money the schools ask the parents to pay for broken windows. These people do not even have glass in the windows of their houses. They use nylon to cover them. The kids feel depressed, because they cannot provide the money as others do. The adults are depressed, because they are no longer productive. They are not able to consume the goods they produced before migration. If they reaped graves, for instance, they now cannot afford to buy one kilogram of it. This is a psychological problem in particular for the chief of the family. ”

#### **4.4. Discriminating Practices against IDPS**

Inhabitants of 500 Evler quarter, which is close to Piringlik Gendarmerie Station in Gendarmerie, were not able to vote in the 18 April election, if they had come from evacuated villages. Reportedly a military official had taken away the stamp of the headman and did not allow him to sit in his office to register voters. Some inhabitants complained that they had not been able to vote in the last election as well.

Similar complaints came from Van. The headmen of some quarters arbitrarily did not issue registration certificates for IDPs so that they could not be included in the lists of voters. Sakih Acar, chairman of HADEP in Van province, stated that they had tried to verify these cases, but the police had threatened them in the course of it.

People from Eastern and Southeastern Anatolia once again were not allowed to enter Ordu (at the Black Sea), where they had come to collect hazelnuts. The governor's office in Ordu made the following announcement at the beginning of August:

“It is only forbidden to build camps in the bed of the Melet River, because there is the danger of a flood and it is a place for disposals. Apart from that the workers may erect their tents in the gardens of the employers, with whom they have contracts. They may also live in their houses. It was only decided that everybody has to be registered according to the Law No. 1774.”

#### **4.5. “Return to Villages” Initiatives**

##### ***The Government's approach***

The “Return to Villages” project that had been on the agenda since 1995 was made concrete with the Prime Minister's decree of 27 January 1998. The decree stated that the return would be a voluntary act. Those who did not need additional security measures would be given priority. Others, who preferred to build their houses in town, would be supported until they had finished the construction. The “Help for Self Construction” was started first, but according to a statement of the General Directorate of Village Services the families in 8 villages of Bingöl, where such an initiative was started, had not approved of the program and, therefore, the project had not proceeded. ([30]) The same declaration pointed out that the project in 1999 would be made in the form of State investment without any return. Funds of TL 1 billion had been allocated for it. Studies in 9 villages of Bitlis, Muş, Tunceli and Hakkari had been finished and the funds had been sent to the Special Administration of Province. In addition, construction work in 2 villages of Hakkari province were underway.

In 1999 the Council of Ministers added two projects under the title of "Return to Villages and Rehabilitation" and "Regional Development Plan for the Return to Villages and Rehabilitation" to the investment program of GAP Regional Development Administration. The "Return to Villages and Rehabilitation" project was declared urgent so that its implementation started in 1999. As a first step investigations were made in Diyarbakır and Şırnak. In Kaymakamçeşme (Şırnak) 70 houses were finished and 68 families returned.

In the light of some 3 million IDPs this appeared to be an almost meaningless effort. Mahmut Özgür, chairman of Göç-Der, stated that the people need democratic rights and freedoms much more than economic packages and stressed that the conditions for a return had not been achieved. He said that the war was still continuing, the Kurds were still not allowed to speak their mother tongue and their culture was denied. He continued:

"The victims of migration we met in their tents of cellars of houses in the towns leading a miserable life want their identities to be recognized. They know that this is the reason for being internally displaced. The problems will not be solved by propaganda of the care of the State. The people know that. First the operations in the region have to stop and the system of village guards has to be abandoned. The government has not made a single statement on this issue. Operations of special teams that are the center of violence against the population continue unabated. If the Kurdish question was solved, why does the system of village guards continue? Why is OHAL not finished? Why does the food embargo and the ban on plateaus continue? All this shows that the problems are not solved, the conditions of war still continue. Under these circumstance you cannot expect the people to return."

#### *Formation of strategic villages*

Attempts to unite strategic villages to so-called "village-towns" that started in 1997 continued in 1999. Practical steps in this direction included:

It was announced that Üzümlü village in Çukurca district (Hakkari) that had been evacuated in 1993 and whose population had migrated to the Atrush Camp in Northern Iraq would be made a sample strategic village. Relying on the governor in Hakkari the semi-official Anatolian News Agency reported that the place had been identified and technical preparations had been done in Üzümlü (Deştan) village. Representatives of the Ministry of Construction and Settlement, the Village Services, the Railroad, the electricity company TEDAŞ and the phone company Telekom had decided to build this model village near the old Üzümlü village. It should become a center of trade. The infrastructure measures were planned to start in August. In the end IDPs region would have a place, where they could move.

Reports from Van stated that people from Aşkan and Mervana villages in the Nordız region, who had migrated to quarters in Van, were forced to sign up in lists for settling in a strategic village, although they did not want to go. The villagers said that the former headman İsmet Koçak and the chief village guard Reşit Koçak had put a list together, without asking them. The same had been done for Mervan village by the chiefs of the Giravî tribe, Rıza Ertaş and İhsan Ertaş.

#### **Draft law on changes to the Law in Housing**

A new Law on Settlement that had first been introduced in 1996 under the Prime Minister from ANAP, Mesut Yılmaz, came again on the agenda in 1999. The new Prime Minister Bülent Ecevit forwarded draft law on settlement to the Council of Ministers in July. It should replace Law No. 2510 on Settlement and formulate it according to current needs. Rules should be adopted for migrants and nomads, people, whose land had been confiscated

and who had to change their places because of reasons of security, if they wanted to live in villages or other settlements. The draft carried no provision on compensation for people, who had been forced to leave their homes. In case that the homeless people would not accept the places shown to them they might lose their rights on decision of a local settlement commission. They would have no right to apply for a home for a second time.

The draft was criticized for being far from satisfactory. It was not put on the agenda of the GNAT.

Diyarbakır MP Seyyid Haşim Haşimi criticized the draft, because it did not reflect the social structure of the people in the region. “It will not be effective. If you have a project for the region, you have to consider the social structure and culture of the people in the region and everything else. The first question has to be: why are there so many villages and hamlets in the region? People in the village that are related to each other clash with each other for various reasons and subsequently some of them move away and found a new hamlet. Because of the social structure in the region even relatives cannot live together. If, despite of this, you try to get people from various regions, faiths and tribes together, you cannot succeed at the very beginning.”

Göç-Der chairman Mahmut Özgür argued that the draft would not bring a solution to the problem. He said that the view of the Kurdish problem never changed and added:

“Our demand is a change in the draft that would create the basis for the enforced migrants to go back to their own villages; at least to make it possible.”

Özgür said that the media had presented the draft as a solution to the problems, but in act it was a new version of the law on enforced settlement, as passed in 1934. He argued that the draft bill would not result in the return of the people to their villages. “Some articles include the term ‘new settlement’, but not where and how these settlements will be. The people want to return to their own villages. Their rights are being violated. The right to possession, the right to free choice of settlement, travel, individual rights. We aim at furnishing the people with these rights. It is a new legal violation, if you force these people into village-town or central villages. This is also impossible because of economic and social reasons, because if you settle these people in a region far from their social environment, their fields and houses, they need fields, jobs and places to stay. Even if that is secured they will lose their social environment. You can also force the people to accept such a solution.”

On 30 November OHAL Governor Gökhan Aydıner visited the Association of Journalists in the Southeast. He said that his office aimed at sending people to the villages, who wanted to return. He maintained that many of those, who got used to the life in town, did not want to return. “But there are people, who want to return. One we have clarified the situation and if security is guaranteed, we shall send them back. The State will use all its possibilities to secure this.” Aydıner also claimed that development in the Southeast was faster than in the rest of Turkey. The growth in Turkey was 5%, while it was 7% in Diyarbakır, Mardin, Şırnak and Şanlıurfa. The loans for medium sized enterprises had been set at TL 10 trillion and investors in Diyarbakır got a share of TL 1.5 trillion of it. He stated that 40 factories were under construction and 13 had already been built. Speaking about the frequent cuts of electricity Aydıner suggested to build nuclear power stations.

### **Initiatives by IDPs to Return**

In June and November Göç-Der forwarded hundreds of petitions asking for the creation of a situation to return to the villages and compensation for material losses to the Interior Ministry and the chair of the GNAT. In a similar way, many families had applied to HADEP

in Izmir asking for the possibility to return to their villages.

Ali Yavuz, chair of HADEP in Izmir, stated that following the peace calls of the PKK leader Abdullah Öcalan the number of people, who wanted to return to their homes, had increased. During the last four months about 1,000 people had approached them on this issue. Yavuz added that the people would be confronted with problems of housing and judicial questions since they had left their homes. But despite of all this, the people wanted to return, he said.

On 27 November the police raided the offices of HADEP in Siirt and confiscated 55 petitions of people, who wanted to return to their villages. The police also confiscated a report prepared by TÜSIAD. Ahmet Konuk, chair of HADEP in Siirt, said: "4 days before the raid Ali Timurtaş, who used to take the petitions to Göç-Der, Abdurrahman Taşçı, Muhyettin Timurtaş, Abdurrahman Timurtaş, Halil Selçuk, Hasan Selçuk, Abdullah Selçuk, A. Bari Selçuk, İbrahim Öner, Şükrü Öner, Abdullah Öner and Ahmet Erzen were detained during raids on their houses. They were interrogated for 3 days."

*Villagers, who tried to return, were again subjected to pressure. In April the inhabitants of Şexika village in Sason district (Batman) returned to their village to work on their fields. Soldiers threatened them and demanded that they moved away. In 1993 the villagers had left their homes, because they were pressurized to become village guards.*

In January clashed occurred between villagers, who wanted to return to Yeşilyurt village in Cizre district (Şırnak) and village guards, who had settled in the village. Bahattin Madak was wounded and some 30 villagers were detained.

Some 90 families were allowed to settle in Çiftlikbahçe (Helhel) village in Hazro district (Diyarbakır). The village had been evacuated in 1993. The gendarmerie commander in Hazro did not allow families with "a criminal record against the State or being suspicious" to settle in the village.

Following the earthquake of 17 August some people, who had migrated to that region, moved back to the villages. Mehmet Şah Tekiner, chair of HADEP in İzmit, stated that during he first 10 days about 500 families had moved back, partly because they feared more earthquakes and partly because they did not get any official help. Many more had gone to their relatives in towns such as Adana, Mersin and İzmir. Tekiner added that many families had approached them for help that the State should prepare their settlements for new accommodation.

#### **4.6. Enforced Migration and the Right to Asylum**

In 1999 thousands of so-called "illegal migrants" were captured in Turkey, as one of the important transit routes of refugees between Asian and European countries, and were extradited. A considerable number of news reported that refugees died on their way to "freedom".

No legal steps were taken to solve the cause of migration. Turkey does not accept refugees from outside Europe according to the reservations it put to the 1951 Geneva Convention. The Regulation for Asylum from the year 1994 that grants temporary refugee status for non-European asylum seekers, until a decision has been made on their settlement in third countries, continues to leave many refugees unprotected. According to the regulation refugees have to apply for asylum in the first 5 days of arrival. Only very few of those, who follow the procedure are actually granted temporary refugee status.

In December İzmir Bar Association and the UNHCR conducted a seminar on "Refugee

Law in Connection with Turkey". Furio de Angelis, leader of the law office of the UNHCR in Ankara, said that Turkey was the only country to file a geographic reservation with the Geneva Convention. Lawyer Fahrünnisa Akbatur, also working at the UNHCR Ankara office, stated that people from Iran or Iraq might not be deported on court's order. The only authority for such a decision was the Ministry of Interior.

Official figures stated that during 1999 a total of 47,529 „illegal migrants“ were caught in the areas of responsibility of the Police, Gendarmerie and the Land Forces. The UNHCR stated that a total of 6,606 people applied for asylum in 1999. In the first 10 months 14,837 people were captured in Edirne province; 3,546 of them from Iraq, 5,493 from Iran, 1,415 from Bangladesh and 2,265 from Pakistan.

*Human rights organizations continued to criticize the official refugee policy. The İzmir branch of Mazlum-Der issued a statement in August, after 200 people had been caught in the province, when they attempted to go to Italy and were about to be deported. Mazlum-Der said that Article 14 of the Universal Declaration of Human Rights provided that anybody at risk of pressure had the right to seek asylum. Deportation was seen as a violation of the principle of non-refoulement. It was also stated that the traders of human beings had informed the authorities of the refugees. The final comment was: "If Turkey does not grant asylum for these people, it has to provide accommodation."*

European countries continued to look for solutions to the huge number of refugees from Iran and Iraq seeking asylum in Europe. On 23 March the European Parliament accepted an action plan on better coordination with Northern Iraq and neighboring countries on illegal migration to Europe. The resolution stated that some people came because their security was at risk; other came for better economic conditions. It was stated that criminal organizations and traders organized the movements. The EP criticized the fact that the CoE had sought advice from Turkey on the matter and said: "Turkey has accepted that because of its position the refugees fleeing from Northern Iraq take Turkey as their first stop. Turkey must be reminded of its obligations on human rights." The UNHCR was shown as the first place for refugees with the conclusion, "it would be positive to accommodate the refugees in regions close to their culture and, therefore, not only Turkey but the neighboring countries should be contacted."

### **The Right to Life of Migrants and Refugees**

According to reports in the press at least 10 asylum seekers, who crossed through Turkey, lost their lives, mostly by shooting.

On 19 May soldiers fired at a group of some 45 Kurds from Iran and Iraq, who tried to cross the border between Başkale and Saray districts (Van). In the event Eriş Muhammed Salih (17), Azize Nevada (57), Azize Muhammed (24) Nazire Tirana (30), Ekber Muhammed, Muhammed serif and the persons with the first name of Servile, Bahtiyar and Aras died and 5 people were wounded. (Details can be found in the Section on the Right to Life)

On 25 November soldiers killed Mohan Abu Tamer from Bangladesh in Yayladağı district (Hatay). Allegedly he did not listen to stop warnings.



## 5. The Right to Personal Security

Some steps were taken in Turkey in 1999 to protect the right to personal security, but they did not go far enough. The sentences for torturers were increased and changes in the Law on Civil Servants may also be cited in this context. Yet no changes were observed regarding the impunity of torturers. Pressures in the prisons increased and the basis for the F-type prisons was prepared, despite protests in large sections of society.

### a) Legal Measures

Chamber 10 of the Supreme Administrative Court dealt with the Regulation on Detention and Interrogation that entered into force on 1 October 1998. The Court ruled against the formulation in § 1 of Article 8 (violating the feeling of shame) and also stopped § 2 of Article 18 providing that uniformed forces may conduct the interrogation of juveniles aged between 15 and 18 and the last sentence in Article 21 providing that the prosecutor has to decide whether the defense may inspect the file or not.

After the Regulation had entered into force Ankara Bar Association, İzmir Bar Association and the Union of Bars in Turkey (TBB) had launched the case arguing that it was against the laws. The Supreme Court ruled that the last sentence of Article 21 in the Regulation was in contravention to Article 143 of the Criminal Procedure Code (CMUK) that defined the right for the defense to inspect and copy any document. Changes to the Regulations on Detention and Interrogation entered into force on 15 August. The changes included the provision that body searches of women had to be conducted by female personnel and the interrogation of children on crimes within the jurisdiction of state security courts should be conducted in the presence of a lawyer.

### b) Changes in the Penal Code

The most important change in 1999 were the amendments of Article 243 and 245 of the Turkish Penal Code (TPC). The draft with the intention to fight torture was reviewed in the GNAT on 10 August. A sub commission of the Commission on Internal Affairs had suggested a reduction of the sentences for torture. This was not accepted, in line with the objection of Justice Minister Hikmet Sami Türk. He and Yaşar Topçu, chair of the sub commission, had a serious argument in the session, which ended in favor of Hikmet Sami Türk.

The draft provided for sentences between 1 and 8 years' imprisonment for civil servants, who torture or resort to cruel, inhuman or degrading treatment. The sentence for ill-treatment should go up to 5 years' imprisonment. Medical personnel that covered up torture or prepared false reports would be sentenced to imprisonment between 6 months and 2 years and fine between TL 100 and 300 million. In case that the false report was prepared for money the prison term would be increased to 3 to 5 years.

HRFT chairman Yavuz Önen stated that the changes to the TPC would not be sufficient, if they remained the only change. He said that the Law on Prosecution of Civil Servants had to be changed as well. He hoped that civil servants would be subjected to an interrogation, be put on trial and, if found guilty, be punished. Yavuz Önen called for support to the government's efforts in this direction. He added: "But in Turkey there is a big gap between the law and the practice. Yet, it is nice to see that the political will has reached such a point. In Turkey the police has put itself in the place of the judge. The institution will not be willing to abandon this position. Therefore, education and constant supervision of the political will is necessary... It is very difficult to initiate an investigation under the current Law on Prosecution of Civil Servants. The governor forms a commission and this

commission decides on whether or not to prosecute a civil servant. The proceedings must get more objective and the Law on Prosecution of Civil Servants must be brought in line with this proceedings. In addition, the official must be suspended from duty during an investigation against him/her.”

The draft amendments to the TPC passed the GNAT on 26 August and entered into force on 29 August, the date of its publication in the Official Gazette. The new provision included a definition of torture and ill-treatment in line with the UN Anti-Torture Convention. The sentences for Articles 243, 245 and 354 TPC were increased. Under Article 354 TPC those people, who covered up torture or prepared false health reports would be sentenced to imprisonment between 4 and 8 years.

### **c) The Repentance Law**

The draft law on repentance, in public also known as the “confession law”, was presented to the GNAT on 11 August. The draft provided for a reduction of sentence or no sentence of persons, who surrendered under the condition of providing information leading to the destruction of the organization. The draft excluded persons, who had killed or wounded security officers and also founders and leading members of illegal organizations. The Ministry of Justice had argued for this draft, because “many members of terrorist organizations continue to ask for the implementation of such a law. In order to speed up the dissolution of the terrorist groups that started to disperse as a result of operations by the security forces Article 1 of the Law 3419 needs to be redefined and put into force for a period of six months. It is intended that people, who could not benefit from the provision that was stopped to be implemented on 8 July 1995 by the Law No. 4985, should also be included into the scope of the provision.”

The GNAT passed the Repentance Law on 26 August. State President Süleyman Demirel ratified it immediately and it entered into force on 29 August. The Law provided that member of armed organizations that had been founded with political or ideological aims would not be punished, if they had not committed crimes prescribed by law or if the actions, in which they participated before the law entered into force, had not resulted in prosecution under the condition that they surrender and provide information for the dissolution of the organization.

The Law was enacted for six months. Founders and leaders of the organization/s and those, who killed or wounded members of the security forces, were excluded. Those, who wanted to benefit from the law, would receive sentences of 9 years’ imprisonment instead of the death penalty and at least 6 years’ imprisonment instead of a life sentences. The Law also included crimes committed after the law entered into force, if the perpetrators surrendered and provided information before the prosecution started. The offense of “aiding and sheltering members of an armed gang” was also included in the scope of the law.

Special provisions were introduced for those, who had not been able to benefit from the earlier law of 1995. If those on trial or convicted confessed within 3 months and their confessions were found to be correct, they would be punished by 20 years’ imprisonment instead of the death penalty and life sentences would be commuted to 15 years’ imprisonment, while all other sentences would be reduced to one third. In case that the investigation was in the final stages the death penalty would be commuted to 15 years, life sentences to 10 years’ imprisonment and all other sentences would be reduced to one fourth.

**The first Repentance Law had been introduced in 1988. The Law No. 3419 stayed in**

**force for two years. The Repentance Law of 1995 stayed in force for four months**

#### **d) Law on Prosecution of Civil Servants and other Public Personnel**

On 19 November the GNAT started the debate on the Law on Prosecution of Civil Servants and other Public Personnel that should replace the Law on Prosecution of Civil Servants that had been introduced during the Ottoman Empire in 1913. Despite objections from the opposition the Article providing for permission of the local authority in order to prosecute civil servants for crimes they committed in office, passed the GNAT. ANAP deputies Ertuğrul Yalçınbayır and Ekrem Pakdemirli had introduced a draft providing that civil servants, who committed crimes that required heavy punishment or were accused of torture, could be prosecuted with permission by the local authority. This draft was rejected with the votes of the coalition parties ANAP, MHP and DSP. The draft passed the GNAT on 2 December. It was promulgated in the Official Gazette on 3 December and entered into force on that date.

The Law is applicable to all public personnel, except for members of the Armed Forces, the judiciary and academic staff that are subject to special methods of interrogation and prosecution. If someone is caught in the act general provisions will apply. Superiors will decide on prosecution if complaints are made. To avoid unfounded complaints specific information on the complainant and the incident has to be mentioned. Pre-investigations will be carried out before an official investigation. If the authorities do not decide for or against an official investigation within a certain time, the case will be handled as if permission was given. The files will be sent to the public prosecutor, after permission was granted. Objections can be filed against the decisions of the public prosecutor. In case of unfounded complaints the prosecutor can act against the complainant without an official complaint. The concerned civil servant can file a case against the complainant asking for compensation.

#### **e) The Human Rights Investigation Commission in the GNAT**

The Human Rights Investigation Commission in the GNAT prepared a report on its activities in the period before the 18 April elections, but this report was not forwarded to the General Assembly in 1999. The report had been prepared after talks with many prisoners and administrators of prisons, included details on torture tools and official complaints on certain cases. The report made suggestions on how to improve prison conditions, but the chairwoman Sema Pişkinsüt had not forwarded the report to the chair of the GNAT, reportedly because of concerns that the report would raise public reactions. Sema Pişkinsüt denied allegations that the report had not been submitted out of political considerations and said that the only reason had been the elections to be held at the same time.

#### **Contents of the report that was not written**

The following findings were included in the 10-page document of the Commission:

The Commission found torture tools, identified prisoners, who had been tortured, and gathered testimony and photographs on negative prison conditions during its activities.

The Commission saw that a convict, who had stolen the tractor of big landowner (aga) in Şanlıurfa, had been beaten badly. The Commission prepared an official complaint on this case. The ensuing investigation found that the detention had been registered, but the forensic institute had certified "good health" at the end of detention. The prison physician, however, had issued a report that the person had been injured as a result of beatings when entering the prison. A court case was initiated, but the commander of the gendarmerie station was acquitted in the first hearing, after the torture victim stated that he had not been ill-treated.

In Muğla the Commission had decided to enter a police station without prior notice. The members found a device for electric shocks behind the entrance door including the cables to be fixed to the toes. Sema Pişkinsüt noticed that all police officers had vanished when she turned around. She finally succeeded in finding a female police officer to write a report on this and after insisting demands five police officers signed the report. The Ministry of Interior dealt with this incident after reports had appeared in the press. Pişkinsüt presented photographs of the torture tools to the experts of the ministry.

In the absence of guardians prisoners told the Commission that they had been tortured. They said that some guardians would strip them naked, mount their backs and compete with each other. Whoever came late would be punished in inhuman manners.

Other prisoners said that the guardians would take bribes. The prisoners admitted that they kept cutting devices to protect their own security. They complained that there was no warm water; the window glasses were broken in winter time.

The Human Rights Investigation Commission in the GNAT decided to establish a sub commission for an investigation of the incidents in Ankara Central Closed and Bayrampaşa Prisons. The sub commission was instructed to talk to officials, guardians, prisoners and their relatives and submit a report to the Commission.

The incidents in Ankara Central Closed Prison were discussed in the Commission on 7 October. Afterwards chairwoman Sema Pişkinsüt told the press that representatives of the Justice Ministry had informed them that the prisoners died from ammunition of their own arms. The Ministry had tried to avoid deaths and other serious consequences and, therefore, the gendarmerie had not been allowed to intervene until that date. Sema Pişkinsüt stated that this was the official version of the incident and announced that the Commission would make an on-site inspection in the prison.

Ali Fuat Ertosun, General Director of the Department on Prisons in the Ministry of Justice, answered questions of the members of the Human Rights Commission. He claimed that the prisoners had occupied the wards of common criminals in an attempt to escape from prison. They had received information from the police, the gendarmerie and the intelligence to this effect after 2 September. Ertosun added that the State had not the control over the prisons. Prisoners would form their own courts and pass verdicts on prisoners. These sessions were filmed on video and sent outside prison.

The Human Rights Commission did not find evidence for a tunnel that had allegedly been the reason for the intervention in Ankara Closed Prison. The tunnel that they found had not been a way out of prison. The incidents had started one month earlier, when the prisoners started to boycott the daily counts, but the intervention had led to the death of 10 prisoners. The Commission also noted that the prison director had left 2 days before the event and had not returned until the day of the inspection.

Members of the sub commission also talked to prisoners, who had been transferred to other prisons after the incident. The interviews were not finished in 1999.

#### **f) The Forensic Institute**

Pressure on physicians at the forensic institutes that play an important role in verifying torture and identifying the perpetrators continued in 1999. No important development for better equipment of the forensic institutes and providing the institute with an autonomic status, in which the physicians can work independently, were noticed in 1999.

Füsün Sayek, chairwoman of the Union of Turkish Medical Associations (TTB) stated in February that forensic reports in Turkey had a different character to those in other

countries, in particular because of gaps in the legal framework. She stressed that the physicians needed an independent institution.

**Also in February the CoE declared that the rules for autopsies needed to be standardized in all member states in order to fight torture and ill-treatment. The Council of Ministers passed a resolution that defined in detail the places and manners of autopsies and asked the member states to establish a control mechanism on the implementation of the rules. There was no response to this request in Turkey and instead of applying international standards the pressure on physicians employed at the few forensic institutes increased.**

Cumhur Akpınar

Cumhur Akpınar, physician at the Forensic Institute and former board member of Ankara Medical Association (ATO), was detained in Ankara on 9 January, when his phone number was found in the phone book of Zeki Rüzgar, lawyer in the People's Law Office. At the same time Ayşe Betül Gökoğlu, chairwoman of the Solidarity and Support Association of Prisoners' Families for Human Rights (TİYAD), and her son Ali Ercan Gökoğlu were detained. On 13 January all of them were taken to the prosecutor at Ankara SSC. A judge ordered the release of Akpınar, who was indicted under Article 169 TPC, charged with supporting an illegal organization by reports for the forensic institute. The prosecutor objected to the release and Cumhur Akpınar was arrested on 15 January. He was first sent to Ankara Closed Prison. From here he was taken to Kırşehir Prison.

ATO released a statement saying, "Cumhur Akpınar is a colleague known for his honesty. It is obvious that his professional performance bothered some people and institutions. The act of the prosecutor has to be seen as a threat against all physicians, who have no other concern than conducting their profession. Wherever the pressure will come from, the physicians will continue to sign their reports without forgetting the oath on medicine."

At the beginning of February the prosecutor at Ankara SSC indicted Cumhur Akpınar, Zeki Rüzgar and the other defendants, charges them with membership and support for the Revolutionary People's Liberation Party/Front (DHKP/C). The first hearing was held on 4 March. The presiding judge at Ankara SSC No. 1, Orhan Karadeniz and the military judge Erman Başol, wanted to withdraw from the case stating that their names were on a list of people, the DHKP-C wanted to kill. The judges were replaced by Tanju Güvendiren and Süreyya Gönül. Süreyya Gönül wanted to withdraw for the same reason. Ankara SSC No. 2 decided against the withdrawal of Orhan Karadeniz and the two substitute members. This time the defense lawyers withdrew from the trial, stating that there could be no fair trial by a panel that had clearly stated its intention. Their demand of rejecting the judges as biased was turned down.

In the hearing of 5 March Zeki Rüzgar stated that Nuh Mete Yüksel, prosecutor at Ankara SSC and the department to fight terrorism at Ankara Police HQ had plotted against him and the trial was the consequence of it. Ayşe Betül Gökoğlu stated that she was tortured in detention. She had been blindfolded and taken to a place that resembled a bathroom. She had not responded to request of undressing and 3 to 4 police officers had jumped on her to strip her naked. The officers had threatened her with rape. When she fainted a female police officer had dressed her and taken her back to the cell. Gökoğlu stated that she would recognize the police officers, because she had seen them when her blindfold opened. She said that she had seen the officers in the previous hearing and at the moment they were hiding behind the entrance to the court hall. She asked the court to take her words as an official complaint.

Cumhur Akpınar testified in the afternoon. He stated that he was neither a member nor a sympathizer of any terrorist or illegal organization. This was impossible for someone believing in the basic principles of the Republic. At the end of the hearing Akpınar was released. The other defendants remained under remand.

The trial concluded on 30 December. All defendants pleaded not guilty and asked for acquittal. The Court sentenced Zeki Rüzgar, Ayşe Betül Gökoğlu and Ali Ercan Gökoğlu to 15 years' imprisonment as members of an armed gang. Dr. Cumhur Akpınar was acquitted.

### **Nur Birgen**

Nur Birgen, chairwoman of the 3rd Expert Department of the Forensic Institute, was not dismissed from duty, although the TTB had punished her with a 6-month ban on execution of her profession, after she had been found to have issued reports of "good health" for persons that had been tortured. ([31]) Beyoğlu Penal Court No. 9 heard the case against Nur Birgen. She was charged with having issued false reports on Mahir Karaçam, Bülent Güzel, Barış Arslan, Gülsare Akkuş, Fikret Korkmaz, Tekin İme and Aşur Tavşan. They had been detained on 13 July 1995 and were kept in detention for five days. At the time Nur Birgen had been chairing Beyoğlu Forensic Institute. During the hearing of 15 January lawyer Metin Narin stated that the 6-month ban on execution of profession had not been enacted.

The Ministry of Justice argued that the ban could not be implemented, because Nur Birgen was a civil servant at the Forensic Institute. Eriş Bilaloğlu, SG of the TTB, however argued that the Ministry of Justice made a wrong interpretation of the Law on Physicians with the TTB. He said, "TTB has not asked for a dismissal as civil servant. But since we decided that she cannot carry out her profession for 6 months, she would have to be employed in a different position."

During the hearing of 5 July Sinan Ağca and Erol Tetik, staff members of Beyoğlu Forensic Institute, testified that the report on the detainees had been prepared without an examination. Ağca stated that only two of the detainees had marks of blows and, therefore, there had been no need to examine them. Lawyer Metin Narin claimed that Nur Birgen had issued reports of "good health", despite bloodstains on the detainees. He stressed that the detainees had been examined again the next day and this time they were certified a total of 17 days' inability to work. Nerin argued that Nur Birgen should not only be charged with negligence of duty but with misconduct of duty.

In July İstanbul Medical Association (İTO) asked the Ministry of Justice and the Presidency of the Forensic Institute to implement the 6-month ban on performing the profession. İTO also demanded to prosecute those, who did not implement the ban. However, Nur Birgen got rid of the ban, when the amnesty for criminal records of civil servants entered into force on 28 August. The court case against her did not conclude in 1999.

### **Eda Güven**

In May the 4<sup>th</sup> Chamber of the Court of Cassation confirmed the acquittal of Dr. Eda Güven, employed at Aydın-İncirliova Health Center. She had been tried at İncirliova Penal Court on accusations of having issued false reports on 3 persons, whom she certified to have been tortured.

### **Nevin Semerci**

On 12 May Oğuzlar Penal Court (Çorum) started to hear the case against Nevin Semerci. She had issued a report for Mustafa Bakırıcı, who had been detained on suspicion of theft,

on 19 March and stated that there were traces of blows and fractures. For a more precise report she had send the patient to the State Hospital. The report of Çorum State Hospital did not list any fractures or any other urgent pathologic findings. Nevin Semerci was accused of negligence of duty by issuing a false report. She was acquitted after the hearing on 25 May.

The High Honorable Council of the TTB decided in May to ban 13 physicians from performing their profession for periods between 15 days and 6 months. Among them Dr. Kemal Mintaş, Dr. Mustafa Özgür, Dr. Zekeriya Gür, Dr. Doğan Mermi, Dr. Halil Şaştım and Dr. Yılmaz Tırpan were accused of issuing false reports, cover up torture and having examined the patients in the presence of the security forces. They were banned from profession for one month.

On 4 December Diyarbakır Bar Association, Diyarbakır Medical Association and the Diyarbakır Representation of the HRFT held a joint panel on “Responsibility of Physicians and Jurists on the Phenomenon of Torture”. Some conclusions were:

\* In the first place it is the duty of the State to prevent torture and bring the perpetrators to justice. This obligation stems from national legislation as well as from international conventions. It is also necessary that physicians and jurists take a stand against this crime against humanity because of the ethics of the two professions on human life and the right of defense.

\* For years many legal measures were taken on the pretext of preventing torture and ill-treatment. But in practice the changes were not applied the way they were intended. The changes to the Criminal Procedure Code were intended to protect the rights of the suspect, but they served to protect the torturers and almost became a mechanism against the torture victims. Torture is applied widely as a basic interrogation method for the prosecution of suspects and the achievement of confessions. Since torture is mostly voiced in connection with the persecution of political offenses the restrictions in Law No. 3842 excluding the defense during initial investigation should be lifted, since they encourage torture.

\* The reports of the forensic institute prepared before, during and after detention are important evidence for the prevention of torture and the prosecution of the perpetrators. Physicians are put under pressure not to report traces of torture and prepare false reports. Since there are not enough forensic experts, mostly trainee physicians have to do the job. Since they are civil servants they often cannot conduct the duty as required. The number of forensic experts has to be increased and they have to be given an autonomic status that takes away the opportunity of applying pressure on them.

\* Human rights organizations and defenders play an important role in all areas of human rights and in particular in prevention of torture, legal and medical service for torture victims. The pressure on human rights organizations and defenders has to be lifted.

### **g) Phone Tapping and Observation**

Having passed the GNAT on 29 July the Law on Fighting Crime Organizations for Profit entered into force on 30 July. The Law allowed for secret recording of voice and images and also supervision of PCs providing: “The telephones, facsimiles, computers and other devices for the transmission of signals, documents, images, photographs or voices of persons, who are suspected of committing crimes prescribed by law, who participate in

them or who help them. Act as their agent or shelter them, can be tapped.”

The Law provided that a judge had to give permission for a maximum period of three months. The period might be extended twice. The Law also provided that the flats, working places or public places, visited by suspects of crimes committed for profit might be observed and public servants might be used as “secret personnel”. The secret servant would be allowed to enter the organization, observe the activities and carry out all kinds of research. S/he would not be held responsible for crimes of the organization and his/her identity would be kept secret.

In 1999 decisions on phone tapping were taken in contravention to international norms. In November Diyarbakır SSC decided to tap the private, office and mobile phone of Kenan Sidar, lawyer of Abdullah Öcalan, on demand of Diyarbakır Police HQ. Protesting at the decision Kenan Sidar said: “The European Convention on Human Right is being violated since the past. By such a decision the relation between legal counsel and the client is opened to the public. I want this decision to be corrected immediately.”

A number of phone tapings was discovered later. The decisions had been taken in 1999 disregarding legal obligations in Turkish law. An investigation was started in April after Ferruh Tankuş, former director of the narcotics department at İstanbul Police HQ stated that Murat Bilican, the son of Necati Bilican, General Director of Security, was using a State owned mobile phone and had the State pay the bill of TL 2.5 billion. It was established that the intelligence department at Ankara Police HQ had inspected the phone calls of Murat Bilican and extracted a detailed list of the calls. Claims on the subject stated that the campaign was launched by “circles of Fethullah followers” in the police, who wanted to slander the police in Ankara, conducting an investigation against Fethullah Gülen.

At the beginning of May Osman Ak, deputy director of the intelligence department at Ankara Police HQ, Ersan Dalman and Zafer Aktaş were appointed to jobs outside the intelligence department. Interior Minister Sadettin Tantan ordered an inquiry on 31 May. State secretaries in his office had found out that the department of the intelligence department at Ankara Police HQ Ak had not only inspected the detailed phone bills, but also tapped the phones of 963 people between May 1998 and May 1999. The state secretaries’ report revealed that phones in the Office of the State President, the Prime Minister, the Chief of General Staff, the Ministry of Defense, the National Security Council, ministers, deputies, journalists, mayors, bosses of big companies, the General Directorate for Security, İstanbul Police HQ had been tapped without permission by a prosecutor or a judge.

During the inspection a total of 1160 phones were compared with the court orders issued in 1997, 1998 and 1999 for the tapping of phone and it turned out that 86 belonged to various political parties, associations, trade unions, enterprises and newspapers; 36 were public phones, three phone could not be identified and 835 phones belonged to individuals. Osman Ak, Ersan Dalman and Zafer Aktaş had conducted the tapping under their superior Cevdet Saral, Ankara Chief of Police.

At the end of the inquiry Ankara Chief of Police Cevdet Saral, deputy director for security Halil Tuğ, Ankara deputy Chief of Police Osman Ak, chief of the intelligence department Sabri Uzun, chief of the department to fight terrorism at Ankara Police HQ Ersan Dalman, chief of the department to fight organized crimes at Ankara Police HQ Zafer Aktaş, and the personnel at the intelligence department, Dündar Özbayrak, Yavuz Sağdıç, Tolga Yılmaz, Salih Aydemir and Elif Şahmetoğlu were suspended from duty.

In July the Supreme Administrative Court started an investigation against 44 police officers, including the Director for Security, Necati Bilican. The 2<sup>nd</sup> Chamber decided on 19 October in favor of prosecution of 38 police officers including former Ankara Chief of Police, Cevdet Saral, on charges of negligence and misconduct of duty. On 25 October the Court decided to charge former Director of Security, Necati Bilican and the former director of the control commission, Halit Karabulut under Article 230 TPC.

The court case opened against Osman Ak, Ersan Dalman and Zafer Aktaş, accused of having deleted the information on phone tapping on the computers, taken documents on them outside the department and having stored the information at a different place, ended at Ankara Penal Court No. 20 on 6 December. The Court acquitted Osman Ak and Ersan Dalman for lack of evidence. Zafer Aktaş was sentenced to 6 months' imprisonment. The penalty was reduced by one sixth, commuted to a fine and then suspended.

Some of the persons, whose phones were tapped in 1998 and 1999, are:

Yusuf Kenan Doğan, Muhittin Mıhçak, Ahmet Köksal (members of the 8<sup>th</sup> Chamber of the Court of Cassation)

Hüsamettin Özkan (deputy Prime Minister)

Salih Yıldırım (State Minister)

Hikmet Uluğbay (Minister for National Education)

Metin Bostancıoğlu (Minister for National Education)

Zekeriya Temizel (Minister for Finance)

Ersin Taranoğlu (Minister for Forests)

Metin Gürdere (State Minister)

Rıfat Serdaroğlu (State Minister)

Işın Çelebi (State Minister)

Deputies

Murat Başesgioğlu (ANAP)

Tevfik Diker (ANAP)

İrfan Köksalan (ANAP)

Şinasi Altınar (ANAP)

Enis Sülün (ANAP)

Ahmet Derin (FP)

Saffet Arıkan Bedük (DYP)

Ali Uyar (ANAP)

Ahmet İyimaya (DYP)

Osman Çılsal (DYP)

Ahmet Derin (FP)

Fikri Sağlar (CHP)

Mustafa Bayram (FP)

Mehmet Sağlam (DYP)

Sedat Bucak (DYP)

Ataullah Hamidi (ANAP)

Önder Kırılı (CHP)

Tekin Enerem (DYP)

Ali Haydar Veziroğlu (Chairman of the Peace Party)

Tuncay Özkan (manager of Kanal D)

Bedri Baykam (CHP ex-member of the party's parliament - painter)

Several number of the family of former Mayor of Çankaya Doğan Taşdelen

Emin Çölaşan (journalist)

Mine Kırıkkanat (journalist)

Koray Düzgören (journalist)

A similar phone tapping incident was reported from İstanbul. In the context of an investigation that started in May Levent Altınay, the owner of Senkron TV, was detained on charges of illegal phone tapping of deputies, businessmen and artists.

Altınay was interrogated at İstanbul HQ for days. His testimony and the information from his personnel resulted in the detention of the artist Sibel Can on 10 May. She was questioned in connection with a recoding of a phone conversation with her ex-husband Hakan Ural and her former father-in-law Selçuk Ural.

Allegedly Altınay made Mustafa Süzer, the owner of Kent TV tap the phone of the journalists Perihan Mağden and Oktay Ekinci in connection with a construction site. Süzer denied these allegations.

Murat Paker and Önal Peker, who were said to have organized the scandalous phone tapping, showed the police the places of recording on 8 May. Reportedly they testified to have made records of the phone conversations in order to blackmail the victims for ransom. Former Interior Minister Meral Akşener announced that the conversation between Ertuğrul Özkök, editing director of Hürriyet, and the State Minister Güneş Taner had been recorded by this gang.

The gang had been able to enter the satellites of the mobile phone companies Turkcell and Telsim and crack the password of their computers. In this way they had been able to register any phone number they liked and had been in the position to record the conversations. In May the prosecutor at İstanbul SSC indicted 11 people, including Levent Altınay on charges of acting against the freedom of communication.

The first hearing at İstanbul SSC No. 1 on 23 July was attended by the remanded defendants Mehmet Levent Altınay, İhsan Peker, Selçuk Yılmaz, Önal Peker, Murat Peker, Özgür Keleş, Korkmaz Değirmenci and unremanded defendants Emine Gülerman, Volkan Dalgakıran, Mehmet Yavuz Denizmen and Devrim Erin. Mehmet Levent Altınay stated that Murat Peker had provided a cassette for him, but he had not used it. He had published it 1.5 months later. Murat Peker claimed that Altınay asked him to collect information on Perihan Mağden and Sibel Can. He added that from time to time he received demands on tapping phones. Emine Gülerman stated that she had suspicious about her husband and approached Murat Peker with the request to observe her husband. Some time later Murat Peker had given her a cassette on a meeting of her husband. She had paid 200 dollars for

the cassette.

The Court ordered the release of all remanded defendants except for Murat Peker and Önal Peker. They were released after the hearing on 12 October. The trial did not conclude in 1999.

Another example of phone tapping turned up in the case at the Constitutional Court with the demand to close the Virtue Party (FP). The chief prosecutor at the Court of Cassation presented a cassette with the phone conversation of Necmettin Erbakan, last chairman of RP and Yasin Hatipoğlu, deputy chief of the parliamentary group of the FP as evidence. The conversation had been recorded before the 18 April elections. The Constitutional Court discussed whether a recording of phone tapping by illegal means might be used as evidence. The case was not decided in 1999.

Former Interior Minister Meral Akşener was put in trial, because she announced that the phone of Ertuğrul Özkök (Hürriyet), Sedat Ergin (Ankara representative of Hürriyet), Güneş Taner (former State Minister for Economy) and Ahmet Köksal, judge at the Court of Cassation had been tapped. Ankara Judiciary Court No. 21 charged her with having violated the secrecy of communication and individual rights. On 21 October the Court ordered her to pay TL 15 billion compensation to Sedat Ergin.

### **5.1. „Disappearances“**

Events of enforced disappearances that had gone down after 1994 showed an increase in 1999. In the years before the uniformed forces and the counter-guerilla had mainly been suspected of such acts, but in 1999 the main suspicion fell on Hezbollah.

No steps were taken in 1999 to find the „disappeared“ or punish the people, responsible for such acts. In connection with the disappearance of Murat Yıldız, who had disappeared after he surrendered to Bornova Police HQ (İzmir) on 23 February 1995, the police officers Tahir Şerbetçi and Şah İsmail Öztürk were indicted under Article 250/1 TPC (negligence of duty), but the trial did not conclude in 1999. In the hearing at Gebze Penal Court No. 2 of 5 May intervening lawyer Erhan Pekçe explained that Murat Yıldız had surrendered when he was wanted for shooting in the air. Two days later he should have been taken to Gebze. The accompanying police officers claimed that he jumped from the ferryboat and was not seen again. Pekçe claimed that someone, who surrendered would not try to escape or commit suicide. He asked for an on-site inspection, but the demand was rejected. Since no progress was made Hanife Yıldız, the mother of Murat Yıldız, asked the court on 16 June to stop the proceedings.

Lawyer Erhan Pekçe complained that three requests to make an on-site inspection had been rejected and he had not been allowed to question the defendants. He asked that the witnesses should be heard as soon as possible. He doubted that the police officers had taken Murat Yıldız to a boat and claimed that he had been killed in detention. “There is no order or money advised for the police officers. Murat Yıldız was not interrogated in İzmir and nobody saw Murat Yıldız jumping from the boat. Maybe Şerbetçi and Öztürk took someone to the boat and set him free by removing the handcuffs.”

The action of relatives of “disappeared” and human rights defenders that started on 27 May 1995 in front of Galatasaray Lyceum after the corpses of Hasan Ocak, Rıdvan Karakoç and Ayşenur Şimşek, who had “disappeared after detention” were found, was interrupted in May 1999, after the 200th meeting.

### **Disappearances in 1999**

The information compiled by the HRFT on cases of “disappearances” until the end of 1999 is as follows:

### **Ahmet Küçükdal**

Ahmet Küçükdal, student at the education faculty of Atatürk University in Ağrı disappeared in October 1998. Relatives went to Ağrı and contacted the HRA and Mazlum-Der, when they could not establish the whereabouts of him.

### **İbrahim Sarı, Hanifi Kılıç**

İbrahim Sarı. Secretary General of the Medical Faculty at Dicle University (Diyarbakır) was kidnapped on 4 February, when he left his working place. Colleagues stated that they did not see him after he had refueled his car. The car was found in another quarter the next day. Official places were contacted, but without any result in 1999.

Hanifi Kılıç, working at the hospital of the faculty as cleaning personnel, disappeared on the same day. No information was received on him until the end of the year.

### **M.Selim Sansarkan**

No information was received about M. Selim Sansarkan, after he disappeared in Diyarbakır on 23 May. His brother Hidayet Sansarkan went to the HRA and said that M. Selim had left home in order to take some material to the stationer’s shop that he had opened lately. He added that he had approached the public prosecutor, but only received the answer that his brother might have gone on a journey. Hidayet Sarısarkan said that this was impossible, because the ID, the passport and money were still in the drawer of the shop. Even though Hidayet Sarısarkan applied to the prosecutor two more times he was unable to get any information.

### **Hüseyin Bayburt**

Hüseyin Bayburt, for the Theological Faculty at Adana Çukurova University reportedly wanted to go home on 21 June, but never arrived there. His father Mehmet Bayburt stated that a week before his “disappearance” his son had been followed by some people. Mehmet Bayburt said that he had approached official places, but not got any result until the end of 1999.

### **İsmail Eren**

İsmail Eren had been a candidate for the FP in the 18 April elections for the municipality of Kayapınar (Diyarbakır). No news on his whereabouts was received after 12 August. The lawyer Sıtkı Zilan applied to Mazlum-Der and told them that the preacher (imam) had gone missing after the evening prayers. He had approached the police headquarters and the commander of the gendarmerie, but without any result.

### **Aydın Esmer**

Aydın Esmer was last seen when he wanted to return from Kızılağaç village (Muş) to his home village Karabulak in Kulp district (Diyarbakır). That was on 10 September. Relatives stated that they had approached the public prosecutors in Muş and Kulp, but without any result. On 12 October his brother Necat Esmer contacted the HRA. He stated that on the same date military operations had been conducted in the region and his brother had been detained several times before. He added that Aydın Esmer had gone to that village 4 days before, looking for his mule. He had called them on the phone stating that he was about to return, but in fact never came back home. Necat Esmer told:

“Together with his cousin Nusret Esmer we went to that village and talked to Siracettin

Zengin, at whose place he had stayed. He told us that Aydın had left his home early in the morning in order to go to Kulp via the Şenyayla region. On the same day a military operation was conducted in that region. Siracettin Zengin told us that he had given his own shoes to my brother and the shoes were later found in the region.”

Necat Esmir added that his brother had been detained several times since 1993. Twice he had been tortured at the Anti-Riot Squad at Diyarbakır Police HQ. He had always been released by the prosecutor. The last detention had been in August. He had been taken from Kulp to Diyarbakır. After release by Diyarbakır SSC he had to stay in bed for 10 days, because of the torture that had been inflicted on him.

On 29 October AI issued an urgent action for Aydın Esmir expressing concern for the safety of him. The organization suspected that he might have been detained or even killed. The commander of Kızılağaç Gendarmerie Station had told his relatives that Aydın Esmir chose that road because he was a terrorist.

### **Şerif Uprak, Bayram Uprak**

The brothers Şerif (33) and Bayram Uprak (28), running an electrical shop in Mersin, went missing after 26 July. On 4 October lawyer Hamza Yılmaz stated, “On 26 July at 11am a tall man with jeans, a t-shirt and sunglasses entered the shop and offered the brothers to sell them second hand goods. Both brothers left with him to look at the goods. They told a friend that they were going towards Pozcu. They have not been seen since then. The family was able to inform Orhan Taşanlar. He asked İçel (Mersin) Governor Şenol Engin and was told that there was a special group within the police headquarters and the two brothers were held by this group that the governor had no power to control. Reportedly the two brothers were held at a place between Mersin and Tarsus and the governor promised to do his best for their release. Nevertheless, no information was received on the whereabouts of the two brothers until the end of the year.

### **İzzet Aksoy, Mehmet Hamdi Yücel, Nilüfer Sancı, Gaffur Gökalp**

İzzet Aksoy, Mayor of Gerger district in Adıyaman province, disappeared together with Mehmet Hamdi Yücel, Gaffur Gökalp and Nilüfer Sancı on 10 October. Adıyaman Governor Kadir Çalışıcı stated that these persons had left the town in a minibus owned by the municipality. The vehicle had been found the next day in the park in front of the governor’s office. No information was received on the whereabouts of these people until the end of the year.

### **Ömer Çınar**

The İstanbul branch of the HRA announced that Ömer Çınar went missing on 17 November. He had been an executive member of the DEP in Siirt. No information was available on the whereabouts until the end of 1999.

### **Mehmet Sümbül**

Mehmet Sümbül, on trial in connection with the murder of the usurer Nesim Malki, disappeared on 8 October, after he had been released. His wife Mine Sümbül stated that he had told her to meet his lawyers and relatives in İstanbul, but never arrived there.

### **İzzettin Yıldırım**

İzzettin Yıldırım, chairman of the Zehra Education and Culture Foundation, was kidnapped from his home in İstanbul on 29 December. Two unidentified people had come and after a short discussion Yıldırım had gone with them. Two hours later people had searched the house of Yıldırım and left without a trace. The mobile phone had been shut down and

neither İstanbul Police HQ nor the prosecutor in Üsküdar had been able to provide any information

## 5.2. Torture and Ill-treatment

Systematic torture mostly directed at oppositional circles continued in 1999. While the 18 April elections came with increased pressure on left-wing political parties, torture of members and officials of these parties also increased. On 26 August the GNAT accepted a bill that would increase the sentences of torture and ill-treatment under Article 243 and 245 TPC. In December the Law on Prosecution of Civil and other Public Servants was enacted. These changes remained of a cosmetic nature and did not produce a reduction of torture and ill-treatment.

Vural Savaş, chief prosecutor at the Court of Cassation, stated that torturers could be tried without permission and said:

**„Officials apply wrong methods. There is a general law on civil servants and there are special provisions for exceptions. One of the most important rules is Article 154 of the Criminal Procedure Code. The police are given three duties: one if an administrative nature, handling of documents etc. The other is the duty of order, intervention in demonstration and detention of suspects. During this act people may be ill-treated. We can see that on TV. The offenses that are committed in the course of one of these two duties are subject to the Law on Prosecution of Civil Servants. In other words, permission is needed to prosecute an officer for an offense.**

The third duty of the police is of a judiciary nature. Offenses that are committed in such an act is not subject to permission according to Article 154/4 of the Criminal Procedure Code. This is a special provision and has to be applied first. The offense of torture is described in Article 243 TPC. The offense is committed if someone is tortured with the aim of uncovering a crime. This is an offense committed when acting for the prosecution that is carrying out a judiciary function. The new Law on Prosecution of Civil Servants has accepted this. In short, if someone is tortured in order to confess a crime, the torturing person can be prosecuted without permission.”

In April AI issued a report on Turkey's duty to supervise, investigate and prosecute. The report pointed at impunity of torturers and criticized the government's stand towards human rights violations. “The bland complacency shown by Turkish governments in the face of a parade of human rights scandals over the past decade is staggering.” The report called on the Turkish government: to outlaw the practice of blindfolding in police custody; to open detention records for scrutiny by families of detainees and by lawyers; for thoroughgoing reform of the Law on Prosecution of Civil Servants to ensure that any decision as to whether or not to prosecute a government officer for ill-treatment, torture, "disappearance" or extra-judicial execution, or for abuses of authority which might lead to such human rights violations, is taken exclusively by judicial authorities; to establish a body to review the convictions based on evidence alleged to have been extracted under torture and, where appropriate, to arrange for prompt retrial; for police officers or gendarmes under investigation or trial for ill-treatment, torture or "disappearance" to be suspended from duties which bring them into contact with prisoners and for police officers or gendarmes convicted of torture or ill-treatment to be dismissed from the force.

On 25 June Prime Minister Bülent Ecevit published a circular under the title of “Respect to Human Rights”. The circular stated that necessary judiciary steps against torture and human rights abuses would be taken without delay: “Thus the claims that these allegations are not investigated thoroughly and no cases are being brought against civil servants, who

reportedly tortured or ill-treated, or the investigations are not effective will stop and the image of our country will no longer be hurt.”

The circular promised that human rights education in official institutions would be increased. Governors, prosecutors, commanders of the gendarmerie and the police were asked to make control visits without prior notice, to take the necessary measures against deficiencies and to bring perpetrators to justice. The Interior and Justice Ministry were asked to provide quarterly reports on the progress made starting on 1 October.

Press Statement of Yavuz Önen, chairman of the HRFT on behalf of the Solidarity Day with Torture Victims

Dear Human Rights Defenders,

On the day of solidarity with torture victims I want to stress once again our duty of solidarity. Torture is not only a widespread problem in Turkey, but in many countries of the world. Many people, who are deprived of their liberty, are subjected to torture by using scientific method and modern technology. The last 50 years have seen an intensified struggle against torture, but also a merciless development of the methods of torture.

Torture is in the first place a problem for all mankind. The struggle against torture is a fight for the presence and future of human beings; a struggle that we have to do at once, today and in this place.

Insensitivity against torture is a silence that undermines humanity. One of the main reasons for torture is to silence society, rather than making the victim speak. In a place indifferent against torture the person will be left on his/her own, how big the surrounding crowd may be. Solidarity against torture aims at turning this loneliness into the opposite.

On 12 December 1997 the United Nations declared 26 June as the Day of Solidarity with Torture Victims. The Anti-Torture Convention was enacted on 26 June 1987.

In Turkey an estimated 1 million people were tortured since 12 September 1980. The Human Rights Foundation was able to provide treatment and rehabilitation for 4,686 of them since its foundation in 1990.

In December the Turkish government sent an answer to the European Committee for the Prevention of Torture (CPT) concerning the 1998 report. The answer stated that improvements had been made and presented legal changes as proof for it. Figures on official personnel, who had been subjected to administrative or criminal proceedings, after allegations of torture or ill-treatment had been made, were also presented. Details were presented on changes in the prisons in İzmir-Buca, Ünye and Mersin, as the CPT had requested. The government accepted that problems remained but claimed that the aim was to solve them.

In June 1998 CPT had published a report criticizing prison conditions and stating that torture and ill-treatment continued in the prisons and police stations.

The İstanbul branch of the HRA prepared a brochure with recommendations for the prevention of torture. The suggestions included the advice to immediately contact a lawyer after torture, to file an official complaint and to get a medical report from the forensic institute.

In June, HRFT Diyarbakır representative Sezgin Tanrıku stated that torture in the region continued at the same rate adding that the office of the HRFT in Diyarbakır was confronted with many new cases. He pointed at new methods that had been reported to them:

„Some victims stated that bags are pulled over their heads and they are left breathless

with the feeling of dying soon. In other cases victims were laid on the ground with their arms crossed at the back. Heavy weights are put on them and soon afterwards they believe that they have lost their arms. Later they feel intensive pain.” Tanrikulu added that the “old methods” of applying electric shocks, being suspended by arms and legs, squeezing of testicles etc. were used frequently. These methods were so common that patients, who had been given electric shocks or who had been suspended, would even say that they had not been tortured.

Sezgin Tanrikulu complained that the conditions in the region did not allow them to form a council that could prepare “alternative reports”. “It is not possible, because the experts and physicians from Diyarbakır Medical Association work in state hospitals. The only possibility we have is to send the victims to Adana, İzmir or Ankara and have reports for them prepared there. The reports from the HRFT are accepted on the national and international level and can be used as evidence in court cases. The last example for that was the case of the juveniles in Manisa.”

#### **a) The HRFT Treatment and Rehabilitation Centers Report**

The 1999 report of the HRFT Treatment and Rehabilitation Centers stated that 686 people applied to the centers during the year. Most of them stated that they had been tortured in detention places of the police (315 people or 48.5%), but the number of people, who answered the question on the place of torture by saying “others” (neither prison nor detention place) increased compared to 1998 by 100%. 595 (91.7%) of 649 persons included in the evaluation stated that they had been detained on political grounds. The vast majority of the torture victims were aged between 19 and 25.

210 of the 649 people were female. 301 people came from Southeastern Anatolia and 131 from Eastern Anatolia. The report stated, “the pressure and torture these people are confronted with in their region, directed at their ethnic origin, continues in the places they migrate to.” 135 persons (20.8%) were tortured in the region under a state of emergency (OHAL).

The torture methods were listed as follows: Insults (642 persons), beatings (608 persons), threats against the victim (539 persons), death threats (432 persons), blindfolding (424 persons), being kept on cold ground (348 persons), deprivation of food and drink (347 persons), prevention of using the toilet (317 persons), hearing and seeing others being tortured (305 persons), threats against relatives (290 persons), isolation (270 persons), pulling of hair (259 persons), listen to loud music or marches (259 persons), strip naked (224 persons), sexual assault (219 persons), deprivation of sleep (209 persons), hosing with cold water under high pressure (186 persons), electric shocks (159 persons), being constantly hit on one part of the body (149 persons), being forced to physical activity (136 persons), being forced to obey meaningless orders (136 persons), squeezing of testicles (131 persons), hanger (123 persons), being left breathless (102 persons), torture in the presence of relatives (91 persons), mock execution (89 persons), bastinado (falanga, 81 persons), burning (29 persons), being laid on ice (23 persons), rape (16 persons), others (135 persons).

Among the 649 people 247 stated that they had only been subjected to physical torture, while 37 stated that they had only been tortured mentally. The others (365) stated to have been tortured, both mentally and physically. Among the complaints the problems with muscles and bones ranked first (387 persons). The next frequent complaint was the nervous system (112 persons).

The most frequent mental problem was reported to be anxiety and sleeplessness. For

many patients (154) the so-called Vietnam syndrome (posttraumatic stress disorder) was diagnosed. About 55% of the applicants had been tortured in 1999. The report concluded that this was an indication that systematic torture continued in Turkey. The reduction of the maximum length of detention to 7 days (except for the OHAL region) was seen as a positive step, but it was asked to reduce it further to 24 hours and to allow for legal counsel from the beginning of detention. The report stressed that detention remained an arbitrary practice, since 70.7% of the applicants had either been released by the prosecutor or the judge.

It was noted that torture methods that did not leave any traces were applied more frequently, but methods such as electric shocks or suspension by arms or feet continued systematically. The reports asked for an improvement on the medical reporting of torture and an education of experts at the forensic institutes.

The government was accused of not having developed effective means for the prevention of torture. Torturers needed to be punished to have a deterring effect. If governors and officials at the Ministry of Interior continued to protect people, who were seriously suspected of having tortured people, torture would be incited rather than prevented.

An increasing number of prisoners applied from the prisons in connection with health problems they were facing. Most of the complaints related to torture and ill-treatment, but help could not be provided a necessary because of the problems with access to the prisoners.

Many prisoners continued to suffer problems related to the hunger strikes in 1996, since they were not sufficiently treated or received wrong treatment afterwards. The report suggested initiative for the treatment of these prisoners and a consideration to use Article 399 of the TCPC, which provides for early release of prisoners, who cannot be treated under prison conditions.

Another problem in 1999 was the attitude towards prisoners, who had to be taken to hospital. Prisoners had been confronted with an attitude against human dignity. The HRFT and the TTB campaigned for the removal of pressure from physicians in these hospitals to act against ethic principles and human rights. The "Prison Protocol" signed by the Justice, Interior and Health Minister was criticized for including a number of provisions against human rights.

## **b) Deaths in Custody**

### **Süleyman Yeter**

Süleyman Yeter (37), the Limter İş Trade Union Education Specialist, who was detained during the raid against the office of the journal "Dayanışma" on 5 March, died at İstanbul Police HQ Political Police Center on 7 March. In connection with the incident, İstanbul Chief of Police Hasan Özdemir said, "Initial findings indicate a heart attack."

The lawyers, who participated in the autopsy on 8 March along with Fatih (İstanbul) Prosecutor İrfan Özleyen, related the findings on the body of Yeter as follows: "Two wounds on the right and left of the forehead, each 1 cm in diameter had bruises around. They had not formed scabs yet, A wound on the left of the chin, measuring 1,5 cm in diameter had bruises around and which did not formed scabs yet. There was swelling and an intense rash all around the front side of the neck, a rash in the size of a hand on the right side of the abdomen near the kidney, below of which was a 5-cm bruise under the skin which seemed like bleeding, a wound and bruise 2 cm in diameter on the right wrist and a wound and bruise 1 cm in diameter on the right elbow, irritated area all around the

right ankle and interval wounds in this area, apparent rashes each 10 cm in diameter on both shoulder blades.”

In the autopsy report by the Forensic Institute, it was stated that Süleyman Yeter “died because of pressure to the neck.” The report read the following: “Fractures on right hyoid bone and neck of triode cartilage, and ecchymoses in the surrounding area...” The final report was presented in September. The cause of death was shown to be suffocation that resulted in a broken neck bone. The report concluded that torture was the only explanation for the death.

On 9 March lawyers of the family and trade unionist filed an official complaint against İstanbul Chief of Police Hasan Özdemir, Atilla Çınar, deputy chief of İstanbul Police, responsible for the department to fight terrorism, Şefik Kul, director of the department to fight terrorism and police officers working at the department. The police officers were accused of having cause the death by torture. Ayşe Yeter, Süleyman Yeter’s wife, related that her husband had been threatened during an earlier detention, “this time you came out alive, but next time you won’t be saved”.

Later the lawyers Gülseren Yoleri, Keleş Öztürk and Metin Narin declared that they would attempt to have the torturing police officers identified in a trial against 8 police officers, charged with having tortured Süleyman Yeter and 19 others in 1997. That hearing was scheduled for 29 April. İstanbul Bar Association suspected that the death of Yeter might be related to this trial, because the police officers had been afraid of being identified. Reportedly the police officers had not wanted to register Süleyman Yeter during his last detention.

On 24 March Bayram Namaz, who had been detained together with Süleyman Yeter, stated that he had been informed of the death, when he left the office of the prosecutor at İstanbul SSC. He had accused the police officers of having killed his friend and they had threatened him saying, “if you get out of here and are hit by a car, you will also accuse us of having done it.”

After the death of Süleyman Yeter, the police officers in charge at the Political Police Center reportedly made a proposal to Askarov Zeyneddin Abdurrasuloviç, who sought asylum in Turkey after an assassination attempt against Uzbekistan President İslam Kerimov. The police officers said to Askarov Zeyneddin Abdurrasuloviç, “If you say that you had a dispute with Süleyman Yeter in detention, that you punched him and he died during the fight, we will open a trial against you and prevent your extradition to your country where you have to expect the death penalty.” Askarov Zeyneddin Abdurrasuloviç allegedly accepted this proposal and testified to Fatih Public Prosecutor Fevzi Gümüştan in Bayrampaşa Special Type Prison where he was kept under arrest. Keleş Öztürk, the lawyer of the relatives of Süleyman Yeter, disclosed that Askarov Zeyneddin Abdurrasuloviç later repented and withdrew his testimony. He had been extradited two days after informing the Human Rights Association (HRA) İstanbul Branch about the proposal of the police. The European Court of Human Rights issued an interim order against the deportation of Askarov Zeyneddin Abdurrasuloviç to Uzbekistan because of the death penalty he had to expect.

In his petition to the HRA in İstanbul Askarov Zeyneddin Abdurrasuloviç had stated that he had spoken to Süleyman Yeter in detention and Yeter had told him that he was being tortured by electric shocks, put in a hanger and laid on ice. He had complained an officer called Uğur and said, “if I should die, Uğur will be responsible for that”. Abdurrasuloviç added: “One of the police officers said, ‘look, you are a foreigner in our hands. If you say something wrong, we shall do to you, what we did with Süleyman Yeter.’ At the

prosecutor's office one police officer pointed at me and said that I hit Süleyman Yeter with my fists. I accepted that, because a court had decided on my extradition. I did not say anything about the torture."

The public prosecutor in Fatih started an investigation against 16 police officers in connection with the death of Süleyman Yeter. In the end the public prosecutor of İstanbul indicted three police officers on 30 September. Deputy commissioner Ahmet Okuducu and the police officers Mehmet Yutar and Erol Erşan were charged under Article 422/1 and 243 TPC with causing death by blows and ill-treating a prisoner.

Süleyman Yeter's wife Ayşe Yeter and the lawyer objected against the decision not to indict the other police officers including the deputy chief of İstanbul police, Atilla Çınar and the director of the department to fight terrorism, Şefik Kul. Lawyer Gülseren Yoleri stated that İstanbul Public Prosecutor Hasan Eker had told her that he had indicted as few police officers as possible, because the accusation of killing someone under torture was serious and he did not want the police officers to live with such a shame.

The trial against Ahmet Okuducu, Mehmet Yutar and Erol Erşan started at İstanbul Criminal Court No. 6 on 29 November. Tension arose in the hearing when journalists and spectators were not allowed in the hall on the pretext that "the hall was too small." The defendant police officers, reportedly on duty in Ankara, did not attend the hearing. Ayşe Yumli Yeter disclosed that she had applied for a permission to see her husband after he had been detained, but she was not allowed. One and a half days later she heard that he had died. Ayşe Yumli Yeter asserted that her husband had been killed intentionally, and said, "Only 3 of the police officers who tortured him are on trial, and decisions of non-prosecution were issued for the rest of them. I demand that these police officers be also put on trial and convicted." Ercan Kanar, the lawyer of the Yeter family, stated that the investigation was fake and demanded that all members of the team who had detained Süleyman Yeter be included in the trial and the indicted police officers be remanded. When the prosecutor gave his consent to this demand, the court board issued arrest warrants in absentia for deputy commissioner Ahmet Okuducu and police officers Mehmet Yutar and Erol Erşan.

On 1 December the General Directorate for Security announced that an administrative investigation into the death of Süleyman Yeter, who had been detained four times between 1990 and 1997, had resulted in the dismissal of three police officers on 19 August.

In the hearing of 27 December the police tried to prevent the relatives of Süleyman Yeter to enter the court hall. When they did not succeed plain clothes detectives filled the court hall so that there was no room for observers. In the end only the lawyers Ayşe Yumli Yeter and Mustafa Yeter were let in. Intervening lawyer Ercan Kanar accused the police of protecting their ex-colleagues and demanded that the officers, who had not been able to arrest them be put on trial. The court rejected this demand and adjourned the hearing to a date in 2000.

### **Musa Cabar**

Musa Cabar (60), who was detained subsequent to a clash in the vicinity of Duruca village of Nusaybin, Mardin, in February and who was tortured in detention, died on 2 April. It was reported that one of the sons of Musa Cabar was a PKK militant, and that all members of the Cabar family had been detained in February on the claims that there was a shelter under their house. Musa Cabar, who was reportedly kept in detention for 2 weeks and tortured, was partially paralyzed and he was under medical treatment.

### **Rasim Kayra**

On 24 June, the corpse of Rasim Kayra (22) was found in the vicinity of Dörtöyol, Hatay. Rasim Kayra was reportedly detained during a raid by police officers on his house in Hürriyet quarter of Adana with his relatives N. Kayra ([32]) and Ayhan Kayra.

On the same day, Ömer Aytış was detained in a raid on his house in Şakirpaşa quarter of Adana. Rasim Kayra's mother Zeynep Kayra stated that she had applied to the HRA Adana Branch and to the Public Prosecution Office to get information about her son and the prosecutor had told her, "Your son shall appear before the prosecution office on Friday (today)." Rasim Kayra's father Kasim Kayra told that he had been taken to the police headquarters on the night of 22 June and his car, which had been seized when his son had been detained, had been given back to him.

He related: "I was invited to the police headquarters again yesterday (24 June) at 11am. The police officers told me, 'We brought your son to JİTEM. Your son got killed in a clash in Dörtöyol. Go get his corpse'." Rasim Kayra was buried by police officers in Tarsus on 24 June, as his family was not allowed to make a funeral. Meanwhile, a person who washed the corpse of Rasim Kayra reportedly said that the right arm of Kayra had been cut off and there had been lots of bullet wounds on his body. HRA Adana Branch Chairman Süleyman Kılıç stated that the unit of supervising detention at the police headquarters had accepted that Kayra had been detained. However, the semi-official Anatolian News Agency reported that Rasim Kayra had died when he stepped on a mine at Şen Mahmut Plateau in Kuzuculu region, Dörtöyol. Two security officers had been wounded in the incident.

Bedri Tan, Ömer Aytış, Nezir Aytış and Mehmet Sadık Yılmaz (58), who had been detained between 18 and 20 June, together with Rasim Kayra were remanded on 25 June. Bilal Kocabey and Seyithan Güven were released. Mehmet Sadık Yılmaz stated that he had been tortured in detention. He added that the detainees had been taken to the state hospital: "That was at 1 or 2am. Rasim was there, too. I did not know him, but the police officers called him Rasim. After return from hospital I did not see him anymore. In court Nezir Aytış showed me a photograph and asked me, whether I knew that person. At that moment I realized that it was Rasim Kayra."

The HRFT did not receive any information on legal proceedings on the death of Rasim Kayra.

### **Mehmet Şentürk**

On 28 June Mehmet Şentürk (56), who had been detained in İstanbul-Pendik on charges of raping a 10-year old girl, reportedly committed suicide, when he was taken to his shop for an on-site inspection. Police officers said that he had gone into a dark room under the pretext of putting on the lights. He had instead taken a hunting gun and killed himself by a shot to his heart.

### **Mustafa Koca**

Mustafa Koca (45), who had been detained in Çanakkale on the claims of "being drunk", died on 6 July. Mustafa Koca reportedly started to shout in front of his coffee shop. The police went to the spot and beat Mustafa Koca when he insulted them. Koca reportedly died on the way to the hospital. The autopsy report read that there were traces of blows on the head and body of Koca.

An investigation was launched into the death of Mustafa Koca and three police officers in charge at the police station were suspended from duty. An autopsy was performed on the body of Mustafa Koca in Bursa on 7 July. Dr. Şerif Koca, the brother of Mustafa Koca, said the following: "I went to Yenice Police Station and met the police officers after the death of

my brother. The police officers said that my brother had died when he hit his head against the wall. In the report of the Forensic Institute, however, the reason of death was given as internal bleeding due to the tearing of mesentery of intestine because of a blunt trauma of the abdomen. Besides, there were many traces of blows on his head.”

Çanakkale Governor Mehmet Seyman claimed that Koca had killed himself by hitting his head against the wall. Seyman said, “This person had first been referred to Yenice Health Center for an alcohol test on instructions by the Public Prosecution Office. When he was taken back to the detention place, Koca continued to act insolently and begun to hit his head against the wall. The police officers took him to the health center again. After the medical examination, he was referred to Çan State Hospital, but lost his life on the way to the hospital.”

Niyazi Çağlar, one of the police officers who were suspended from duty in connection with the death of Mustafa Koca was remanded on 8 July. Police officer Nihat Çıtık and watchman Akif Gürgen were reportedly suspended from duty by the Governorate for “negligence of duty.” On the day of the incident Niyazi Çağlar was reportedly in charge of Yenice Police HQ.

The wife of Mustafa Koca, Düriye Koca, filed an official complaint on 10 July. The witness Şeref Birgül had told her, “I heard shouts from outside. When I looked out of the window I saw a big police officer constantly hitting Mustafa Kaya, although his hands had been tied at the back.” The Ministry of the Interior launched an investigation into the death of Mustafa Koca. In the end Niyazi Çağlar and Akif Gürgen were indicted.

### **Alpaslan Yelden**

Alpaslan Yelden (37), who was detained in İzmir on 2 July, died in Yeşilyurt State Hospital, where he was under medical treatment, on 15 July.

Alpaslan Yelden’s father Halil Yelden said that his son had been detained in connection with the death of his former girl friend, “Rim,” of German origin in 1997, and that he had found his son in a coma at the Intensive Care Unit five days later. Alpaslan Yelden was reportedly brought to the hospital on 3 July by a person who introduced himself as a “practitioner,” and who declared that he had found Yelden in the street. Alpaslan Yelden was reportedly registered as “an unidentified male”. The police authorities asserted that Alpaslan Yelden had fallen down in detention and hit his head to the ground. Türkan Aslan, lawyer of the Yelden family, said, “There were bruises on the abdomen and the sacrum of Yelden and traces of blows and trauma on the head. This is not a death of falling down and hitting the head.” Halil Yelden lodged an official complaint against the police officers.

7 police officers were indicted for torturing Alpaslan Yelden. Türkan Aslan stated that chief commissioner İbrahim Peker and commissioner Hakan Ergüden had been interrogated on the case. She reported that the police officers had admitted the detention of Yelden, while refusing the claim of torture. They alleged that Yelden got nervous during interrogation, and fell down as a result. They claimed to have taken Yelden to hospital for this reason. According to Ms. Aslan the police officers İsmail Aktaş, Kamil Aka, Uğur Kocal, Zeki Gündoğdu and Hikmet Buldu had not testified yet.

Türkan Aslan sent a petition to İzmir Governor’s Office demanding that the accused officers be suspended from duty. She stated that she would lodge an official complaint with İzmir Medical Association against Dr. Alim Mutlu, who issued a report certifying that no traces were found on the body of Alpaslan Yelden. According to the lawyer the traces of blows had been verified in a report prepared 13 days after the incident.

Lawyer Suat Çetinkaya, who had been present at the autopsy together with the public prosecutor, stated:

“I saw the corpse in the morgue. There were bruises at the back of the head, in the left shoulder and the coccyx. This was noted in the report on the death. The corpse was sent to the forensic institute at the Aegean University for a detailed analysis. I heard that the physicians in the intensive unit certified bruises on the stomach, but this was not noted.”

The autopsy report of 6 October certified bruises on various parts of the body as a result of beating with a hard tool. The brain had been damaged seriously and the person had died because of dysfunction of the kidneys and circulatory collapse.

On 22 July İzmir Bar Association approached the Governor and the public prosecutor asking that the police officers involved in the detention of Yelden be suspended from duty so that the investigation might be conducted properly. The petition stated: “If the police officers are found guilty they have to expect prison terms and disciplinary punishment. According to Article 125/e of the Law No. 657 on Civil Servants and Article 8/39 of the Disciplinary Regulations on the Police Organization dated 23 March 1979 and numbered 7/17339 the act of the police officers requires their dismissal.”

At the end of July the governor’s office in İzmir appointed Nejat Akar and İbrahim Şahintürk to look into the case. Reportedly the Interior Ministry also sent two state secretaries for an investigation. It was revealed that chief commissioner İbrahim Peker had been tried in connection with another torture case in 1997. İzmir Criminal Court No. 2 had sentenced him to 10 months imprisonment according to Article 243 TPC. The verdict was pending at the Court of Cassation.

On 4 August the chief commissioner İbrahim Peker, commissioner Hakan Ergüden and the police officer Muharrem Çetinkaya were suspended from duty. Lawyer Türkan Aslan stated that other police officers, who interrogated Yelden, were still on duty and there was the danger of collusion. She said that 7 police officers participated in the interrogation, but nothing was done against the police officers İsmail Aktaş, Kamil Aka, Hikmet Kudu, Uğur Koca and Zeki Gündoğdu. The name of the police officer Muharrem Çetinkaya had not been on the list given to them, but the state secretaries discovered his name.

In October İzmir Public Prosecutor’s Office indicted 10 police officers: chief commissioner İbrahim Peker, deputy commissioners Tarkan Gündoğdu and Hakan Ergüden and the police officers Muharrem Çetinkaya, Ali Aykol, Hikmet Kudu, Yusuf Oyan, Uğur Koca and Nevzat Sağoğlu. They were charged with having caused the death by torture with the aim of getting a confession. Chief commissioner Cemil Bulut was charged with negligence of duty. The first hearing was conducted at İzmir Criminal Court No. 2 on 9 December.

### **Şaban Cadıroğlu**

Reports from Van stated that Şaban Cadıroğlu (14), working as a street vendor in front of the police station in the city center, was beaten to death. His companion Abdullah Kurt said that the police had been trying to prevent them from working there for some time. On 16 August the police had beaten them and taken them to the police station. “They destroyed the cars of four of us. Şaban took his goods and tried to run away. A blond police officer caught and kicked him. Şaban fell to the ground. Another friend and I went there. He could not breathe. The police officer left him there. We took Şaban to hospital, but he had died already.”

Abdullah Kurt added that the police officers forced them to sign a paper at the police station. At the office of the public prosecutor they were accused of raising wrong

accusations against the police. Şaban Çadıroğlu's father, Süleyman Cadiroğlu, stated that the police officers asked the physician to report that the child had died because of a heart attack. The physician Abdullah Lenk prepared a report certifying that no traces of blows had been detected, but the corpse should be send to Diyarbakır since the circumstances of death were suspicious.

When the family wanted to get the corpse from the morgue the police detained some 30 people, who had gathered in front of the morgue. Reportedly only five people were allowed to participate in the funeral. The police detained another 3 people. All detainees were released later.

Some pieces of internal organs were later sent to İstanbul for an autopsy. Lawyer Abdulmenaf Kıran, who acted for the family, stated that they were facing difficulties with the investigation and prosecution. The involved police officer had been named and they had been able to find two witnesses. The testimony of these witnesses needed to be confirmed by a notary, but all three notaries in Van had refused to so. They had been afraid that the witnesses would not repeat the testimony in court, because they had to testify against the State.

On 22 October Şaban Çadıroğlu's father, Süleyman Cadiroğlu, and 8 witnesses testified at Van Police HQ. The witnesses Abdülrezzak Kurt, Adil Kurt, Hacı Kurt, Nazmi Kurt, Yusuf Kurt, Abdullah Kurt, Veysi Kurt and Ramazan Özer later stated that they had been beaten, when they said that a police officer killed Şaban Cadiroğlu. They had been forced to sign statements, which the police had prepared. Süleyman Cadiroğlu said that the director for the department of order, Sadettin Bora, had tried to persuade him to take back the complaint.

In 1999 permission was granted to charge the police officers Seyit Demir and Mustafa Sivacı, after the witnesses had identified them. The police officers appealed against the decision. The Supreme Administrative Court did not decide on the case in 1999.

### **Mehmet Solmaz**

Mehmet Solmaz, who had been detained on suspicion of being a drug dealer, died at İstanbul Police HQ on 24 September. Allegedly he jumped from the 6<sup>th</sup> floor.

Mehmet Solmaz was detained as the alleged organizer of a transport of 166 kilograms heroin to the Netherlands. He was taken to the room of the narcotics department's director in block B in the 6<sup>th</sup> floor to be interrogated. The jacket of his tracksuit had been put over his head so that he could not see, where he was. Allegedly he jumped out of an open window, when the accompanying police officers were inattentive. He died on the spot. Reportedly the room, from where Mehmet Solmaz jumped, is the only room in that floor without barred windows.

Relatives alleged that the police officers threw Mehmet Solmaz out of the window, because he refused to bribe them and did not testify. Police officials alleged that he committed suicide, because he was afraid to name the "big boss".

The public prosecutor in Fatih started an investigation into the death. Meanwhile, İstanbul Chief of Police, Hasan Özdemir, praised the officers for a successful operation. They had felt sorrow, when the person chose to commit suicide. The necessary administrative and penal investigations were underway.

The İstanbul branch of the HRA doubted the fact that Mehmet Solmaz committed suicide. The statement said, "Even if we agree that the person committed suicide, there are reasons for such an act. Such a person must have been frightened to death. The fact that

Mehmet Solmaz was blindfolded is an indication that his free will was under pressure. It is also not very convincing that someone at the police headquarters, where the suspects are under constant observation, finds the time to commit suicide.”

The public prosecutor in Fatih indicted chief commissioner Murat Şahin, working at the Narcotics Department, the deputy director Mahmut Karabulut and the police officer Gökhan Gür under Article 230/1 TPC. The indictment stated that Mehmet Solmaz wanted to confess and for this reason he had been taken to the room of Murat Şahin in the 6<sup>th</sup> floor. On call by the secret service MİT, Murat Şahin and Mahmut Karabulut had left the room. By leaving the suspect to the police officer Gökhan Gür they had neglected their duty.

### **Fehmi Kaplan**

Fehmi Kaplan (45), who was detained in Narman district of Erzurum on 14 November for being “blind drunk,” died in detention. Fehmi Kaplan was reportedly taken to the health center when he had certain complaints. He was taken back to the police headquarters and found dead in the morning of 15 November. Narman District Governor Levent Kılıç asserted that Fehmi Kaplan had not been tortured, but he might have died because of committing suicide or a heart attack.

Vehbi Kaplan, the brother of Fehmi Kaplan, stated that he did not believe that his brother had “committed suicide.” He said, “One hour after having been detained, they took my brother to the health center where he got three injection. Then they took him to the detention place although he had fainted. The next day they said ‘your brother is ill.’ When I went to the police station, they said that he had died. The place, where he allegedly hanged himself is no more than 1 meter in height. It is not possible for him to hang himself there. Besides, we checked the belt he had allegedly used for suicide, but it did not belong to him. We have seen traces of blows on his body. He had no reason to commit suicide. In addition, they had sent additional anti-riot forces and gendarmerie to the region before informing us about the death. They had taken security precautions all around. These are dubious things.” Vehbi Kaplan also criticized Narman District Governor Levent Kılıç’s claims that his brother had “either committed suicide or had a heart attack,” and stressed that the belt and shoelaces of a detainee should be taken. Vehbi Kaplan said, “A police officer named Salih had occasionally declared that he did not like the Kaplan family. We think that my brother was murdered intentionally.”

The governor’s office in Erzurum and the General Directorate for Security started an investigation into the death. The General Directorate for Security later made a written statement on the case: “The team that went to the spot took Fehmi Kaplan to the health center in order to make an alcohol test. Narman Health Center certified that the internal and external examination was normal. The person showed traces of blows or force, but was extremely drunk. Kaplan was taken back to the police station. At 6am he asked to sleep in the observation room. Since Kaplan was a former police officer that officer on duty allowed him to sleep there and left the door unlocked. An inspection at 7.30am showed that Kaplan had committed suicide by hanging himself to the door of the room using his belt. The corpse was taken to the health center at 10am and from there to the Medical Faculty of Aziziye University. The autopsy did not reveal any traces of blows or force.”

### **İbrahim Ay**

İbrahim Ay (72), who had been detained in Altıyol Village of Dargeçit, Mardin on 3 December, allegedly died because of torture inflicted on him.

Reportedly soldiers raided the village in the evening and detained the villagers İbrahim Ay,

Şerif Ay, Fahrettin Ay, Selim Aktaş and Latif Aydoğdu. İbrahim Ay, who was beaten with butts of rifles at Altıyol Gendarmerie Station, reportedly fainted and died in Dargeçit State Hospital where he had been taken. İbrahim Ay was later taken to Diyarbakır State Hospital for an autopsy. He was buried in Altıyol village. The villagers, who were detained with him, disclosed that the soldiers had forced them to sign testimonies, which read "İbrahim Ay lost consciousness by hitting his head against the wall," but they had rejected to sign this document. Fahrettin Ay, a relative of İbrahim Ay disclosed that they had seen traces of blows on the head and various parts of the body when they washed the corpse. Fahrettin Ay also stated that Dargeçit Public Prosecutor and the chief of police had come to the village after the incident and asked them to withdraw the complaint. İbrahim Ay's daughter Cirva Keleş alleged that the commander of the gendarmerie station and village guards Kemal Kaya, Ali Kaya and Hamit Erik, who were oppressing them continuously, were responsible for the death of her father.

Further allegations stated that soldiers raided the village 4 times after the death of İbrahim Ay and threatened them to evacuate the village, if they would not withdraw their complaint.

### **Medine Öncel**

A woman named Medine Öncel died in Diyarbakır, when she jumped from the seventh floor of a building, in order to avoid detention. Police officers raided the house of Ekrem Öncel in Bağlar quarter of Diyarbakır at about 3am on 14 July. They broke down the entrance door of the building, and went to the flat on the seventh floor. They wanted to detained Ekrem Öncel's daughter Medine Öncel, but she jumped from the window in order not to be detained.

Ekrem Öncel reported: "We were sleeping on the roof as it was too hot. Five police officers came. One of them was wearing a mask and commando uniform, whereas the remaining ones were in plain clothes. They took my wife and me down from the roof, and asked me to open the door of the flat. They said that they had come for Medine and would take her to the police headquarters. My daughters were sleeping. They woke up with the voices of the police officers. The police officers waited in the living room, ready to fire. I told Medine to keep calm, and to dress. Medine said, 'Father, please don't leave me, don't let them to take me away. This time they will kill me.' I told her to stay calm. They would release her. But she did not calm down. She was shivering. Medine and my other daughter, Devran, came to the living room after dressing. Medine suddenly began to run. She ran into the next room to the window. Her mother followed her, but she could not reach her. She threw herself out of the window."

Medine Öncel, a member of the People's Democracy Party (HADEP), had reportedly been detained during the raid against the HADEP Diyarbakır Provincial Organization Office on 16 November 1998. Allegedly she was tortured over 12 days in detention. Hamit Çakır, who had been detained in the same raid, had been tortured to death at Diyarbakır Police HQ.

Ekrem Öncel filed an official complaint. At the end of July Public Prosecutor Ümit Yüksel ruled against the prosecution of police officer, because Medine Öncel had panicked and committed suicide. The police officers had done nothing wrong.

### **Cases on Deaths in Custody**

#### **Baki Erdoğan**

The trial against 6 police officers in connection with the death of Baki Erdoğan had to be repeated, after the Court of Cassation quashed the original verdict. Baki Erdoğan had died

in Aydın Police HQ on 21 August 1993. On 21 April 1998 Aydın Criminal Court No. 1 convicted deputy chief of Aydın police, İbrahim Türedi, the police officers Ayhan Erdal, Abdurrahman Çetinkaya, Cahit Sandıkçı, Ali Kumal, and the director of the political police Necmettin Aydınkaya of causing death under torture and sentenced the defendants to 5 years, 6 months and 20 days' imprisonment. On 23 December 1998 the Court of Cassation ruled that the investigation in court had not been complete and quashed the verdict. One of the arguments was that the journal "Devrimci Gençlik" had reported that Baki Erdoğan had been suffering from epilepsy.

The first hearing of the retrial was held on 11 May. After the hearing of 24 June Aydın Criminal Court No. 1 passed the same verdict according to Article 452 TPC, but the Court of Cassation quashed this verdict as well on 28 December.

In addition to the trial on torture allegations another trial was initiated against police officers, journalists and lawyers. The trial had been initiated after police officers beat journalists, who followed the hearing of 21 April 1998. The trial was not concluded in 1999 (for details see the chapter on freedom of communication).

### **Cengiz Aksakal**

On 22 December 1998 the Court of Cassation confirmed the verdict of Ardahan Criminal Court passed against second lieutenant Ferit Ildırar and NOC Mecdi Cengiz, commander of the central gendarmerie station in Şavşat district (Artvin) in connection with the death of Cengiz Aksakal on 18 October 1980. Ardahan Criminal Court had sentenced both defendants to two years, one month's imprisonment. In July, however, the same court ruled that new evidence had emerged and stopped the sentences from being executed. The trial had to be conducted again.

The decision was taken, when the General Command of the Gendarmerie provided a report on a document, which the Court of Cassation had characterized as having been changed later. The General Command of the Gendarmerie stated that changes to such a document were impossible. In addition, testimony of witnesses existed that the defendants had been employed in an operation at the time of the crime in a different place.

This trial was heard in three different provinces. Four different verdicts were passed and it was not concluded in 19 years.

First Erzurum Military Court indicted three police officers. The Court acquitted the defendants after the Court of Cassation had quashed the first verdict and filed an official complaint against lieutenant Ferit Ildırar and NOC Mecdi Cengiz. This case was heard at Artvin Criminal Court. In 1992 the court ruled that the defendants had applied torture and this had contributed to the death of the prisoner, who had been suffering from an illness before.

The 8<sup>th</sup> Chamber of the Court of Cassation quashed this verdict. In the retrial the defendants were acquitted on the grounds that the prisoner had been tortured in order to confess to a crime, but it had not been proven that the defendants had tortured him. This time the Court of Cassation quashed the verdict, because the necessary permission for the trial had not been obtained from the Justice Ministry.

Ardahan Criminal Court started the trial in 1994. This court convicted the defendants in 1997, because they had ordered the torture, provided a place for it and turned a blind eye on the torture. The sentence of 5 years' imprisonment was reduced to 2 years and 1 month in prison, because the defendants had participated in an act of killing without a specific assailant and because of the personal and social background.

## **Welathan Gülşenoğlu**

The trial against the police officer Abdullah Bozkurt continued at İstanbul Beyoğlu Criminal Court No. 1 throughout the year. He was charged with shooting and killing the student Welathan Gülşenoğlu (19) at Kasımpaşa Police Station on 22 March 1994.

Welathan Gülşenoğlu had been detained during Newroz celebrations and taken to Kasımpaşa Police Station. The official statement said that he had suddenly produced a gun and a police officer had shot him accidentally.

## **Ali Rıza Ağdoğan**

The trial against 6 police officers in connection with the death in custody of Ali Rıza Ağdoğan started again on 9 March. Ali Rıza Ağdoğan had died in 17 February 1991. He had been thrown from the 3<sup>rd</sup> floor of Beyoğlu Police HQ after his detention on 13 February and died in hospital. The defense asked that the case should be stopped in line with the decision by the Court of Cassation, while the intervening lawyers asked for a conviction of the police officers.

The original trial at Beyoğlu Criminal Court No. 1 had ended on 6 February 1998. The court acquitted the police officers Feyzullah Ardiç, Ramazan Kılıç, Hüseyin Yılmaz and Mustafa Şahinoğlu. The police officers Seydi Yapıcı and Recep Uçar were sentenced to 5 years, 6 months and 20 days' imprisonment. The Court of Cassation had ruled that the time limit in cases of torture was 5 years and, therefore, the trial should be cancelled.

On 17 May Seydi Yapıcı testified and stated that he should not be tried on allegations of torture. He asked the court to follow the decision of the Court of Cassation. On 25 October Beyoğlu Criminal Court No. 1 insisted on its original verdict and convicted Seydi Yapıcı and Recep Uçar for the completed attempt of an unwanted killing.

## **Birtan Altunbaş**

After 8 years the trial against 10 police officers in connection with the death of Birtan Altunbaş in 1991 started on 18 March. Only the defendant police officer Tansel Kayhan participated in the hearing at Ankara Criminal Court No. 2. He stated that he had participated in the detention of Birtan Altunbaş, Ahmet Yüzbaşıoğlu and Mehtap Özkul. He had taken them to the department of the political police, but had not participated in their interrogation. Murat Böbrek, who had been in detention at the same time, was heard as witness. He said that he had witnessed that a person called "Birtan" had been severely tortured. The witness İhsan Uçum stated that Altunbaş had fallen ill at the political police. He had informed the police and Altunbaş had been taken out of the cell. He had not returned after that. The hearing was adjourned to establish the addresses of two defendants, who had retired in the meantime.

Birtan Altunbaş had been detained at Hacettepe University on 10 January. He died in Gülhane Military Hospital on 16 January. The public prosecutor asked the provincial administrative council for permission to investigate against the police officers. The file was sent forward and backward and ended at the Court of Cassation to make a decision on the responsibility in this case. Finally the police officers İbrahim Dedeoğlu (candidate for the MHP in Karaman during the 18 April elections), Sadi Çalı, Ahmet Baştan, H. Cavit Orhan, Süleyman Sinkil, Tansel Kayhan, Talip Taşdan, Mehmet Kırkıcı, Muammer Eti and Naif Kılıç were indicted under Article 452 TPC in connection with the Article 243 and 245 TPC.

İbrahim Dedeoğlu testified in the hearing of 15 July. He claimed that the traces on the body of Altunbaş stemmed from the time between his detention and arrival at the police headquarters. Dedeoğlu added that many trials on torture allegations had been opened

against him and called this an attempt to prevent his services for the State.

In the hearing of 15 October the court issued arrest warrants against the defendants Naif Kılıç and Ahmet Baştan, who had not appeared in court.

The defendants did not appear in the hearing on 30 November either and the court ordered that they be apprehended and brought to the next hearing scheduled for 2000.

### **Memik Yazar**

In connection with the death of Memik Yazar (19) at Gaziantep Police HQ on 16 November 1998 chief commissioner Koroğlu Kırac, deputy commissioner Yakup Kılıç and the police officer Fikri Şirin, Mustafa Aygöl, Davut Bodur, Şeymus Murat Kaya and Hasan Biçer were indicted under Article 243 TPC on 29 December.

The first hearing was held at Gaziantep Criminal Court No. 2 on 14 January. The defendants Koroğlu Kırac, Yakup Kılıç, Mustafa Aygöl, Şeymus Murat Kaya, Davut Bodur, Hasan Biçer and Fikri Şirin had surrendered and were remanded on 13 January. Journalists were not allowed to cover the hearing. Şevket Yazar, the father of Memik Yazar who was heard in the hearing, said, "They came and told me 'Your son was poisoned.' But when I went to the hospital, the doctors said 'Not poisoned but he was tortured.' I leave the decision to your discretion." In the hearing, Erkan Mahsereci, a doctor in charge at Gaziantep State Hospital, was heard as a witness. Dr. Mahsereci said that he had examined Memik Yazar the day he had been apprehended, and he had not seen any traces of blow. The court board decided to confront Nihat Oğuz and Gökhan Yılmaz, who had been detained along with Memik Yazar, with the police officers in the next hearing.

Memik Yazar, who had broken into a house in Gaziantep on 11 November for theft, had been captured by the owner of the house and delivered to the police. Memik Yazar had been taken to Gaziantep University Medical Faculty Hospital because of the torture inflicted on him in detention at Gaziantep Police HQ, and died in the hospital on 16 November.

The trial did not conclude in 1999.

### **Bayram Duran**

On 23 June Denizli Criminal Court continued to hear the case of the police officers Ahmet Şengöl, Abdullah Çavuşoğlu, Halit Ak, Mevlüt Salgar, Ahmet Aşçiel, Ayhan Köşger and İsmail Usman from Gazi Police Station in connection with the death of Bayram Duran at this station in İstanbul-Gaziosmanpaşa on 16 October 1994. The police officers were charged under Article 453/2 TPC. The trial did not conclude in 1999.

### **İsmail Saydam (Saylan)**

On 11 October Bursa Criminal Court No. 3 passed its verdict in connection with the death of İsmail Saydam (Saylan). He had been detained on 19 September 1998. The police officers were charged with beating the prisoner to death. The court acquitted the police officer Turan Sönmez, İbrahim Merdivenli and Şevket Asar because of lack of evidence. Police officer Tamer Kumru was sentenced to 50 months' imprisonment for unintentionally causing the death of a person.

### **Sinan Demirbaş**

The case in connection with the death of Sinan Demirbaş in Elazığ on 14 July 1995 started again at Elazığ Criminal Court No. 1 on 17 November. In the first trial the police officer Bünyamin Gök had been sentenced to 14 years' imprisonment and the police officers Erdoğan İnal, Veysi Aslan, Hasan Çetinkaya, Nazif Yazar, M. Faruk Uzel, Zihni Derin and

Mehmet Karamehmetođlu had been acquitted because of lack of evidence. The Court of Cassation quashed the verdict on 26 May. The hearing in November was adjourned to a date in 2000.

### **Mehmet Yavuz**

On 8 December the Court of Cassation confirmed the verdict against commissioner Murat Göldaş. Adana Criminal Court No. 3 had sentenced him to 20 months' imprisonment in connection with the death of Mehmet Yavuz. In 1998 Mehmet Yavuz had been detained in Diyarbakır on suspicion of theft. He had been taken to Adana and interrogated there. The verdict was passed for torturing with the aim of getting a confession.

Lawyer Osman Baydemir, deputy chairman of the HRA, stated that more than one police officer were responsible, but they agreed among each other, who had to take the blame. Baydemir stated that the other police officers were still on duty, which posed a threat to other detainees. He said that Adana Police HQ and the Ministry of the Interior had to be held responsible, if anything happened. He added that the documentation of torture was important and suggested that the torturing police officers should be rehabilitated at special centers to have them refrain from torture.

### **Emin Yıldırım**

The case against major Sezai Akgün, commander of Çermik Gendarmerie Station, in connection with the death of Emin Yıldırım on 7 January 1996 concluded at Diyarbakır Criminal Court No. 2 on 15 June. He was accused of having beaten the prisoner to death. Diyarbakır Criminal Court convicted him of ill-treatment and sentenced him to 2 months' imprisonment according to Article 345 TPC.

On 7 January 1996 shots were heard in Kale-Çukur quarter of Çermik. Major Sezai Akgün had entered the shop of Emin Yıldırım and beat him, when he had said that he did not know the source of the noise. 20 days later Emin Yıldırım died in hospital. The case had been opened on complaint of the wife of Emin Yıldırım. Sezai Akgün had been promoted to the rank of a major, even though he was on trial.

Mustafa Özer, lawyer of the Yıldırım family, stated that the ECHR had accepted the case in 1998, but not passed a verdict yet. He added that he would appeal against the decision of Diyarbakır Criminal Court No. 2.

### **Yücel Özen**

The court case in connection with the death of Yücel Özen, who had been detained in İstanbul on 12 November 1991 on suspicion of theft and who died on 24 November 1991, continued at Beyođlu Criminal Court No. 1 in 1999. During the hearing on 21 October the prosecutor summed up the case. He argued that Yücel Özen had not died, because of a fall, but as the result of a violent trauma. The prosecutor asked to convict the police officer Ahmet Güngör, Abdullah Süzer, Hasan Kirman, Yavuzhan Boran, Nafiz Aktaş, Ünal Canlı and Veysel Atası and sentence them to 8 years' imprisonment. The case did not conclude in 1999.

### **Fethi İpek**

The trial against lieutenant Coşkun Bayar, NCO Levent Tuđrul, the soldiers Serdar Karabulut, Mehmet Yüksel and Mustafa Alnak and Ali Yıldız on charges of having killed Fethi İpek in Çermik district (Diyarbakır) on 28 September 1998 and having formed a gang for drug dealing continued at Diyarbakır SSC on 6 May. The court announced that Kemal Türk, who had been heard as witness and who was an informant for the gendarmerie, had

been killed in Silvan district (Diyarbakır) in February.

Hüseyin Tayfun, lawyer of the İpek family, stated that Kemal Türk had been killed because he had not testified in favor of lieutenant Coşkun Bayar. Yaşar Altürk, lawyer for Coşkun Bayar, demanded that the three officers investigating the killing should be heard in a closed session. The demand was accepted and the hearing continued for 15 minutes without the public. Later Ali Yıldız testified. He said that Fethi İpek had been killed by Mehmet Yüksel and Serdar Karabulut, who had been paid for it. He gave the mobile phones of the soldiers to the court and asked to inspect them.

In the hearing of 10 June Ali Yıldız stated that he had killed Fethi İpek: "On that day Fethi İpek came to me and we entered a car. Serdar Karabulut and Mehmet Yüksel accompanied us. During the discussion I stabbed Fethi İpek twice in the neck and hit him on his head with a hand grenade. Fethi İpek died on the spot. The soldiers later dropped him near a footpath. I hid the knife close to the place of the incident and the hand grenade close to my home. I did this to be exempted from military service. We are no gang. The narcotics department used me like a napkin."

The trial concluded on 27 September. Diyarbakır SSC acquitted the defendants on charges of forming a gang and dealing with drugs. Coşkun Bayar and Levent Tuğrul were convicted of ordering the killing of a person. Serdar Karabulut, Mustafa Alnak, Mehmet Yüksel and Ali Yıldız were sentenced to death according to Article 450/4 TPC for intentional murder. The sentences were commuted to life imprisonment.

### **İsmet Yencilek**

On 31 December 1998 İsmet Yencilek (68) was detained in İzmir. He died in the police car. An autopsy stated that he died as a result of beatings, but all initiatives by the family to charge the police officers in question remained without success.

The relatives approached the public prosecutor in İzmir. Gülbeyaz Taşyurt stated that her husband had carried his medicine for asthma and alleged that the police officers had tried to misinform the public. The names of the police officers, who detained İsmet Yencilek under beatings, were given as Hüseyin Altuntaş and Reşat Birlik. Duran Yencilek, the son of İsmet Yencilek stated that he had appealed to the Ministry of the Interior, the State President, the Justice Ministry and the General Directorate for Security, but nothing had been done against the police officers. In addition, Duran Yencilek was reportedly threatened by the police officers and withdrew his complaints.

### **Metin Yurtsever**

No legal proceedings were reported in 1999 concerning the death of Metin Yurtsever in Kocaeli (İzmit) on 20 November 1998. He had been detained under beatings in the offices of HADEP in Kocaeli during an ongoing hunger strike, had been interrogated at the department of the political police, was taken to the hospital of the university for treatment, but died here.

### **Hamit Çakır**

Hamit Çakır died at Diyarbakır Police HQ on 16 November 1998. He had been detained during a hunger strike in the offices of HADEP in Diyarbakır. Following an official complaint the prosecutor started an investigation against 130 police officers, but there was no result in 1999.

## **c) Torture of Children**

### **Emin Acar (17)**

Emin Acar was detained in Germany on 10 March and deported to Turkey on 12 March. The prisoners in Ümraniye Prison, Yaşar Çelik, Sait Üçlü and Ramazan Morkoç stated that he was almost consciousness, when he entered prison on 15 March. At İstanbul Police HQ he had been tortured by suspension, pressurized water, had been given electric shocks, a bag had been pulled over his head to leave him breathless, he had been held alone in a dark and dirty cell, he had been threatened with death, when he was taken to a forest and a gun was pointed at his temple and his testicles had been squeezed. The prisoners further stated that both arms were affected, he had difficulties in breathing, he had bruises on various parts of the body and had difficulties to sleep.

#### **Ö. Ş. (12)**

On 8 April Beycan Ş. spoke on a press conference at the HRA in Adana. She stated that her son Ö. Ş. had been detained in order to identify “a child selling paper”. But her son had been taken to a channel and there he had been tortured. Beycan Ş. said that her son was in a bad condition after that.

#### **Y. S. (13), S. S. (10)**

Reports from Erzurum stated that two girls from the central orphanage had been raped. Erzurum Deputy Governor Fahrettin Göncü stated on 4 May that Kenan İrşin, director of the orphanage, had been dismissed in connection with the rape of S. S. (10) and Y. S. (13). He added that the two sisters were so afraid that they had not gone back to the orphanage, but preferred to stay in the streets.

In connection with the incident five persons were arrested later.

#### **N. K. (14)**

On 25 June Saadet K. went to the HRA in Adana and complained that her daughter N. K. had been tortured at Adana Police HQ. She had been blindfolded and stripped naked during the torture.

N. K. said that the police raided their house on 18 June ([33]). She had been taken to Adana Police HQ and tortured there. One police officer had hit her on the head with high-heel shoes. “They always hit me on the head, not the body. They were swearing a lot. I was taken to the house of my uncle Şeref Bakır and later interrogated at Adana Police HQ.

“First the blindfolded me. Then I was taken to another place. They stripped me stark naked. I could not see the persons in the room, but heard strange noises. They pulled my hair constantly. They said that I was not 14, but 20 years old...

“Then I was allowed to dress and taken to a room in the cellar, still blindfolded. One man repeatedly said ‘bring her to me’. They were swearing badly.”

The mother Saadet K. added that the police had asked her and her daughter for arms hidden in the house. When she had asked what kind of armament they were looking for, she had been beaten on her head and the police officers had started to swear.

#### **S. Ş. (17), F. Ç. (19), N. A. (17), Ü. I. (13), A. P., B. T. (19)**

In June seven children were detained in İstanbul-Sefaköy on suspicion of theft. The children aged between 13 and 19, including S. Ş. (17), F. Ç. (19), N. A. (17), Ü. I. (13) and A. P. were reportedly tortured and received medical reports certifying their inability to work for 7 days. The elderly brother of S. Ş., Dursun Şentürk said that he went to see his brother at the police station. He had been unable to stand on his feet. Mr. Şentürk alleged that his brother had been sexually assaulted. The children had been put under pressure to confess to certain crimes. He himself had been threatened with detention. Dursun Şentürk

accused the police officers with taken bribes from the children and their families.

After 4 days in detention S. Ş. (17) and F. Ç. (19) talked about the incident:

“Our friend B. T. came on 26 June and we entered the car. The car was stolen, but we did not know that. We only knew that he had no driving license. A police car followed us. We tried to escape and hit another police car. Two police officers got wounded. We were taken to Küçükçekmece Police Station. Here we were beaten with fists and feet. They wanted us to name our friends and we gave the names of S. Ş., N. A. (17) and Ü. I. (13). The police went to their homes and brought them to the station.”

F. Ç. said that they were taken to Gayrettepe on the same day:

“They accused us of theft and wanted us to confess. We were given electric shocks and they hosed us with ice-cold water. We were suspended by our arms tied at the front and tied at the back. They applied the bastinado (falanga). I’m still not able to walk. They squeezed our testicles. As a result our friend A. P. cannot urinate. During the torture they were constantly swearing and cursing. They said that the prosecutor had allowed them to keep us for 10 days. During this time we would have to stand torture. They came in groups of three or four for the torture sessions. After one group left the next one would come. Since we were blindfolded, we did not see them. When they laid me down for the bastinado I saw that one of them had a beard. They were 7 people, I guess. They threatened us with further torture, if we should go and complain.”

S. Ş. said that he was tortured in the same manner at Gayrettepe Police HQ. “They said ‘talk and rescue yourself. We had not done anything that we could confess. They held us responsible for many crimes. We were forced to sign the statement that they prepared because of the torture.”

#### **E. G. (14)**

Police officers reportedly beat 14-year old E. G. on 13 July, when he was selling the daily “Özgür Bakış” in Adana. He said that two civilian dressed police officers forced him into a car under beatings, asked him not to sell the paper and later threw him out of the running car.

#### **Z. D. (16), Y. E. (17), H. İ. C. (17), Y. Y. (17)**

Z. D., Y. E., H. İ. C. and Y. Y., students at Bayramiç Lyceum in Çanakkale were detained on 30 April in an operation prior to the 1<sup>st</sup> of May. They were later taken to a court and accused of being members and supporters of an armed gang. The court ordered their release to be tried without arrest. The file was sent to İstanbul SSC No. 5. After release Z. D. said that they were treated so badly in detention that they accepted everything that was told them.

#### **R. T. (15)**

R. T. (15), distributing the daily “Özgür Bakış” in Batman said that he had been detained on 18 July. The police officers allegedly beat and threatened him for 2 hours after they had abducted him in front of the state hospital at 5pm. He had been blindfolded and taken to the river in Batman. The police officers had beaten him there and threatened to kill him, if he continued to sell the paper. Later the police officers had dropped him at the same spot, where they picked him up. He had still been blindfolded.

#### **S. G. (13)**

The girl S. G. was detained on allegations of theft in İzmir-Kemeraltı at the end of

September. She said that she had been taken to Bozyaka Police HQ and beaten badly. Because of the pain in her ear she had to go to Yeşilyurt State Hospital on 6 October. Here she met the same police officers again and when she said that she wanted to be examined and asked for a report she was detained again.

“They tied my hands and stripped me naked. They laughed about my body and cursed at me saying that they would beat me up, if I complained about them. They threatened to put me in prison for a crime. They confronted me with a woman, who had lost her money. The police officers said that I had stolen her money. Later I was taken to the prosecutor and told him that I had been ill-treated.”

#### **E. Ö. (15), Ş. Ö.**

The HRA in İstanbul organized a press conference on 6 October. Four of 9 people, who had been detained in Gözlemtepe (Gölcük), when they distributed aid to victims of the earthquake, who were living there in tents, spoke at the press conference.

Selcan Dağ (22) said that they had been interrogated on suspicion of belonging to an illegal organization that helped the victims. “They pulled my hair and threw me into a cell. One officer said, ‘we can torture you. This is the region of the earthquake and we could put you under a heap of rubble and nobody would ask questions. They fixed cables to my ear and fingers and applied electric shocks. Later they stripped me stark naked and hosed me with pressurized water. They put a bag over my head and left me breathless. That lasted for about 10 hours.”

Selcan Dağ added that her girlfriends and she were sexually assaulted and the male prisoners’ testicles had been squeezed. The door of the cell had been open and the children in the opposite room had seen what was done to her.

E. Ö. said that she had seen how the police officer pulled the hair of Selcan, who was constantly screaming. “The police officers said, ‘we shall give you electric shocks as well. I was very afraid and vomited.”

The son of Türkan Ö., Ş. Ö., said that the police officers tortured his mother. He could hear her voice and screams. He had cried because of fear.

#### **d) Sexual Torture**

Like in most torture cases sexual torture and rape by security officers remained largely unpunished in Turkey in 1999. Almost all complaints were turned down by decisions not to prosecute. The Office for Judicial Help against Sexual Assault and Rape in Detention was founded in 1997. Until the end of 1999 a total of 115 women had contacted the Office. All but one stated to have been sexually assaulted or raped in detention. The perpetrators were established to be 91 police officers and 22 gendarmerie soldiers. The majority of the women were of Kurdish origin. The report of the Office stated that sexual assault and rape was a systematic practice against women in detention in Turkey.

While no steps were taken for the prevention of torture or the prosecution of torturers, the campaigning for torture victims was criminalized. On 15 June the executives of the HRA in Diyarbakır were put on trial for having collected aid for the girl R. K., who had been raped in 1997. ([34]) The prosecutor in Diyarbakır alleged that the HRA in Diyarbakır had published a call for donation on 8 April 1997 stating that various persons and institutions had made donations to an account of Osman Kaya with the Emlak Bank. The HRA was accused of having violated Article 29 of the Law No. 2860 by collecting aid without permission.

## **G. B.**

At the end of January G. B. (20) declared that she had been raped after her detention by the political police in İstanbul-Bahçelievler on 20 December 1998. She had been held in detention for 12 days, before İstanbul SSC remanded her on charges of being a member of the PKK. The lawyers Eren Keskin and Fatma Karakaş stated: "Our client was blindfolded at the department of the political police and she was stripped naked. For two days she was held naked and in this state she was hosed with hot and with cold water. She was beaten und subjected to all kinds of torture including the hanger. According to her statement a police officer raped her on the third day of her detention."

The lawyers added that the detention had not been reported to the prosecutor for the first 4 days. It took another 8 days after registration before she was taken to İstanbul SSC. Although G. B. underwent bleeding of the stomach and traces of the hanger could be seen on her shoulders the physician Gökhan Batuk from the Forensic Institute certified that she had not been tortured. The medical report stated, "The examination was carried out in a quite environment. The doctor and the patient were alone. The examination was done by partly taking off the clothes." The lawyers filed an official complaint against the police officers for torture and rape at the public prosecutor's office in Fatih.

In August lawyer Fatma Karakaş stated that G. B. had to be treated in the hospital of Bayrampaşa Prison, because of an ulcer in the stomach and gynecological complaints as a result of the stress caused by the rape. The treatment had been cut short because of pressure by soldiers. In July G. B. was sent to the Center for Posttraumatic Stress Disorder at Çapa Medical Faculty. The accompanying soldiers did not want to allow that the doctor and the prisoner stayed on their own, but when the doctor insisted the examination could be carried out.

Lawyer Karakaş said that another examination should have been carried out at the end of July. This time the soldiers banged the head of G. B. against the wall and beat her. Karakaş added that the official complaint in connection with rape had resulted in a decision not to prosecute anyone and Beyoğlu Criminal Court No. 2 had turned down their objection. Although the health of G. B. got worse her treatment was not secured in 1999.

## **Z. A.**

On 4 December 1996 Z. A. was detained in İzmir on charges of being a member of the PKK. İzmir SSC remanded her on 10 December and she was taken to Gebze Prison. She should have been treated in 1999, but since soldiers stayed in the doctor's room the treatment was not terminated. In November the Center for Posttraumatic Stress Disorder at Çapa Medical Faculty in İstanbul issued a report in connection with allegations of rape that Z. A. had raised against police officers in İzmir. The report based on 3 visits to the Polyclinic of the psychosocial trauma program during 7 months. The report stated:

"The patient said that she had gone through physical, psychological and sexual traumatic events that threatened her physical integrity. She remembers these events over and over again and this creates problems. She shows the tendency not to think and talk about the events. Whenever she starts to tell something about them anxiety comes up and she can only talk in tears. The interest in activities has gone down decisively. She falls asleep and has difficulties in continuing. She has difficulties to concentrate. After a medical examination and the psychological clinical evaluation it was concluded that the symptoms that developed after the traumatic events that the patient went through conform with the chronic form of posttraumatic stress disorder as described in the Handbook for Definition and Grading of Mental Disorders. The high degrees achieved during the PCL-C and IES

tests that are used in psychology support the clinical findings.”

#### **L. Ç.**

On 21 July 1995 L. Ç. was detained in Ankara. She was held for 15 days at the department of the political police and remanded on charges of membership to the PKK. She was sent to Sakarya Prison. At the end of May she was sent to Bakırköy Prison for Children and Women in order to be examined on the question of whether she had been raped or not. Since the soldiers did not leave the room of examination the report could not be issued.

Lawyer Eren Keskin from the Office for Judicial Help against Sexual Assault and Rape in Detention stated that the official complaint against the rapists had resulted in a decision not to prosecute anyone. She added that the only place that could establish rape after such a long time was the Center for Posttraumatic Stress Disorder at Çapa Medical Faculty in İstanbul. An earlier report from the Center had been the evidence to convict Turkey at the ECHR in the case of Şükran Aydın.

#### **Hanım Baran**

Hanım Baran had been tortured in 1994. Suffering from cancer she had been released from Ümraniye Prison. She died on 31 December.

At the beginning of October 1994 Hanım Baran was detained and held over 12 days at the department of the political police at Tarsus Police HQ. She filed an official complaint against the police officers, alleging that she had been tortured severely and raped. Her lawyers Eren Keskin, Fatma Karakaş and Şafak Yıldız demanded that the police officers be convicted according to Articles 243, 416 and 421 TPC. Their application stated:

“During her time in custody in 1994 our client was blindfolded and the police officer did never take the blindfold down. During the first 5 days of her detention the victim was held stark naked. She was suspended by her arms 6 times. At that time she was given electric shocks by her sexual organ, her nipples and fingers. She was hosed with ice-cold water under high pressure into her vagina. At a later stage one police officer raped her by pushing a truncheon into her anus. The victims recounts that the truncheon ‘went up to my stomach’.”

The petition stated that Hanım Baran was in a vital danger because of the torture inflicted on her. The lawyers demanded that the police officers on duty at the time should be interrogated. Medical reports on the client should be considered. Notes on an operation of the stomach at Tarsus Hospital from the Social Insurance Institute in 1995 should be inspected and the reports from the oncology department at the hospital of İstanbul University and the hospital in Okmeydanı dated 4 July 1999 should be required.

**AI issued an urgent action on 24 June. As a result of this action Üsküdar Prosecution’s offices suspended the execution of the sentence of Hanım Baran for one year and Hanım Baran was taken to a hospital.**

#### **F. B.**

F. B. declared that she had been detained in Mersin on 22 October 1998 on allegations of being a member of the PKK. She had been held in detention over 4 days and during this time she had been raped by forcing her to sit on a bottle, she had been given electric shocks, had been suspended by her arms and had been hosed with pressurized water. She had also been sexually assaulted. She applied to the Office for Judicial Help against Sexual Assault and Rape in Detention detailing her complaint:

“In the evening of 22 October at 8pm a friend of mine and I were taken out of our car and put into a civilian car. In the car the police officers started to assault me sexually with their hands. We were taken to the political department at Tarsus Police HQ. Our eyes were blindfolded and were stripped naked. They suspended me by my arms and applied electric shocks over my nipples, fingers and sexual organ. I was suspended by my arms three or four times. After that they took me to the toilet and pushed my head into a bucket. That was repeated several times... Still being blindfolded they took me to an empty space. The police officers said, ‘Run, we shall make a shooting exercise’. I did not run, but was beaten heavily. Back at the police headquarters they locked me into a dirty place. It was stinking heavily. When I came back to my cell I saw that I had excrement all over the body... I was suspended again and given electric shocks to my sexual organ. I was bleeding heavily. They thought I had died and took me down. Later they brought my friend and asked him to rape me. When he did not agree he was beaten severely. He was naked as well. They squeezed his testicles. After they had taken him back someone else was brought in. I did not know that person. He did not accept to rape me either and he was tortured like my friend.”

Because of the bleeding F. B. was taken to Mersin State Hospital, where she got an injection. She was taken back to Tarsus Police HQ and narrated on the rape:

“One of the police officers was called ‘Hacı’. At one moment, when my blindfold slipped I could see him. He was a tall, fat man. I would recognize him, if I see him. He took me by my hair to the torture chamber. He suspended me by my arms and gave electric shocks by my nose. Then he squeezed my throat. I was given electric shocks by my nose three or four times. I was bleeding from my nose and my mouth. They held my head under cold water for quite some time and said, ‘You’ll go crazy, if you don’t do this’. I was taken to another room and the person called ‘Hacı’ laid me on the ground. He said that he would rape me and assaulted me for some time. Then he said that I was an Alevite and he would not rape me. He forced me to sit on a bottle, took me by my hair and made me sit and stand up several times. My anus started to bleed seriously and then I fainted. When I awoke I was in the cell with blood all around me.”

Fatma Karakaş stated that F. B. was in a very bad psychological state. The bleedings still occurred from time to time. The lawyer declared that they would file an official complaint against the police officers.

F. B. had earlier been detained in Bursa on 25 October 1996. During 48 hours at the political department of Bursa Police HQ she was sexually assaulted and later applied to the treatment and rehabilitation center of the HRFT in İzmir. After her last detention in Mersin she was remanded and first taken to Mersin Prison. On 12 November 1998 she was taken to Adana E-type Prison. On 17 August Adana SSC sentenced her to 45 months’ imprisonment on charges of supporting the PKK according to Article 169 TPC. At the beginning of October she was transferred to Nevşehir Prison. During her time in Adana she had reportedly been treated several times for the bleedings as a result of torture.

### **N. C. S., F. D. P.**

The girls F.D.P. and N.C.S (15), who had been detained in İskenderun on 6 March, alleged that they had been tortured and raped in detention. ([35]) N.C.S., the daughter of the chairman of the local branch of the teachers’ union Eğitim Sen, Temim Samanoğlu, was reportedly detained during a raid on their house. At the home of Hüseyin Polattaş, father of F.D.P., the police officers had told him that his daughter should come to the police station, because they had received a complaint against her. She would be released after testifying. Her father brought her to İskenderun Police HQ, when she returned home. She stayed in

detention for five days and afterwards told what happened to her there:

“As soon as I entered I was blindfolded. They took me to a small room and beat me up. They threatened me by saying that my father was one year before retirement. Either I would confess to the accusation or they would make sure that my father did not get a pension. Then they ordered me to undress. I undressed because of fear. Later they ordered me to dress again. Some time passed until one of them said that I should take off my rousers and my stockings. I did it of fear. I was standing on my feet. One police officer in uniform ordered me to bend forward. Then he pushed something long and ripped into my anus. Bleeding started. I was writhe with pain. They beat me with sticks and asked me to stand upright.”

On initiatives of the families the girls were taken to İskenderun State Hospital on 9 March. Dr. Bahar Işık Köse issued a report stating that both girls were in good health. The girls were taken back to the police headquarters. On 12 March they were examined at İskenderun Health Center No. 1. The medical report signed by Dr. Ahmet Alpan and Dr. Tayfur Saygılı once again stated that the girls were in “good health”. Finally the girls were remanded and sent to prison.

When N.C.S. and F.D.P. told their families what had happened the Central Council of the Union of Medical Chambers in Turkey (TTB) prepared a report stating that “F.D.P. was subjected to torture such as insults, death threats, forced to stay on cold ground, prevented from going to the toilet, beaten, stripped naked and raped”. One tooth was broken as the result of beatings and the psychological and physical complaints continued. N.C.S. had been subjected to similar torture and was also suffering from similar complaints. TTB stated that earlier reports on the health of the girls (5 on N.C.S. and 3 on F.D.P.) lacked scientific quality and, therefore, the Central Council had started an investigation against the physicians, who issued the reports.

On 10 November Interior Minister Sadettin Tantan stated that the allegations did not reflect the truth. At any stage of the investigation the public prosecutor in İskenderun had been informed and given the necessary instruction. “The families of the suspects were informed and the father of the girl N.S.C., who raised these allegations, and her mother were twice able to meet her in the room of the chief of İskenderun police. The suspects were medically examined at the beginning of detention and before they were taken to court. There was no sign that their virginity had been affected or that there were any traces of blows. This has been certified by medical reports.

Tantan relied on reports, which the TTB had qualified as not being scientific. He quoted from the report issued at İskenderun State Hospital. This report had stated that there were no signs of rape or violence. Tantan accused the complainants of creating an atmosphere against the whole system starting from the prosecutor as if innocent people were subjected to incredible torture and sentenced to heavy imprisonment.

The girls testified to the public prosecutor in Adana on 23 November in connection with the investigation of the torture claims. They said that they could not identify the perpetrators, since their eyes had been blindfolded. They had forwarded detailed description of their treatment to the public prosecutor in İskenderun.

Bülent Akbay, lawyer of the girls, maintained that the medical report of 6 April, which had been quoted by Hatay Police HQ to back up the view that the girls had not been raped, was faked. The report had been signed by the physician Bedii Kurt. The girls, however, had stated that they never saw that doctor and that they were not taken for a medical examination on that date. The lawyer stated that he had inspected the registry of the

hospital and there had been no entry for the girls on that date.

On 27 November the girls were examined by Adana Forensic Institute. The report signed by four physicians certified bruises on the back of N.S.C. and stated for F.D.P. that she had a broken tooth and had undergone a psychological crisis. The report considered 3 days and 10 days' inability to work for the girls but admitted that it was impossible after such a long time to establish traces of torture. The girls appealed to the HRFT and asked for a cintigraphy and inspection of the skin.

On 22 December İskenderun Public Prosecutor Mehmet Mutlu Eker decided against a prosecution of the police officers. Lawyers Eren Keskin and Bülent Akbay objected to this decision and asked for a verdict of Hatay Criminal Court on it.

### **F.Ç.**

F.Ç., imprisoned in Batman, contacted the Office for Judicial Help against Sexual Assault and Rape in Detention complaining that she had been raped during her detention of 21 days in Mardin six years ago.

She said that she had been detained on 13 September 1993 during a raid of her house in Mardin. She had been taken to the building of the gendarmerie's intelligence (JİTEM) in the province. She had been beaten in public and the officers had assaulted her sexually with their hands. In order to confess she had been beaten at JİTEM for 3 to 4 hours. One soldier had given her a gun and asked her to kill herself. She had accepted that saying that it was better to die than to humiliated. She had put the gun to her head, pulled the trigger, but there had been no bullet.

F.Ç. further related: "In the building of JİTEM I was immediately blindfolded. They stripped me stark naked and started to beat me with truncheons. Then I was suspended by my arms. They banged my head against the wall and brought some papers asking me to sign them. I did not sign the papers. They brought a bed and fuel to the cell saying that they would rape me and afterwards burn me. When I was naked one of the officer pushed his hand into my sexual organ. I writhed with pain."

F.Ç. added that she was taken to Mardin State Hospital at the end of the detention. She was subjected to a virginity test and it was certified that her hymen was destroyed. After that she had been taken to the SSC and the court had ordered her arrest.

### **M.K.**

M.K., on trial with another five people at İstanbul SSC an allegation of being a member of the MLKP, had been detained in September 1998. She declared that she had been raped at the political department of İstanbul Police HQ. In the hearing of 8 December İnan Ulaş Gezici and Barış İnan also announced that they had been tortured in detention. İstanbul SSC filed an official complaint with the public prosecutor's office.

On 23 December the Directorate for General Security issued a statement on the case. According to the General Directorate for Security M.K. and another 12 persons had been detained in İstanbul. On 14 September İstanbul SSC had remanded her and another 3 suspects. The statement alleged that the claims of torture and rape aimed at getting public attention.

### **Sevil Erol, Hanım Köker**

Sevil Erol, SG of the trade union confederation KESK, and Hanım Köker, board member of HADEP in İstanbul, were detained on 21 July, allegedly based on the testimony of Cevat Soysal, who was said to be a leading PKK member in Europe. Both women were

remanded on 25 July. They declared in prison that they had been threatened with rape during their detention. Sevil Erol added that she had no connection to the PKK and Cevat Soysal and claimed that she had been detained, because her phone number had been found on Cevat Soysal. After the hearing of 26 October İstanbul SSC ordered the release of both women.

The official complaint of Erol and Köker, alleging that the police had subjected them to psychological torture by sexually assaulting them and threatening them with torture and rape, resulted in a decision not to prosecute any police officer. Fatih Prosecutor Zekai Özbek made the decision on 8 November because of lack of evidence. He did not take the testimony of the complainants or witnesses.

### **Ş.G.**

Ş.G., member of the music group „Kutup Yıldızı“ performing at the Structure Arts' House in İstanbul, declared that police officers kidnapped her on 14 December, raped and tortured her. She had been kidnapped around 9.30pm, when she was on her way home:

“I was walking up the stairs to the Okmeydanı Bridge. One person grabbed me, shut my mouth and pulled me down to the grass. I did not see anyone else, but he made a sign like ‘everything is ok.’ I started to scream and he shut my mouth and started to squeeze my throat. We struggled for some time until he hit me on my head with a hard tool. I fell down. When I started to scream again he put a gun to my head saying that I should keep silent or he would kill me. He asked me for names of people I was working with and wanted to know the name of the organization and my code name. He named some people, who I did not know. When I told him that I did not know these people he threatened to rape me. I did not speak at all. He started to hit me on various parts of my body. Then he started to take my clothes off. When I resisted he squeezed my throat again. He hit me on my head. I screamed, but nobody heard me. I had lost the power of resistance. He started to rape me. The rest I do not remember.”

Ş.G. added that she regained consciousness, when she was hit on her head again. The person was dragging her over the ground and left her some distance apart. He said ‘Get lost. Nobody shall see you her.’ Ş.G. related that she could hardly get on her feet and when she finally managed to stop a car the driver had told her that it was 11pm. She had fainted again in the car and the driver had taken her to Şişli Eftal Hospital.

On 15 December Ş.G. was taken to the Forensic Institute. The Institute referred her to the emergency service of the hospital of İstanbul University. She was kept there, because blood had clotted in her eye. On 16 December she was released on her free will. But when her situation got worse she had to be taken to hospital again.

Lawyer Göksel Arslan spoke at a press conference organized by the HRA in İstanbul. He stated that Ş.G. had been detained several times before. She was certain that the assailant was a police officer and would be able to recognize him. The assailant had hit her above her hip, knowing that she had had an operation of her hips a short while ago. Göksel Arslan added that the medical reports had shown severe injuries of the neck, the head and the arms and had confirmed the allegation of rape. Mehtap Kuruçay, another member of the group “Kutup Yıldızı” stated that the pressure of the police against members of the group had increased during the last months.

Police officers had come to observe the press conference at the İstanbul branch of the HRA. The chief of the team from Beyoğlu protested saying “You put the whole police force under suspicion. If you have documents produce them. There are so many people running around and claiming that they are police officers. We are disturbed, when the police is

shown as torturer o rapist.” İstanbul HRA chairwoman Eren Keskin responded saying that it was only natural to suspect the police and it was up to them to prove the opposite.

The public prosecutor in Şişli started an investigation on 16 December. Ş.G. testified on that day and was sent to the Forensic Institute. She was given a report certifying her inability to work for 25 days. Lawyer Göksel Arslan stated that the investigation had been opened against an unknown assailant. Once Ş.G. would feel better she would be asked to identify the assailant from photographs.

On 19 December members of the group “Kutup Yıldızı”, Structure Arts’ House, the Music Group of the Weavers and the Theatre Group “Corner” wanted to stage a protest on the torture and rape of Ş.G. in front of Galatasaray Lyceum. The police dispersed them under beatings and detained some 20 people,

FP MP Mehmet Bekaroğlu tabled a parliamentary request on 22 December asking the Interior Minister Sadettin Tantan to answer certain questions in connection with the abduction, interrogation, beating and rape of Ş.G. Bekaroğlu stated that the questions posed to the victim indicated that this was no simple case of rape. He asked the following questions:

1. How far has the investigation progressed? Has/have the assailant/s been identified?
2. Is there a political dimension of the event? Does the kind of interrogation, as alleged by the artist Ş.G. resemble a police interrogation?
3. One gets the impression that security precautions are not sufficient, if something like this happens in a crowded place like Okmeydanı. Was no police on patrol at the time and place? Did the patrols not notice the event?
4. What kind of measures are intended against this and similar human rights violations and attacks against possession, honor, identity and personality in Turkey on the verge to the European Union?

No information was available on legal proceedings in this case.

## **16.02.1999/ Cumhuriyet/Oral Çalışlar**

The Shame of Rape in Detention...

There is a letter in front of me, sent by a female prisoner. For days I’ve been looking at the letter, not knowing what to do. Asiye Güzel Zeybek describes in this letter, how police officers raped her in detention. I remembered with İstanbul Chief of Police, Hasan Özdemir, said during a conversation with journalists. He had reported on the interrogation of Haluk Kircı. Haluk Kircı had not testified and gone on hunger strike and the police had not been able to get specific information from him. We as the journalists had mentioned the cleverness of our police in interrogating suspects.

Let’s come to the point. I shall present Asiye Güzel Zeybek’s letter with some shortenings: “Hello... I’m under arrest for two years. Before that I was working as a journalist... for the socialist paper ‘Atılım’. Raids and detentions are natural, if you work for a socialist paper. But despite of everything that I went through I shall continue to work as a journalist, when I get out of prison.

“My latest detention was on 22 February 1997. My house was raided and I was taken under kicking and slapping to the Department to Fight Terrorism in Vatan Street (İstanbul). There was no search warrant or an answer to my questions of ‘why?’ All I got were insults, cursing and beating. When I asked to see my lawyer I was told ‘good girl, this is the political department. Nobody can hear your voice here and nobody can rescue you.’ I

reminded them of the Criminal Procedure Code and they said that it was not valid at their department. Even before I understood the reason for my detention I was taken to the torture chamber. If you are a woman the first thing in detention is sexual assault. A short while later I understood the reason. They had detained the staff of 'Atılım' and me on the allegation that the paper was the organ of the MLKP.

"They asked me to testify on many people that I did not know in the way they wanted. I told them that I could not do that, that I could not accuse unknown people by false testimony. What followed was a real nightmare for me. I was taken to the torture chamber again. I was subjected to one of the well-known torture method, the hanger. I was suspended with my hands in the front and tied on the back. All my clothes were taken off under force and beatings. When I was suspended with my arms on the back the last thing I heard was 'Take her down and lay her on the ground'. I found myself on the ground in no time. I was forced to lie down and one of the police officers raped me.

"I'm 29 years old. I studied at the Faculty of Literature at İstanbul University. I'm married. It is difficult to put the following things on paper. I stayed in detention for 13 days. The days after the rape don't seem to exist in my memory. They are clouded. Whatever was written and signed, all of it I discovered in court. From the department to fight terrorism I was taken to Kırklareli Prison. I stayed there for about five months. I did not talk to anybody, did not tell anybody. With the help of my family and my lawyers I came to Gebze Prison...

"I had to tell what I went through in order that other people would not have the same experience. Under no circumstances does any human being, not only me, deserve such a treatment. Even if I am a militant, as alleged, which I am not, I am a human being in the first place and do not deserve it.

"I told the state security court what I had been through. I said that I wanted to be taken to a hospital to be treated and requested an official complaint. After such a long time I was not able to prove it. The court rejected my demand each time. I tried to get treatment via the prison administration and succeeded to be transferred first to the Psychological Department of Gebze State Hospital and from there to the Center for Posttraumatic Stress Disorder at Çapa Medical Faculty. The special feature of the department, where I was treated, is the fact that they find evidence of rape by the effects of rape on the person that experienced rape.

"Between June and December 1998 I was taken to all appointments without any problems with the prison administration. In November I received a medical report and filed another official complaint. The court accepted the report as evidence and the case was reported in the press. After the news and in particular since the court accepted the report the prison administration did not allow me to keep my appointments.

"I was raped, but I'm not ashamed. It is something so horrible that you cannot describe it with words. But I'm not ashamed, because it is not me, who has to be ashamed..." This is what Asiye Zeybek Güzel wrote in her letter. She is not the one to be ashamed, but what are we as the people of the country about to do?

#### **e) Torture during Raids on Villages and Houses**

##### **Amber Karakoyun**

Amber Karakoyun, living in Van, said that the police raided his house on 18 January at 3am. The police beat the people in the flat, threatened and left the home.

##### **Abdulselam Bal**

On 18 May soldiers and police officers raided the house of Abdulselam Bal in Samanyolu (Kanîke) village, close to Bekirhan town on Kozluk district (Batman). After a short search they blindfolded him and subjected him to the bastinado (falanga). During the raid Abdulselam Bal's son Erhan Bal (10) was beaten. Abdulselam Bal was taken to Batman Police HQ. He was released the same day after testifying, but without being taken to the prosecutor.

Bal told the Batman branch of the HRA what had happened to him and filed an official complaint with the public prosecutor in Kozluk. He received a medical report at Batman State Hospital certifying his inability to work for 3 days. Bal stated that he had left the village in 1993, because of the pressure to become a village guard. He had gone to Nazilli district (Aydın province). In August 1998 he and his brother Halit Bal had returned to the village. He added, that after return he had frequently been called to Bekirhan Gendarmerie Station and had been threatened there.

### **Newroz Dayan, Murat Dayan, Azat Dayan, Welat Dayan, Haşem Dayan, Hediye Dayan, Erdal Dayan, Abdülvahap Dayan, Abdülbahi Dayan**

Reports from Tarsus district (İçel-Mersin) stated that the gendarmerie raided six houses and beat the children Newroz (3), Murat (4), Azat (3), Welat (3) and Haşem (7) of the Newroz family. The family complained to the HRA on 24 May stating that Hediye, Erdal, Abdülvahap and Abdulhadi Dayan had been detained.

### **Sinan Sıcak**

Sinan Sıcak had come from Germany to spend his holiday on Nergiz village of Viranşehir district (Şanlıurfa). He said that soldier raided the village on 28 May and beat him in the village square. He added that he went to the Health Center No. 1 in Viranşehir on 8 June and obtained a report certifying his inability to work for three days. He filed an official complaint with the public prosecutor in Viranşehir.

### **Mehmet Altıntaş**

Mehmet Altıntaş went to the İstanbul branch of the HRA on 25 June and told them that the Erol Alımcı, commander of the gendarmerie station in Gevaş district (Van) constantly pressurized him to become an informer. When he rejected his house in Kuşluk village had been raided. No incriminating evidence had been found, but the members of his family had been threatened.

After the 18 April elections Erol Alımcı had called him to the gendarmerie station, where he had been beaten over three hours. Because of the pressure he had been forced to come to İstanbul in May. "One month after my arrival I realized that a plainclothes detective by the first name of Şahin, who usually works as the body guard of the governor in Gevaş, was following me. On 22 June chief village guard Hamit Ful shot my father in the back, when he was sitting in the coffeehouse. He actually tried to shoot him in the head, but when my father stood up he was hit in the back. My father is currently in Van State Hospital and still in a critical situation." Mehmet Altıntaş added that he went to the prosecutor in Bağcılar to file an official complaint against Hamit Ful, but the prosecutor did not take any notice. Ful had been detained after the incident, but released the next day.

### **Fatma Korkmaz**

On 14 June police officers raided the house of Fatma Korkmaz (40) in Adana-İncirlik and beat her up. Fatma Korkmaz stated that her husband and one son were imprisoned for alleged membership of the PKK. "The police officers asked me to find my daughter Birgül Korkmaz, who is missing for one year. I told them that they were the State and they should

find her. The police officers damaged the furniture in my house and I filed an official complaint against them.”

### **S.A.**

On 19 June Kadriye Aytış went to the HRA in Adana. She said that she was afraid that her husband Ömer Aytış, who had been detained on 16 June, might be killed. On intervention of the HRA Adana Police HQ confirmed that Ömer Aytış was being interrogated at the department to fight terrorism. Kadriye Aytış told the HRA that the police had taken her husband for a search of her home, one day after his detention. He had been bruised all over the body. The police officers beat my 18-year old son S.A. and insulted our guests.

### **Adalet Özkaya**

On 3 July the HRA in Adana organized a press conference for Adalet Özkaya. She said that her home had been raided five times in one month. Each time the police officers had asked for her husband, who had not come home for the last 8 months. The last raid had been on 27 June. “Each time they ask for my husband. Although I keep telling them that I do not know, where he is, they say ‘either you bring him to us or you will have to leave here’. Before the raids they ask the neighbors. They feel disturbed. Because of the raids two of my kids have psychological problems.” Reportedly Adalet Özkaya filed an official complaint against the police officers.

### **Zeynep Kaplan, Muteber Albay, Ali Albay, Makbule Albay, Çavreş Albay, Musa Albay, Hacı Albay, Selim Öcek**

Following house raids by special teams in Bostaniçi (Van) on 18 July 3-month pregnant Zeynep Kaplan had a miscarriage. Muteber Albay, Ali Albay, Makbule Albay, Çavreş Albay, Musa Albay, Hacı Albay and Selim Öcek were wounded.

Zeynep Kaplan told what happened:

“Soldiers and special teams came to our quarter and surrounded the house of our neighbor Ali Albay. They ordered everybody to leave the house and asked the people whether they had seen someone, who passed there. All of them denied to have seen anyone and in return were beaten with fists and rifle butts and kicked. I was in front of the house watching the event. Some members of the special team came to me and asked me the same question. When I said ‘no’ one member of the special team cursed and me saying ‘all of have voted for HADEP. Now, let HADEP come and rescue you’. At the same time he started to beat me. He laid me on the ground and jumped up and down my back.”

Zeynep Kaplan added that she had been forced into her house and beaten her there. Her 2-year old son was under shock since that day. She had been too afraid to go to a doctor and on 20 July she had had a miscarriage. On 21 July she and her relatives filed an official complaint with the public prosecutor in Van. The prosecutor sent them to the hospital, where she was issued a report. On exit the police officers had stopped them, taken the report and detained them. They had been released in the evening.

### **Mehmet Galip Can, Hasan Sayar, Fırat Taş, İsmail Ürek, Hasan Ertek, Naif Akan**

Mehmet Galip Can, Hasan Sayar, Fırat Taş, İsmail Ürek, Hasan Ertek and Naif Akan complained that they had been tortured during raids on their houses in İstanbul-Samatya on 12 August. İsmail Ürek and Naif Akan had to be treated in hospital. The other four people filed official complaints with the public prosecutor in Fatih.

Mehmet Gali Can narrated on the incident:

“The friends had come to visit me. The bell rang and 8 civilian dressed police officers

entered the flat. They forced all of us to lie on the ground. I believe that someone had complained about us. The police officers asked us to leave the flat and we asked 'Why?' They beat us with straps and truncheons, when we objected. They beat us on our heads and other parts of the body. They broke all the glass in the doors."

Naif Murat Akan said:

"They laid us down. When I stood up they jumped on me and threw me against the door. The glass broke. I cut my wrist and was bleeding. They took me to the hospital in Cerrahpaşa and left me there. The physician stitched the wound and put on a plaster. I was sent away without getting a report. The police officers had come once again, before I came home. We filed an official complaint with the public prosecutor in Fatih. He did not send us to the forensic institute or hospital, although we were wounded. We went to the HRA and were sent to the First Aid Hospital at Taksim Square. I was operated here and stayed there for two hours. The vein at my wrist was stitched."

Fikret Taş said: "They beat me on my head with truncheons in the middle of the street. I fainted and woke up, when someone poured water over me. I entered the flat. They had demolished everything. We tried to put it together. After two hours the police officers came again saying that they had asked us to leave. When we repeated that we would not leave they beat us once again and then left."

### **Fevzi Tunç, M. Şah Tunç**

On 8 August civilian police officers raided a house in Diyarbakır-Bağlar quarter at 3am. They detained the landlords Fevzi Tunç and M. Şah Tunç and stayed in the flat using it as a mobile police station. Mehmet Tunç went to the prosecutor to complain. He said that it was impossible to leave or enter the flat and asked the prosecutor for precautions including punishment of the police officers in charged.

22 people were forced to stay in the flat for 3 days and only after the official complaint the police officers left the flat on 11 August.

### **Mehmet Akif Sidar**

The hours of Mehmet Akif Sidar in Ankara-Batıkent was raided on 8 August. Sidar was detained and the police stayed in the flat for 9 hours. Lawyer Kenan Sidar, chairman of THAY-DER, Hülya Sidar, Songül Şahin, Ergin Oğur, Ş. S. (10) and Ş. S. (11) were not allowed to leave the flat during this time.

### **Vetha Anter**

On 17 September plainclothes detectives raided the house of Vetha Anter, sister of Musa Anter, in Mardin-Nusaybin. Vetha Anter stated that she was insulted: "7 officers came in and started swearing when they saw the photograph of Musa on the wall. They broke the frame and tore the photograph into pieces. They insulted Musa Anter and me. I could not stand this and fainted. When I awoke the police officers had left." Vetha Anter added that the police officers had taken the bride Şevkiye Kaplan with her. She had stayed at Nusaybin Police HQ for one day.

### **Mehmet Acar**

Soldiers raided Karaoğlak village near Bekirhan town in Kozlu district (Batman) on 23 September. They searched the houses of Raşit Acar and Abdullah Acar, before they went to the house of Mehmet Acar. Mehmet Acar had a heart attack and died.

### **Kaze Özlü**

Kaze Özlü stated that the police raided her house in Adana on 19 November and tortured her:

“When they entered one of them put a rifle to my mouth and threatened me with death. They constantly said ‘talk or we’ll kill you’. Later they took the cable of the iron, put it around my neck and started to strangle me. I could not stand it and fainted. The last thing I heard was when one of the police officers said to another ‘she’s dead’. They left me believing that I was dead.” Kaze Özlü added that the police would frequently raid her house. She was sick by her kidneys because of the torture she had gone through.

In her official complaint, dated 7 December, Kaze Özlü stated that she had not been able to breathe because three police officers had held her mouth and nose shut. She had been kicked and her throat had been squeezed with the cable of the iron. Kaze Özlü told the HRA that the same police officers raided her house again on 28 November. One of them had put a gun to her head. She had been able to see the face of one of them. The police officers had taken away TL 20 million.

### **Medine Kaymaz**

Medine Kaymaz, member of the Peace Mothers’ Initiative in İzmir, stated that the police had raided her house on 16 December at 3am and threatened her with making her eat excrements. Medine Kaymaz reported that she had been forced to leave Dengiza (Senarlı) village in Savur district (Mardin), after soldiers had burned down their homes. She stated that the police officers asked for her daughter, from whom she had not received any news for the last two years. Her house had been raided several times before and she had complained to the public prosecutor. This time the police officers asked her, to whom she was complaining about whom and whether she believed to gain anything with these complaints.

### **f) Further Cases of Torture and Ill-treatment**

#### **Rıza Poyraz**

Rıza Poyraz made a statement from Ümraniye Prison in connection with allegations that he had tried to commit suicide on 22 December 1998 by jumping from the 4th floor of İstanbul Police HQ. He said: „I did not jump out the 4th floor with the intention to commit suicide. The torturers themselves through me out of the window. I was constantly tortured in detention. I was put on the hanger several times. The torture including squeezing of testicles, hosing with water under high pressure, putting a bucket of water over my head to make me suffocate, cursing, insults, rough beatings. The police threatened to throw me out of the window, if I did not confess. When I refused to confess, they took me to the window and threw me down.”

Poyraz was taken to hospital. The physician M. Ayanoğlu allegedly said: “How did this bastard survive. He did not make a good flight. One should not look after them and leave them to die.”

#### **Dilaver Karageçici**

Dilaver Karageçici stated that he was detained in Adıyaman on 14 January. He had been taken to Eskiray Police Station. His spleen had burst as a result of the torture there:

“They brought me to the police station. During the interrogation one police officer asked the question. I do not know his name. At one point I said that I had not understood the question. He stood up and kicked me in my stomach. The blow was so heavy that I fell down. On the ground the officers continued to kick me. I smelled blood after the kicks. I

was thrown into a cell and despite my pleas I was not taken to a doctor. 4 hours later I got worse. This time I was taken to a doctor. They wanted me to tell the doctor that I was fastening and had fallen ill because I had not eaten anything. The pain did not stop until the morning and I told the doctor what happened. The examination showed that my spleen had burst.”

**Sevgi Yamaç, Yaşar Dilibaş, Ayşe Sandıkçı, Hacı Ahmet Akkaya, Hatice Akkaya, Fizan Koç, Semra Öztürk**

In Denizli the police conducted an operation against alleged DHKP/C members on 4 January. They detained Sevgi Yamaç, chairwoman of the HRA branch, Yaşar Dilibaş, representative of the journal “Kurtuluş” in Denizli, Ayşe Sandıkçı, representing the trade union SES in Denizli, Hacı Ahmet Akkaya, treasurer of the HRA, Hatice Akkaya, Fizan Koç and Semra Öztürk. All of them were allegedly tortured in detention.

**Halit Taşdemir**

Soldiers detained Halit Taşdemir during a raid on Güllüce village, Doğubeyazıt district (Ağrı) on 15 January. His father Abdülhamit Taşdemir said later that his son was constantly bleeding from his mouth. „They tried to make him confess things he had not done. They brought a gun to our house and showed it as the gun of my son. They want to make him a criminal.”

**Nergis Sarı**

Nergis Sarı was detained on 30 January. On that day a demonstration should be held in İstanbul-Kadıköy, but was not permitted. The student Nergis Sarı was held in detention for four days and later announced that she had been tortured in custody.

**İlhan Türk, Şahabettin Arpacı**

In Ankara the students İlhan Türk and Şahabettin Arpacı alleged that they had been tortured after their detention on 15 January. İlhan Türk said that he had been detained in connection with the beating of a right-wing student. “We were put into a bus. A superior, who had put on boxing gloves, beat me up. I would recognize him if I see him. I was handcuffed. Besides beating me with truncheons on my head they also hit me with an iron stick.” Türk was taken to Çankaya Police Station and from there he was sent to the Forensic Institute on suspicion of suffering from bleedings of the brain. The Forensic Institute issued a medical report certifying 10 days’ inability to work. Türk added that he had to be treated in hospital for four days, but 3 police officers prepared a note that he had hit his head against the wall.

Şahabettin Arpacı stated that he had been detained for opposing the detention of İlhan Türk. He had been beaten and received a report from the Forensic Institute certifying inability to work for 5 days.

On 2 February Türk and Arpacı filed an official complaint. In the petition they stated that the prosecutor had released them on 16 January, which was proof that they were innocent. On the other hand, the medical reports were evidence that they had been tortured. The police officers had alleged that the traces of torture were the result of resistance during detention, hitting the wall of the faculty and throwing them on the ground in the bus. The students asked to interview the witnesses at the university, who had seen part of the torture. They rejected the claim of having resisted the police.

**Fuat Özdemir**

Unidentified persons kidnapped Fuat Özdemir, HADEP executive for Eyüp district

(İstanbul) in Alibeyköy on 30 January. They sat him free on 1 February. On 4 February Özdemir told what he had been going through:

“Having dropped a friend at his home I was driving home myself. Another car cut my way and forced me to stop. Three armed men came out of the car. One of them was wearing a police jacket. They also put a police alarm on the roof of the car. I called a friend via mobile to tell him that the police was about to detain me. Before I finished the call the police officers took me out of the car, blindfolded me and put me into the trunk of the car. We drove for about half an hour. I guessed that it was a place close to Hastal. I was put in a cell and stripped naked.”

Özdemir explained that he was subjected to the bastinado (falanga), given electric shocks, his testicles were squeezed and a bag was put over his head. He was asked why he went to HADEP and who was supporting the party. He was threatened not to go there any more and told that he should go where he came from. If he continued to work for HADEP they would kill him. Özdemir added that the kidnappers had walkie-talkies. He had seen one of them, when he was taken to the toilet. After 48 hours the kidnappers had dropped near the road.

### **Garip Çağlar**

Garip Çağlar was detained at the Rainbow Culture Center on 4 February. He was taken to Esenkent Police Station. During a press conference at the premises of the HRA in İstanbul he alleged on 8 February that he was tortured in detention:

“I was detained at 8.30pm. At Esenkent Police Station they first blindfolded me. Later they stripped me naked and hosed me with ice-cold water. In order not to leave any traces they fixed sponges to my elbows before suspending me.”

Çağlar added that the torture continued until the morning, when he was taken to İstanbul Police HQ. Here he had been put under psychological pressure. Later he had been taken back to Esenyurt Police Station, where he was subjected to the bastinado.

### **Kazım Özerk, Hikmet Özerk, İhsan Özerk**

On 12 February the police raided the houses of the HADEP members Kazım Özerk, Hikmet Özerk and İhsan Özerk. İhsan Özerk was released the same night and said that they had been beaten in detention:

“My brother Kazım is partly paralyzed on the right side since he came out of prison. Despite of this they beat him until he fainted. When blood came out of his mouth they stopped. I asked for water so that my brother could take his medicine and they said that I had no reason yet for asking for water.”

### **Murat Çelik**

Murat Çelik, chairman of the Association of Contemporary Jurists (ÇHD) in İstanbul, alleged that he had been beaten in the room of deputy chief of İstanbul police, Atilla Çınar. Murat Çelik held a press conference and related: “On 18 February Atilla Çınar called me and Ali Polat, the brother of Serpil Polat, who burned herself to death in Sakarya Prison on 17 February. He asked us, why we were organizing the funeral. Arguing that no lawyers were needed for dead people he hit me with his fist. Later I was attacked by 7 to 8 police officers in the room, including the director of the department to fight terrorism, Şefik Kul.” Çelik added that he had obtained a medical report and filed an official complaint against the police officers.

### **İsmet Dinç**

İsmet Dinç alleged that seven police officers beat him in Antalya on 9 March. He had entered a street in the wrong direction and was stopped by the police. He and his wife Derya Dinç had gone to get medicine for their children and when the police officers did not give back their papers Derya Dinç had asked for them to continue their journey. A police officer had insulted her and İsmet Dinç got out of the car.

Allegedly he was beaten, got back in his car, but when he hit a motorcycle the police officers pulled him out of the car and beat him in the middle of the road. İsmet Dinç was taken to the police station and charged with insulting and resisting an officer on duty. When the incident was presented on a local TV station Antalya Chief of Police Natic Canca declared, that the seven police officers had been dismissed from duty.

### **Tevfik Güner, Nazan Çalgıç**

The students Tevfik Güner and Nazan Çalgıç declared that they had been detained in Antalya on 18 March during an operation against the DHKP-C. They said that they had been tortured in detention.

### **İskender Efe**

The student İskender Efe stated that he had been detained on 19 March. He had been taken to the department to fight terrorism at Fatih Police HQ. He reported on his treatment:

“They found the leaflet of “Emek Gençliği” (Labor Youth) in my bag. They put me under pressure to confess that I had put up the wallpaper signed by “the patriotic youth’. I told them that they could take my fingerprints to see that I did not hang up the paper. They said, ‘there is no need for it, just say that you did it’. They pulled my hair and started to beat and curse at me. One of them said, ‘take him down, he’ll speak there’. Another one said that pictures of those, who bombed the Blue Bazaar had been drawn and one of them was me.”

Efe continued to say that he had been taken to the cellar by hitting him against the wall. “Three people took my hands and tied them at my neck. I was laid on the back and they gagged me so that I could not scream. They started to ask question on who the other people had been, when I put up the wallpaper. I also should name the people, who bombed the Blue Bazaar. They wanted to know, where I had been on that day. They threatened me by saying that my credits were finished and the next time I would not get out there alive. They continued to swear and torture me...

“Later they took me upstairs again. My fingerprints were taken and I was interrogated again. When the police officers took me to hospital they said that I should say to be in good health in order to rescue myself. I was taken to the emergency unit at 2.30pm and, of course, received a report of being in good health. On the way back they said that they wanted to search my flat and I stated that I would not let them search my flat, if they had no written permission from a judge. I was taken to Şehremini Police Station. Some time later the same police officer came and said that the documents were ready. I was forced to give my address and they took me to the flat. They demolished the furniture and after return forced me to sign minutes on the search. The minutes stated that no incriminating evidence had been found.”

Efe stated that he stayed in detention for another night, before he was taken to the prosecutor’s office. He added that he would file an official complaint against the police officers.

### **Mehmet Çankaya, Günay Beyhan**

Reports from Keles district (Bursa) stated that soldiers beat Dr. Mehmet Çankaya and the nurse Günay Beyhan on 26 March, when they brought a prisoner to the health center, where both are working. Reportedly an arm of Günay Beyhan was broken. Dr. Mehmet Çankaya said: "We asked the soldiers to take the patient to the polyclinic. But the sergeant shouted that we should wait for him and attacked us. We asked the soldiers to leave and locked the door. This time the soldiers hit the door with the butts of their rifles and broke it. They put a gun to my head and kicked the nurse Günay Beyhan so badly that one arm broke. We filed an official complaint, but the prosecutor told us that he would not be able to be impartial."

### **Nimet Fidan**

Nimet Fidan was detained on 10 April during an ID check on the road from Diyarbakır to Mardin. She was released at the entrance to Mardin on 25 April. She said after release that she had been kept in a military compound. "I was not interrogated during the 15 days, but I was beaten without any reason. After the MHP had gained many votes in the election the beatings intensified. They released me without presenting me to a prosecutor." Nimet Fidan had earlier been detained and allegedly was subjected to death threats.

### **Hasan Samanlı**

Hasan Samanlı (26) was detained in İstanbul. He alleged to have been tortured over days. On 16 April he held a press conference at the HRA in İstanbul. He said that he had been detained on 11 April. The police officers, who detained him, had been following him before. They had taken him to the garage of a building, had stripped him naked, hosed him with water under high pressure and applied electric shocks. Hasan Samanlı continued:

"They wanted to know, who the people were that I kept in my phone diary. When they found the card of lawyer Mahmut Şakar they beat me heavier and asked, 'who is this?' Although I said that he was a lawyer, they insisted that he was a terrorist and increased the beatings. They put me on the hanger and beat me. I lost consciousness. Later they dropped me at a construction site in Altunizade."

Mahmut Samanlı, the brother of Hasan Samanlı, said that his brother had left home with Hakan Kerenciler. When he did not return in the evening he had gone to the public prosecutor in Üsküdar and the central police station. He had also approached the HRA, but for four days he had heard nothing. Hakan Kerenciler had been kidnapped in a similar manner on March. He had been tortured and dropped at the garbage dump in Yakacık being blindfolded and handcuffed.

### **Yusuf Öntaş**

Yusuf Öntaş was detained on 13 April, reportedly because of an arrest warrant existed in connection with a demonstration in İskenderun after Abdullah Öcalan had been arrested. However, Yusuf Öntaş was not committed to prison, but held at İskenderun Police HQ. On 17 April he had to be taken to İskenderun State Hospital, because of a broken arm. He was taken back to İskenderun Police HQ, allegedly because he tried to commit suicide in prison. He was remanded on 22 April.

### **Ayşe Koşut**

Ayşe Koşut (45) and her daughter had gone to Van to ask the governor for material help. They were detained on 14 April on accusations of having planned the assassination of Governor Abdülkadir Sarı. Ayşe Koşut stated that they had been detained during a raid on their house in the night after their visit to the governor. She alleged that she and her daughter had been tortured in detention and she had to be treated in hospital on 16 April.

## **Fesih Demir**

Fesih Demir, working at the municipality of Çarıklı town (Diyarbakır) as an expert of HADEP, stated that he was tortured after detention on 21 April. He approached the HRFT and the HRA and filed an official complaint against the soldiers. He narrated the event:

“We were sitting in a coffee shop. A sergeant came in and cursed at us, because of the victory of HADEP. They controlled all IDs. I was taken to a car and taken to a place known as ‘Kurt Rock’. They took me down and subjected me to the bastinado. They stripped me naked from my waist downward and threatened to rape with a truncheon. Later they took me to another place, where some people made a picnic. They sent these people away and the sergeant climbed to a higher place, from where he could kick me at my chest. I tumbled down. He was angry, because HADEP had participated in the elections and threatened to kill me and the party member Cemil. Later they released me.”

## **Safiye Akdağ**

Safiye Akdağ complained that she had been tortured during 4 days of detention in İstanbul on 20 April. The young girl alleged that the police officers threatened her with rape. “They tied me to a plank bed, poured water on my feet and fingers and applied electric shocks.” Safiye Akdağ stated that she had been taken to hospital on the following day, but the torture continued after she had been taken back to the political department. Her arms had been injured and she had to be taken back to hospital after another three days. The police officers had instructed her so say that she had fallen down, but the physician had issued a report of “good health” without examining her.

## **Ali Gülbaş, Kurtuluş Kansu**

On 20 April Ali Gülbaş and Kurtuluş Kansu were detained in Yakuplu town (İstanbul) because of having been involved in a fight. They were taken to the gendarmerie station and alleged that the mayor Cemal Kahraman beat them there. During a press conference at the HRA in İstanbul the men said on 28 April that the commander of the gendarmerie station made them sign a paper in order to disguise the incident. They stated that they had obtained medical reports certifying their inability to work for 7 days and would file an official complaint.

## **Feridun Günbegi**

Feridun Günbegi alleged that police officers beat him in Mersin on 22 April.

“On that day my 12-year old son played with a toy gun in front of my shop. A person with a walkie-talkie stepped down from a car and shouted that young people should not be allowed to have arms. I went there and sold him that I was the father of the child asking him to talk to me. At that moment the other people came out of the car and started to beat me until I fell down. They put me in their car, but I jumped out of the car in motion. They stopped, came to me and beat me with sticks until the sticks broke. They said that I should move from here or they would kill me.” Feridun Günbegi stated that he would file an official complaint against the police officers. He added that his family had come to Mersin from Şanlıurfa some time ago.

## **Serkan Çavuşlaroğlu, S.U.**

Serkan Çavuşlaroğlu and S. U. (17) were detained in İstanbul on 9 May and taken to Küçükçekmece Police HQ. Allegedly they were beaten there. They said that 2 police officers had detained them, because they were wearing necklaces with the motive of Che Guevara. At the police station they had been told to leave the country, if they did not love it.

They had been accused of being communists and asked to have a clean haircut. When they asked for their necklaces before release after 2 hours they had been beaten.

### **Kamuran Aslan**

Kamuran Aslan was detained in Şırnak-Beytüşşebap district on 16 April and charged with supporting the PKK. For the first 4 days the police did not confirm their detention. On 26 April Kamuran Aslan was remanded. On 28 April he had to be taken to hospital, where he was treated for 9 days, reportedly as a result of the torture.

### **Ahmet Armut**

Ahmet Armut was detained in Kahramanmaraş-Elbistan district on 26 May in connection with the killing of Hüseyin Polat. He reportedly had a broken arm, because of the torture at the police station. His lawyer Mehmet Uzun stated that he had been put in prison, without getting any treatment.

### **İbrahim Toprak**

In a hearing at Diyarbakır SSC İbrahim Toprak, charged with membership of the PKK, said on 4 June that he had been tortured in detention. He said that he had been detained in Mersin and tortured there four times. The police had put papers in front of him and asked him to sign them while being blindfolded. When he refused to sign, he had been beaten. He also complained of a broken tooth as the result of torture.

### **Ramazan Azgan, Sıdık Azgan, Hayrettin Azgan, Osman Kılıç, Faik Aldemir**

On 18 May the police in Mersin-Tarsus district raided several houses and detained Ramazan Azgan (80), Sıdık Azgan, Hayrettin Azgan, Osman Kılıç and Faik Aldemir. Lawyer Hamza Yılmaz stated that they had been tortured:

“During the time in detention my clients were beaten, subjected to the bastinado, hosed with ice-cold water, they were raped with a truncheon and needles were pushed under the nails of their fingers. My client Hayrettin Azgan has bruises at his nose, the left eye and his lips. The wounds were covered with a tape. He cannot walk and frequently faints because he was taken by his hair and ears and banged against the wall. He is still in danger of life. Two ribs of my client Sıdık Azgan are broken. Osman Kılıç has a contusion at his chest; he cannot walk and has bruises at the feet. Faik Aldemir has bruises on the chest and difficulties in breathing.”

Lawyer Hamza Yılmaz added that his clients had not been treated. He had filed an official complaint with the public prosecutor in Mersin.

### **Sevgi Erçin**

Reports from Çorum stated that 7-month pregnant Sevgi Erçin was detained at a picnic prior to the central examinations for an entry to university in mid-June. Because of the torture she had to be taken to hospital. Soldiers and police officers beat her during detention. During the two days in detention Sevgi Erçin was reportedly subjected to psychological torture, forced to stand on her feet and not given anything to drink.

### **Cevdet Tetikli**

Cevdet Tetikli was detained in İstanbul-Esenler, when he entered a street in front of the police station in the wrong direction. On 7 June he was taken to the public prosecutor in Bakırköy and charged with having insulted the police officer. Later he said, “I was thrown into a cell. I was given alcohol, although I had stopped to drink about one year ago. They beat me with fists and kicked me.” Cevdet Tetikli filed an official complaint against 7 police

officers, including chief of Esenler police, Mehmet Çelik.

### **Mustafa Aka**

Mustafa Aka, who was tortured at the Ertuğrulgazi Police Station in Eskişehir, filed an official complaint against the police officers. He stated that he had been detained on 24 June:

“I was on my way home at 1am. Officers from the Ertuğrulgazi Police Station detained me saying that someone had complained about me. I was beaten in the car until we reached the station. The beating continued in the station and I was handcuffed. They introduced another prisoner as the commissioner. He beat me in the cell. At 6am I informed the police officers that I wanted to file an official complaint. They started to treat me well and said that they would say that I banged against a wall. At 7am they took me home. I did not leave home for 3 days because of fear. My elderly brother came looking after me. We went to the forensic institute and filed an official complaint with the public prosecutor. I had bruises at my throat, traces of a slap in my face and red spots at my eyes.”

### **İkbal Işık**

The street vendor İkbal Işık was detained in İstanbul-Eminönü on 16 June. He declared to have been tortured. He spoke at a press conference of the HRA in İstanbul on 18 June and said that three plainclothes detective had detained him and taken him to Eminönü Police Station. They said that I was from Azerbaijan, were a communist, who tried to divide the country. They beat for that. He had been taken to the political department and tortured there. Later he had received a medical report certifying 7 days' inability to work.

**Hakkı Güngör, Burak Savaşlı, Yasin Güngör, Recep Bayri, Şükrü Erdem, Cem Yarışır, Hüseyin Koç, Ferman Yürek, Filiz Güler, Makbule Aslan, Sabri Güneş, Cemal Uçar, Oral Şen, Emrullah Oraloğlu, Recep Mercan, Süleyman Tosuner, Emre Özkan, Aytu Sağlam**

On 24 June 18 students aged between 15 and 21 were detained in Manisa-Akhisar district. They alleged to have been beaten in detention. Hakkı Güngör, Burak Savaşlı, Yasin Güngör, Recep Bayri, Şükrü Erdem, Cem Yarışır, Hüseyin Koç, Ferman Yürek, Filiz Güler, Makbule Aslan, Sabri Güneş, Cemal Uçar, Oral Şen, Emrullah Oraloğlu, Recep Mercan, Süleyman Tosuner, Emre Özkan and Aytu Sağlam stayed in detention for one day. Reportedly they were prevented from filing an official complaint.

Bedrettin Güngör, chairman of HADEP for the district, was detained on 25 June, because he had helped the juveniles to file an official complaint.

### **Nizam Kaplan**

The student Nizam Kaplan, who was detained in Denizciler town (İskenderun) on charges of supporting the PKK, stated that he had been tortured in detention.

### **Abdülkadir Yıldırım**

On 23 June Abdülkadir Yıldırım was detained in Diyarbakır. He had gone to the owner of a kiosk close to his house and asked him to stop the noise. Police officers had detained. Yıldırım stated on the following incident:

“The officers cursed badly. In the car one police officer hit me with a thick, great stick and another one with the butt of his gun. After some hits I grabbed the tools. They asked me to let lose and I said that I would do so, if they did not hit me. When I left the tools they handcuffed me very tightly. At Bağlar Police Station eight to ten police officers attacked me although I was handcuffed. They increased the cursing, laid me on the ground and jumped

up and down on me.”

Yıldırım was taken to a hospital and was issued a report certifying bruises on various parts of the body as the result of blows. Later he received a report from the forensic institute certifying 7days' inability to work. He filed an official complaint.

### **Mehmet Yaşar**

Mehmet Yaşar alleged that on 5 July police officers beat him in the middle of a street in Adana. On that day he had had a discussion with a neighbor on the ownership of land. Three police officers, whom the neighbor knew, had intervened. These police officers had detained him three times in June.

On the incident of 5 July Mehmet Yaşar stated: “They picked me up in the street at 3pm. They stripped me naked for women to see it and beat me with belts and truncheons. They hit me on my penis and said ‘we shall deprive you of your manhood and rape your wife. Either you find an arm for us or give us the address of a militant, who came down from the mountains’. Yaşar added that he would file an official complaint.

### **Mustafa Öncel**

Homosexual Mustafa Öncel stated that he had been detained in İstanbul-Beyoğlu on 22 July. He had been held at Beyoğlu Police Station for four days. His eyebrows and hair had been cut with a razor blade. Eren Keskin, chairwoman of the İstanbul branch of the HRA, stated that the detention of Öncel had not been recorded and he had been released without appearing in front of a prosecutor.

Mustafa Öncel spoke on a press conference at the HRA in İstanbul on 9 December. He stated that the same police officers had beaten him once again. He added that he had been kept in prison for 39 days and was under psychological treatment in connection with incidents in Bayrampaşa Prison and attacks on him

### **Hamza Yerlikaya**

World champion in wrestling, Hamza Yerlikaya, complained about a police officer called Ekrem Akyol. Yerlikaya said that he had been detained with his brother Mutallip and Sebahattin Gürarşlan in Muğla-Bodrum for misbehaving in a bar. The police Ekrem Akyol had beaten him in detention.

### **Torture of 103 persons**

The HRA in İstanbul organized a press conference on 29 July. Participants in the commemoration of Hüseyin Demircioğlu, who had died during the hunger strike in 1996, spoke at the conference and complained about ill-treatment after detention. Ayşe Yumlu Yeter, wife of trade unionist Süleyman Yeter, who had died in custody on 7 March, stated that they had not been taken to the toilet and not been given water and sugar.

### **Muzaffer Çınar**

Muzaffer Çınar was detained in Baykan district (Siirt) in 22 July, reportedly because his telephone number had been found on the alleged PKK leader Cevat Soysal. He was released on 29 July to be tried without arrest. On 3 August he spoke at a press conference of the HRA in İstanbul. He said that he had been tortured at Siirt Police HQ, could hardly walk and not use his hands properly. He had been beaten in detention, a string had been fixed to his testicles and pulled, he had been given electric shocks, put on a hanger and hosed with water under high pressure. His wife had been detained to make him sign a statement prepared by the police officers and he had been threatened with rape.

On 8 August Muzaffer Çınar was taken to a hospital. He was diagnosed to suffer from an infection of his lungs and insufficiency of the kidneys due to having been laid on ice. He was treated in İstanbul, reportedly regained consciousness on 13 August and had to be treated with dialysis.

### **Mehmet Dağyar**

Mehmet Dağyar was detained in Boyçapkın village, Malazgirt district (Muş) on 7 August. After detention he was certified 18 days' inability to work. Mehmet Dağyar complained about lieutenant Şener Nay, commander of the gendarmerie station. He stated that he had been detained for watching Medya TV. He had been beaten in detention and subjected to the bastinado. He was examined on 9 August at the local health center. The report stated bruises at his hands, bruises on his left and right hip, bruises on the soles of his left and right foot measuring 5-10cm and pain if he moved his hip. The report concluded that Dağyar might recover in 18 days.

### **Hacı Bekir Çoban**

Hacı Bekir Çoban stated that he was tortured after his detention in İstanbul-Aksaray on 11 August. He said that another 6 suspects had been at Ekinönü Police Station. They had been put under pressure to accept a crime, which they had not committed. Five to six police officers had attacked him. They had hit him with wood on his head, hands, legs and all parts of the body.

### **Abdullah Özkan**

Abdullah Özkan was detained, when on 27 August he tried to prevent four police officers from beating a person in İstanbul-Ümraniye. He was beaten at Ümraniye Police HQ. A tooth had been broken and his membrane had been torn apart. He was taken to hospital, but taken back to the police station without treatment. Abdullah Özkan stated that he would file an official complaint against the police officers.

### **Ömer Özülkü**

In Adana Ömer Özülkü alleged to have been tortured. In the trial at Adana SSC on charges of forming a criminal gang he stated in the hearing of 31 August that he had been held in detention for four days. During this time he had been tortured. Police officers had taken photographs of him while he was naked and threatened him to forward the pictures to the press.

### **Erdener Akgül**

Erdener Akgül was detained in Büyük Yamanlar quarter in İzmir on 3 September. His father stated that 4 other detainees had informed him after release that his son had not been able to stand on his feet and that he had bruises all over the face.

### **Süleyman Erkan**

Süleyman Erkan was detained in İstanbul-Esenyurt on 5 September. He spoke at a press conference of the HRA in İstanbul: "In detention I was beaten und hosed with pressurized water. They wanted to force me to sign some documents and be a confessor. I did not accept this. I fainted a few times under torture. They did not give my mobile phone, \$ 500, DEM 100 and TL 180 million back to me. I asked for it after release by İstanbul SSC. They said that they only had \$ 400 and TL 152 million and I could get it, if I came to the police station. I objected and they said, 'you fainted during interrogation. We took you to hospital and paid for the treatment with the money'."

### **Ayhan Boztaş**

Ayhan Boztaş alleged that the plainclothes detective İsmet Demirkaya detained him on 13 September and tortured him in detention. He said:

“One day before the incident my boss told me that another craftsman would start to work. I saw someone looking like a worker in that place and asked him who he was. He said that he was a police officer and was angry to have been asked for his identity. He started to curse and hit me. Another police officer came and they tried to force me into a white car. Because I resisted another car came to take me to the department for order. The beatings continued there. A tall police officer took me by my shoulders and threw me on the concrete floor. I fainted.

“In hospital the physician asked for the reason of my bad health. I whispered into his ear that the police officers had beaten me. The physician asked the police officers to leave and applied first aid.” Boztaş added that he was taken to another hospital and underwent an operation. When his health deteriorated later he had to have another operation.

One day after the incident Manisa Chief of Police, Hüseyin Çapkın, stated that the police officer Demirkaya had to be treated in Manisa State Hospital for one day and received a report on 7 days’ inability to work. Çapkın claimed that Boztaş had not been detained and the allegations of torture were unfounded. He and the police officer had quarreled.

### **Yüksel Karacık**

Yüksel Karacık alleged to have been tortured in detention in Adana. He spoke at a press conference of the HRA in Adana on 19 October and said that the political police detained him on 14 October. “Over three days I was taken around blindfolded and handcuffed. I was subjected to torture. The police officers threatened me with death and asked me to be an informer. When I refused they threatened and tortured me again. When I fainted they dropped in the Sarıçam Forest.”

### **Kudbettin Örnek, Emin Erim, Hasan Güneş, Bekir Emen, Kerim Timur**

On 20 October the gendarmerie detained five people in Küçükdikili township (Adana) on the grounds that a damaged Turkish flag and copies of the journal “Özgür Halk” had been found. Kudbettin Örnek, Emin Erim, Hasan Güneş, Bekir Emen and Kerim Timur, personnel at the municipality, were released on 22 October, after they had been presented to court. The guard Emin Erim said that he had been held in a cell for one person and he had been given electric shocks by his arms and legs. He named one of the torturers as a soldier with the name of Alaaddin. The torture had also included lying on ice, hanger and pulling of hair. He was unable to walk because of the torture. Mayor Mehmet Yaşık said that he had visited the commander of the gendarmerie in Seyhan to get information about his staff. Lieutenant Asım Sürer had called them “terrorists” and when the mayor objected he had said, “you are a terrorist, too”. Mehmet Yaşık said that he would file an official complaint against Asım Sürer.

### **Erol Evcil**

Businessman Erol Evcil was detained in Bursa in connection with the killing of Nesim Malki on 28 November 1995. He was remanded on 3 November. His lawyer Erol Durukan alleged that his client was tortured during 7 days in detention. Erol Evcil received a medical report certifying 5 days’ inability to work and was committed to Kartal F-type Prison.

### **Erdem Özgül, Beyhan Yüce**

Following a demonstration of victims of the earthquake in Adapazarı on 6 November

Erdem Özgül and Beyhan Yüce were detained. The journal "Devrim İçin Mücadele Birliği" declared later that they had been tortured physically and psychologically. On 7 November Erdem Özgül and Beyhan Yüce were remanded, reportedly for distributing illegal leaflets.

### **Torture of 18 Shepherds**

Report from Bilgili village in Eruh district (Siirt) stated that soldiers tortured 18 shepherds, who had been detained on 8 November. One of the shepherds, who wanted to remain unnamed, said that one of them had thrown a stone. This stone had hit a landmine, which exploded. "After the explosion the soldiers came to us. We had to gather in one place and the soldiers beat us for about one hour. When they left they asked us to come to the gendarmerie station in the evening. Because of the beatings we were not able to graze our sheep. We went home early and at 4pm we went to the station. The officer Mehmet, commander of the station, shouted at us that we had entered a minefield and had created damage by exploding a mine of the State. He beat us and had others beat us in the soles of the feet, while lying on the ground."

### **Mesut Sağıroğlu**

The student Mesut Sağıroğlu spoke at a press conference of the HRA in İstanbul on 17 November. He said that he had been detained on 10 November in Edirne, two days after a protest against the Law on High Schools (YÖK). He narrated:

"At about 6.30pm I was forced into a car. The officers said that the only way out for me was to work for them. In the car they sprayed my eyes with ether. We drove for about 2 hours before we enter a one-storage building. I was laid on a table and they squeezed my testicles with a tool that I did not know. They also applied electric shocks."

Mesut Sağıroğlu added that he had been taken to an empty filed and threatened with death. Back at the one-storage building he had been suspended by his arms. After about 10 hours, on 11 November at 4am he had been dropped in front of his house. From the waist downward his body had felt like paralyzed for quite some time after the torture.

### **Sami Özbil**

During the hearing of 12 November at İstanbul SSC against 15 alleged TKEP/L members the defendant Sami Özbil alleged that he had been tortured during 16 days in detention.

### **Adnan Çiçek**

On 12 November İstanbul Criminal Court No. 2 heard the case in connection with 4 killings including the murder of Tevfik Nurullah Ağansoy. Defendant Adnan Çiçek stated that he had been tortured during 9 days in detention. Adnan Çiçek also alleged that the police had registered his detention as 7 and not 9 days. The defendant Yener Üçüncü alleged that reports certifying that he had been tortured in detention had gone missing.

### **Sedat Hayta, Sibel Sürücü, Aysun Bozdoğan**

The journal Devrim İçin Mücadele Birliği alleged that Sedat Hayta, Sibel Sürücü, Aysun Bozdoğan and a person with the first name of Songül İstinye had been detained in İstinye (İstanbul). They had been held at the department to fight terrorism at İstanbul Police HQ for 6 days. During this time they had been tortured.

### **g) Incidents of Kidnapping and Pressure to become an Informer**

#### **Sertaç Girgin, Kamil Ustabaş**

The students Sertaç Girgin and Kamil Ustabaş from the professional college at the Aegean University appealed to the director Doğan Abukay in January complaining that plainclothes

detectives had threatened them. They said that a group of plainclothes detectives, one with the nickname of Colombo, were active at the school. These police officers had first assaulted them verbally. Later they had tried to kidnap them and they could only escape, when they shouted loudly.

Deputy Dean Prof. Dr. Ali Rıza Karacan made a statement after the incident and said that an investigation had started. He said that such events should not happen in the campus. This was a place of education and they had nothing to do with the police or soldiers. Prof. Dr. Karacan stated that he had asked the security unit at the school for a report.

### **Esra Özkan**

Esra Özkan from Ankara Mimar Kemal Lyceum stated that plainclothes police officers tried to kidnap her on 17 February. These officers had been observing her waiting outside her home for two weeks and on 17 February at 11.30am they had tried to detain her. "I shouted loudly for the people around to hear me. Surprised by the reaction the police officers got into the car and drove away." Esra Özkan added that she had earlier been threatened and intimidated.

### **Hüseyin Akpınar**

On 24 February some people, who introduced themselves as members of MİT, detained Hüseyin Akpınar in Erzincan. They reportedly threatened him and asked him to work as an informer. The Erzincan branch of the teachers' union Eğitim-Sen announced later that Hüseyin Akpınar had been interrogated at a place believed to belong to MİT. He had been released after a while. On 25 February unknown persons beat him up in front of his house. He had received a medical report certifying inability to work for 7 days.

### **Kemal Kaygısız**

Kemal Kaygısız spoke at a press conference of the HRA in İstanbul on 4 March. He stated that the police had threatened him and requested that he be an informer. He had received a phone call by someone introducing himself as a police officer. The officer had said that they wanted to meet him. The person had specified a time to meet him in front of the mayor's office and insisted that I did not tell anybody about it. Kemal Kaygısız added that he had gone to the appointment. The officers had offered him to work for them and they would find him a job and provide material aid. Kaygısız stated, "I don't have any connection to any organization. But this attitude of the police leaves me and my family in an awkward position."

### **Gönül Kızmaz**

At the beginning of March Gönül Kızmaz (18), daughter of Naif Kızmaz, board member of the HRA in Tarsus, went to visit someone in Gaziantep E-type Prison. Relatives of prisoners stated that she had been forced into a car. The family approached the HRA in Gaziantep and the HRA approached Gaziantep Police HQ. Results of the initiative are not known.

### **Murat Ercan**

Murat Ercan, student at the Çukurova University in Adana spoke at a press conference of the HRA in Adana. He alleged that he had been kidnapped by two persons on 11 March and asked to become an informer for the police. The two persons had tied his hands behind his back after they forced him into their car and blindfolded him. They had driven him around and after 8 hours he had been released.

### **Oğuzhan Durmuş**

Oğuzhan Durmuş, member of the music group “Grup Yankı” alleged that he had been put under pressure to become a police informer, when he had been in custody at İstanbul Police HQ.

### **Hakan Kerenciler**

Hakan Kerenciler, chairman of the youth commission of HADEP, alleged that he had been kidnapped in Kartal district (İstanbul) on 26 March. Apparently police officer had tortured him over three days. He related the incident: “I was kidnapped on 22 March, when I got out of the local bus. In the car someone talked over the walkie-talkie saying ‘we got the package’. Later I was taken to a room and someone introduced me as ‘APO’s revenge angel, chairman of the youth commission of HADEP, Hakan Kerenciler’. I was accused of having put the car of the YATAS factory in Kartal on fire and held me responsible for the bombing of the Blue Bazaar. I did not accept and was beaten, hosed with water, given electric shocks and threatened with death. They also asked me about board members of HADEP.” Hüdai Berber, lawyer of Kerenciler, stated that her client received a medical report certifying inability to work for 5 days. She alleged that the statements by the Interior Minister and the General Director for Security, who had announced that the perpetrators had been caught, had been the reason for such a treatment. Kerenciler filed an official complaint against the police officers at the department to fight terrorism at İstanbul Police HQ.

### **Şefik Sümer**

Şefik Sümer, director of the Mesopotamian Culture Center (MKM) in Adana said that 4 people introducing themselves as police officers had kidnapped him on 23 March and forced him into a car. In the car they had written down his ID, he had been blindfolded and interrogated outside the car. “All four asked questions at the same time. They wanted me to confess to actions in Adana and to provide information on the MKM. Later they offered me to become an informer for the police. When I did not accept, they beat me up and fired two shots close to my ear.”

After two hours the police officers had said that they would frequently look for him and he had to come to the places they showed. Otherwise he would be responsible for what happened to him. Şefik Sümer was released at 9pm. He stated that he had wounds at his neck because of the torture and added that he would file an official complaint against the police officers.

### **S.K.**

S.K., student at a lyceum in Adana declared that three people, introducing themselves as police officers, kidnapped him on 24 June and threatened him with death, if he would not provide information for them. His mother İpek K. spoke at the HRA in Adana on 28 June and said that her son had been picked up as “suspicious person” and forced into a car. People around had intervened and the police officers had said that they caught a thief, whom they would take to the prosecutor’s office. Her son had been driven around in town for several hours and had been released near the Yüzüncü Yıl quarter. İpek K. stated that she would file an official complaint.

### **Mehmet Benzer**

Mehmet Benzer from HADEP in Adana stated that 9 people, who introduced themselves as members of JİTEM, kidnapped him in 8 July. He alleged to have been tortured. At 12.30am he had been forced into a car, had been driven around for two hours and then taken to an empty field. “They were cursing at me and hit me with their fists. I could no

longer stand on my feet and fell to the ground. Then two people held me and two others beat me. One person said that he had come from Şırnak just for me and he would either kill me or my brother Bayram. They forced me to undress and speak my last words. Once again they beat me with the intention to kill. At 3am they released me, although I had refused to become an informer. Mehmet Benzer asked the HRA for help.

### **Reyhan Çomak**

Reyhan Çomak, member of the women's commission within HADEP, was forced out of the bus, when on 26 July she was traveling from Turgutlu to İzmir. She said that she had been interrogated in a car for about one hour. The police officers in the official car had threatened her by saying that one day a bullet might find the way to my head. They asked me why I opposed the death penalty and accused me of sending militants to the front in the mountains.

### **Haluk Kaya**

The daily „Gözcü“ published a picture of a press conference of the Peace Mothers' Initiative in İzmir with the title „These are the mothers of the terrorist“. The cook Haluk Kaya lost his job, because he was identified on the picture. He later alleged that he was twice asked by the police to be their informer. On 15 July he had been on his way back to İzmir coming from Torbalı. At the exit of the metro station Kemer three people in a white car had kidnapped him. He had been taken to an empty field in Yenişehir and the officers had beaten him there for one hour. They had threatened him with death, if he would not work for them as an informer.

### **Salih Karadağ**

Salih Karadağ announced that plainclothes detectives kidnapped him in Adana on 21 July at 11pm. He narrated:

“They asked me give them my belongings. Then they took me to the car and blindfolded me. They asked me for the persons that I was supplying with the journal ‘Özgür Halk’. When I said that I did not distribute the journal they threatened me to make me talk. I asked them to take me to a police station, if they were police officer and they said that they would take me to their own station. They took me to the woods and tied my hands at the back to a tree. Then they stripped me naked. Kicking and beating me they asked me if I still did not want to speak. I was blindfolded the whole time, but felt how they cut my chest with a razor blade.

“In the end the officers said that this was just a warning and I would be well advised if I considered that. They said that I had a month and afterwards I would either have to go from here or be killed. “ Karadağ added that the police officers loosened the handcuffs and went away. He fell down and awoke at the tree at 10am. On 22 July Sali Karadağ filed an official complaint. The prosecutor sent him to the forensic institute that issued a report certifying 5 days' inability to work.

### **İlyas Tepeli**

İlyas Tepeli, working in Ankara as free trader, who participated in activities of the youth commission of HADEP, said that people with walkie-talkies forced him into a car in Bahçelievler quarter and took him to the department to fight terrorism at Ankara Police HQ. Here he was interrogated on activities within HADEP. The police officers wanted to know what the executives of the party told them. When Tepeli refused to talk about HADEP, he had been threatened. İlyas Tepeli added that he would file an official complaint in connection with the incident in October.

## **Hasan Yılmaz**

Hasan Yılmaz, student at Balıkesir University and representative of the youth organization of EMEP in Balıkesir said that police officers had kidnapped him on 20 October at 8.30pm. They had taken him to a wooded area 20 kilometers outside town, threatened him with death and promised him material possibilities, if he agreed to work for them. They would also make sure that he was successful at university.

## **Fırat Kutal**

Fırat Kutal, member of the youth commission of HADEP in İzmir-Konak, stated that two police officers detained him on 18 November, when he came out of the party's office. They threatened him in order to become an informer. Fırat Kutal added that he had been receiving threatening phone calls during the last days.

## **Mesut Sağıroğlu**

On 26 November Mesut Sağıroğlu appealed to the prosecutor's office in Edirne. He stated that on 10 November he had been kidnapped in front of his house, when he wanted to go to Thrace University. He alleged that he was tortured over 10 hours, before the officers dropped him at his home. He added that he had appealed to the prosecutor in İstanbul already and asked that the proceedings would be followed and the perpetrators be punished.

## **Hayri Tunç**

Hayri Tunç, working as an artist with the MKM stated that plainclothes detectives kidnapped him on 22 December. He had been interrogated in a car and threatened with death.

## **Levent Düzgün**

On 29 December police officers detained Levent Düzgün in front of the Aegean University. Reportedly he was threatened to become a police informer. Düzgün alleged that he was taken to the building of the fire brigade in the campus. Here he had been beaten heavily and threatened, when he did not accept to become a police informer.

## **h) Torture Trials**

### **The Manisa Case**

On 27 January Manisa Criminal Court acquitted chief commissioner Halil Emir and the police officers Ramazan Kolat, Turgut Demirel, Musa Geçer, Fevzi Aydoğ, Levent Özvez, Engin Erdoğan, Mehmet Emin Dal, Turgut Özcan and Atilla Gürbüz, on trial for having tortured 16 juveniles, who had been detained in Manisa at the end of 1995, ([36]) the second time. ([37]) Journalists were not allowed to attend the hearing with cameras or tape recorders. The Court insisted on acquittal, despite the ruling of the 8<sup>th</sup> Chamber of the Court of Cassation that wanted the police officers punished because of their active part in the torture. Manisa Criminal Court had passed the first verdict of acquittal on 12 March 1998.

The case was taken to the Panel of Chambers at the Court of Cassation. The Panel ruled in November that the police officers should be punished. Meanwhile, the trial against the juveniles from Manisa continued at İzmir SSC. On 16 November İzmir SSC decided to wait for the verdict against the police officers.

## **Gülnihal Yılmaz**

On 22 December 1998 Ankara Criminal Court No. 2 concluded the trial against Mehmet

Yaşar, chief of the political police at Elazığ Police HQ, for having tortured Gülnihal Yılmaz in July 1993. The Court sentenced him to 1 year's imprisonment and 3 months' ban on executing his profession according to Article 243/1 TPC. The sentence was suspended. Gülnihal Yılmaz had been detained on charges of being a member of the DHKP/C. After detention she was certified 21 days' inability to work. Ankara SSC convicted her and sentenced her to 15 years' imprisonment.

### **Kemal Koç**

Ankara Criminal Court No. 9 acquitted deputy commissioner Ayhan Akgül and the police officer Hidayet Doğan of charges to have tortured Danish citizen Kemal Koç. He had been detained in 1996, when he entered Turkey via Ankara Airport. The Court ruled that not the report prepared abroad but the medical report of Ankara Forensic Institute had to be considered. Ankara Forensic Institute had not discovered any traces of torture. Ankara SSC later sentenced Kemal Koç to 45 months' imprisonment for supporting the PKK.

### **Mehmet Gün**

On 19 February İzmir Criminal Court No. 2 started to hear the case of Turan Bayrak. The police officer was accused of having tortured Mehmet Gün, who had been detained in İzmir on 8 September 1998. The officer was also charged with having shot Mehmet Gün into his foot. Turan Bayrak said in the hearing that he had shot in the air. Then he had tumbled and fallen and a shot that came out of his gun injured Mehmet Gün. The incident had been outside the police station.

Mehmet Gün stated that the incident had happened in the police station and claimed that he had been shot at on purpose. He had constantly been beaten on the soles of the feet and when he tried to roll to the other side he had been hit with a bullet.

Mehmet Gün disappeared in 1999 and his lawyer withdrew from the trial. He had been detained in İzmir on 8 September 1998 in connection with a common crime. He alleged that four police officers had tortured him at Şirinyer Police Station. Following his official complaint the police officers accused him of having attacked them with a knife.

### **Çetin Paydar**

On 24 February Manisa Criminal Court concluded the case against commissioner Sırrı Akay and police officer Mustafa Tülümen. The Court acquitted them of the charges to have tortured Çetin Paydar, who had been detained in Manisa on 27 February 1998 on allegations of having killed his father. The decision was taken because of a lack of evidence. Çetin Paydar had been remanded on 4 March 1998 after he testified that he killed his father by throwing him into the Gediz River. Later his father Mehmet Paydar was found to be alive.

### **Gülderen Baran**

The Court of Cassation quashed the life sentence imposed by İstanbul SSC on Gülderen Baran. The decision of February was based on the fact that Gülderen Baran, whose arms were paralyzed because of torture in detention, was not taken to the hearing and her final words had not been heard.

The court case against the police officers Mustafa Sağra, Mustafa Taner Paylaşan, İbrahim Batur, Metin Şenol and Yakup Doğan, charged with having tortured Gülderen Baran, continued at İstanbul Criminal Court No. 6.

### **Süleyman Yeter, Asiye Güzel Zeybek, Arif Çelebi, Gönül Karagöz, Mukaddes Çelik**

On 2 March İstanbul Criminal Court No. 7 continued to hear the case of chief

commissioner Bayram Kartal, the commissioners Yusuf Öz and Sedat Semih Ay and the police officers Erdoğan Oğuz, Zülfikar Özdemir, Necip Tükenmez, Şaban Toz and Bülent Duramanoğlu, charged with having tortured 19 people including 5 journalists. A medical report of Psychiatric Main Branch at İstanbul University on Asiye Güzel Zeybek was introduced and the Court decided to bring official charges against the torturers.

On 7 March, one of the victims, the trade unionist Süleyman Yeter, died in detention. İstanbul Bar Association, the family and lawyers suspected that the death might be related to the fear that Süleyman Yeter could have recognized the torturers on trial.

During the hearing of 29 April the police tried to prevent people from observing the trial. They detained Bayram Namaz, Birsen Kaya, the trade unionist Kazım Bakış, Atilla Özdoğan and Aslıhan Tan. AI representative Anne Burley was removed from the court hall, but allowed back again, when the intervening lawyers objected. Bayram Namaz and Birsen Kaya were set free on intervention of the prosecutor. Gönül Karagöz was heard as witness. She had been in detention at the same time and identified one police officer as a torturer. This police officer, Halil Kaplan, had not been charged. Gönül Karagöz added that the hands of Süleyman Yeter had been paralyzed as a result of the torture.

During the hearing of 23 November Asiye Güzel Zeybek was heard as a witness. She pointed at Bayram Kartal saying that he was the one, who raped her in detention. Presiding judge Adil Güreşçi asked Asiye Güzel Zeybek, who could identify all defendants except for Zülfikar Özdemir, how she could be sure, when she had been blindfolded. The same question was posed to the witness Arif Çelebi. He said that he had seen the torturers from under his blindfold and when he was taken to the toilet. When the judge doubted this pointing at the professionalism of the police officers, who would be able to keep the blindfold tight, the intervening lawyers protested against the judge. The case did not conclude in 1999.

### **Torture of 21 people**

The case against the police officers Mustafa Taner Paylaşan, Ahmet Bereket, Fatih Berkup, Mehmet Atilla Çavdar, Mustafa Sara and Yakup Doğan Yaşları, charged with having tortured 21 alleged members of the TKEP-L, aged between 15 and 19, in İstanbul in March 1996 continued at İstanbul Criminal Court No. 6 on 15 February.

During the hearing of 26 April the testimony of chief commissioner Mustafa Sara, now employed at Malatya Police HQ, was read out. Mustafa Sara maintained that the suspects were members of an illegal organization, staying in communal flats with poor nutrition. They were of poor health and this situation deteriorated in detention.

The trial against the torture victims continued at İstanbul SSC No. 5 on 10 June. Defendant İbrahim Kaya rejected the testimony of witnesses, who had described him as blond and tall. He said that he had grown up in prison and had not been tall at the time in question. Defense lawyer Gülizar Tuncer quoted from a separate trial against the young defendants. The prosecutor Mete Göktürk had asked for the release of the defendants, although they were charged with the demand of the death penalty saying that as long as the suspicion existed that the testimonies and notes taken during detention might have been signed by using force and in case that the claims were not supported by additional evidence he would not consider such items from a legal point of view. Gülizar Tuncer argued that the defendants might only be charged according to Article 169 TPC and asked for their release. The Court did not follow this demand.

During the trial against the torturers intervening lawyer Gülizar Tuncer said during the hearing of 24 June that the witnesses Özgür Öktem, Ebru Karahancı and İsmail Altun had

been tortured with the other victims about two years ago. They had filed an official complaint with the public prosecutor in Fatih, but the prosecutor had decided not to prosecute anyone. Another complaint had been submitted via the court, but so far the public prosecutor's office in Fatih had not taken any decision. The Court followed the argument and decided to ask Fatih Prosecutor's Office for the result of the investigation.

Incidents at the hearing against the police officers of 7 July 1997 resulted in additional trials. ([38]) Gendarmerie soldiers had attacked the relatives of the victims and journalists, but the complaints did not lead to criminal proceedings based on the Law on Prosecution of Civil Servants. The official complaint of the soldiers, however, turned into another case against the juveniles. On 30 June İstanbul Penal Court No. 11 heard the case against the juveniles, charged with resisting officials. In the hearing lawyer Gülizar Tuncer claimed that her clients had been beaten in order to prevent them from identifying the torturers. The complaining gendarmerie soldiers Ali Mızrak, Naif Baz, Mehmet Ali Şenlikoğlu and Musa Tuzcu had not appeared. Defendant Devrim Öktem stated that they had been taken to court with their hands tied on the back. She argued that it was impossible to carry out an attack in such a situation and so many people around. Pointing at the medical reports she said that they were the real victims in this incident.

Lawyer Gülizar Tuncer filed a case against the daily "Sabah". The paper had presented a story under title of "Torture Allegations Unfounded" and related that Devrim Öktem and her friends had not been tortured. Eyüp Penal Court No. 2 ordered the paper to publish a correction, but Gülizar Tuncer had to open another case, when the paper did not publish it.

All cases did not conclude in 1999.

### **Memnune Öktem, Mahmut Öktem**

The parent of Devrim Öktem, Memnune and Mahmut Ökten, were detained on 26 February 1997. Later the police officers Mustafa Sara, Metin Şenol, Hayati Sönmez and Fatih Berkup were tried for having tortured them. İstanbul Criminal Court No. 1 held sessions on 26 April and 24 June, but nothing important happened.

During the hearing of 22 September the victims identified Metin Şenol and Hayati Sönmez as their torturers. Mahmut Öktem said he could see the police officers through a small leap in the blindfold. He had also seen the officers, when he was asked to sign his testimony. "But I cannot say, who of them kicked me or who of them slapped me into the face. I can only say that they participated in the torture." Mahmut Öktem stated that most persons in the back of the court hall were police officers and he recognized Metin Şenol and Hayati Sönmez as two of his torturers. He also recognized the police officer Ekrem Baştürk among the spectators. "I cannot say definitely that he was among the torturers, but he was at the station, too."

The judge asked this police officer for his place of duty and he said that he was on duty at the political police. When the judge asked him, where he had been on the date of the crime, Baştürk said that he did not remember. The judge asked, whether he knew the victim and Baştürk stated that he did not know them, because he had not been on duty. The judge grew angry, because Baştürk had first claimed not to know, where he had been and now claimed to know that he was not on duty. Memnune Öktem identified three of the police officers stating that she had not been physically tortured.

The trial against Mahmut Öktem on charges of supporting an illegal organization did not conclude in 1999.

### **Süleyman Kaplan**

On 23 March Ankara Criminal Court No. 5 continued to hear the case against the police officers Hayati Akça, Ali Tosun, Kadri Tuncer and Osman Menteş, charged with having tortured Süleyman Kaplan, who had been detained in Ankara on 5 May 1995.

During the hearing of 1 June the defendant Ali Tosun said that they had established Süleyman Kaplan to be the responsible person for the Revolutionary Communist Party in Turkey (TDKP) for Ankara. They had made an appointment with him via members of the organization and had intended to meet in front of a factory in Sincan district, but the suspect had tried to escape.

“He may have been injured during a short struggle, when we wanted to detain him. Under no circumstances did we ill-treat him in detention.” The defendant was reminded that the suspect was kept in custody for 15 days and received a report on 5 days’ inability to work and repeated that the injuries might have occurred during the short struggle at the moment of detention.

In the hearing of 16 September the defendants Hayati Akça and Kadri Tuncer stated that they had not tortured Süleyman Kaplan. The case was to continue in the year 2000.

### **Torture of KESK members**

On 16 April Şanlıurfa Penal Court No. 2 started to hear the case against 12 police officers, charged with having tortured members of the trade union confederation KESK, who had been detained when they wanted to meet the Musa Anter Peace Train on its way to Diyarbakır for the celebration of 1 September 1997 World Peace Day. The police officers Sertan Yamar, Osman Durmuş, Vakkas Demir, Mehmet Alaca, İsmail Tumbuloğlu, Yusuf Öztaş, Erol Turan, Nihat Özdemir, Serbüent Umur, Okan Yıldırım, Fikret Yılmaz and Ali Körpe were charged under Article 245 TPC (ill-treatment). Intervening judge Bülent Güleç asked that the defendants should be suspended from duty until the end of the trial. The Court rejected the demand.

Among the victims Metin Vuranok (SES) had received a medical report certifying 7 days’ inability to work and Sevgi Yılmaz (Eğitim-Sen) a report on 1 day’s inability to work. Following their complaint an administrative investigation was started against 14 police officers. The investigation resulted in a report that there was no need for any measures, since the police officers had not committed any offense.

### **Torture of Lawyers from the People’s Law Office**

On 16 April İstanbul Criminal Court No. 3 started to hear the case of the police officers Ali Bulut, Abdulkadir Dilber, Burak Ayanoglu, Çetin Yeşilbaş, Seyit Ali Altıntaş, Ali Erşan, Dursun Ali Öztürk, Kerim Kürtuloğlu, Hasan Hüseyin Gökten, Ömer Çalışkan, Metin Meriç, Erdinç Güngör and Mustafa Karabulut charged with misconduct of duty after the detention of 7 lawyer in İstanbul on 28 March 1995. Abdulkadir Dilber testified that they had stopped a car with suspicious persons. Later they had discovered that these persons were lawyers, who had made their job difficult.

The other defendants, too, pleaded not guilty. Sub-plaintiff lawyer Behiç Aşçı stated that the police officers knew very well that they were lawyers. They claimed that we were members of an illegal organization and wanted us to inform them of our actions. He said that I should not work for the People’s Law Office. Otherwise they would kill me.

### **Haydar Ballıkaya, Medet Kömürcü, Bekir Çadircı**

On 26 April İstanbul Criminal Court No. 6 continued to hear the case of the police officers Erhan Mamikoğlu, Mustafa Çalışkan and Savaş Akın, charged with having tortured Haydar

Ballıkaya, Medet Kömürcü and Bekir Çadırcı after their detention on 25 December 1997. Savaş Akın from the political police pleaded not guilty. Defense lawyer İlhami Yelekçi claimed that the victims were members of an illegal organization, who had confessed their crimes. He argued that there was no need to someone, who confessed. Medet Kömürcü and Bekir Çadırcı, on the other hand, stated that they had been suspended by their arms, hosed with cold and hot water, had been given electric shocks and their testicles had been squeezed. They stated that they could identify two of the defendants.

During the hearing of 24 June Haydar Ballıkaya stated that he had been subjected to intense torture and had received a medical report certifying 7 days' inability to work. He said: "They wanted me to accept certain crimes. When I did not, they squeezed my testicles, put me on the hanger, hosed me with ice-cold water and put a bag over my head." Ballıkaya identified Savaş Akın and Erhan Maikoğlu as his torturers. The trial did not conclude in 1999.

### **Remziye Dinç**

On 27 May Batman Criminal Court No. 3 continued to hear the case against the village guard Nevzat Altuner on trial for having raped Remziye Dinç in Güllüce village, Kozluk district (Batman) in December 1994. The hearing was adjourned since the report of İstanbul Forensic Institute on the question whether Remziye Dinç had been under 18 years old at the time, had not arrived. On 16 June 1998 Batman Criminal Court No. 3 had acquitted the village guards Ekrem Altuner and Ceyhan Altuner and sentenced Nevzat Altuner to 18 months' imprisonment. The Court had ruled that the "rape" had been conducted with the consent of the girl. On 3 November 1998 the Court of Cassation had quashed the verdict. The retrial was not concluded in 1999.

### **Mustafa Tosun, Nazım Mercan, Özcan Kumuz, Nazım Özcan, Alev Yıldız, Ali Şahin Bütün**

On 9 June İstanbul Criminal Court continued to hear the case against the police officers Fethi Vuruşkan, Savaş Akın, Dursun Ali Öztürk, Erkan Kabakçılı, Nuh Çelik, Erhan Mamikoğlu, Talip Kaya and Halil Melengeç accused of having tortured the alleged DHKP-C members Mustafa Tosun, Nazım Mercan, Özcan Kumuz, Nazım Özcan, Alev Yıldız and Ali Şahin Bütün, who had been detained in İstanbul in November 1995. The hearing was adjourned to wait for the reports by the forensic institute.

The police officers were charged under Article 245 TPC. During the hearing in November the letter of Mustafa Tosun was read out. He had sent the letter from prison stating that he had been tortured over 12 days. The police officers had forced him to sign a confession. On this basis he was imprisoned since five years. The court case did not conclude in 1999.

### **H.İ.O**

H.İ.O. (12) was detained in İzmir on 27 November 1995 on allegations of having stolen money. Commissioner İrfan Demirel and police officer Mustafa Yılmaz were tried at İzmir Criminal Court No. 2 on charges of having tortured the child. The Court sentenced them to 10 months' imprisonment. In November the Court of Cassation confirmed the sentences.

After this decision the lawyer Arif Ali Cangı filed a case against the Interior Ministry asking for compensation of TL 3 billion. On 30 October 1996 the police officers had been fined TL 750,000. The Court of Cassation had quashed this verdict and in the retrial the police officers were sentenced to 10 months' imprisonment.

### **Ercan Tilmaş**

On 22 September İstanbul Criminal Court No. 3 acquitted the police officers Mustafa Taner Paylaşan and Güngör Yaman from charges of having tortured Ercan Tilmaş. He had been detained during the 1 May celebrations on Taksim Square (İstanbul) in 1998.

### **Nurcan Ersen, Huriye Erdem, Gökhan Güvenal**

A trial was opened on 12 October against 10 police officers on charges of having ill-treated Nurcan Ersen (19), Huriye Erdem (21) and Gökhan Güvenal (23), whom they had picked up in Batıkent-Ankara on 29 April for drinking beer in a car and annoying the surrounding. The public prosecutor charged the commissioners Salih Durali and Ali Altan and the police officers Zeynel Hüreke, Yalçın Bulu, Uğur Akmeşe, Alibey Daldal, Hüseyin Altıntaş, Nuh Çavuş, Necdet Aktaş and Orhan Özçelik under Article 245 TPC.

### **Ali Yavuz**

On 15 November İzmir Penal Court No. 7 conducted a hearing in the case against the police officers Lokman Güney and Muhsin Aydemir. They stood accused of having ill-treated Ali Yavuz, former chairman of HADEP for İzmir province, who had been detained during the celebration of 8 March World Women's Day. Ali Yavuz said that he was held in detention for two days. During this time he was interrogated four times. He had not seen the police officers since his eyes had been blindfolded. Intervening lawyer Mustafa İşeri criticized that the trial had been opened on charges of ill-treatment although medical reports confirmed the allegation of torture. He argued that the charges should be brought under Article 243 TPC and not 245 TPC and a criminal court should hear the case.

The prosecutor demanded that another chief commissioner and two police officers, who had signed the notes on detention, should be heard. He also asked that the police officers in charge of the prisoner should be identified and heard. He further demanded that the medical reports be sent to the forensic institute for an evaluation and the court should ask a forensic expert to attend the next hearing. The trial did not conclude in 1999.

### **Behzat Örs**

The trial against the police officers Hayati Akça, Osman Menteşe, Rıza Temir, Fikri Vidinli, Kadri Tuncel, Ali Tosun and Remzi Ekçi charged with having tortured Behzat Örs at Ankara Police HQ in December 1996 did not conclude in 1999. The police officers were charged under Article 243 TPC.

Behzat Örs was wounded during the incidents in Ankara Closed Prison on 26 September that resulted in the death of 10 prisoners. He had a fracture of his left leg due to a bullet wound and traces of intense blows to his head and body.

### **Leşker Acar**

In December the public prosecutor in Elazığ stopped the investigation against 30 soldiers and guardians suspected of having tortured the prisoner Leşker Acar in Elazığ E-type Prison in October 1998. He decided not to bring charges against any of them. On the other hand, he started an investigation against the lawyer Kenan Sidar and Serkan Akbaş on the allegation that they had slandered officials. Leşker Acar had later been transferred to Diyarbakır E-type Prison. After the incident Elazığ State Hospital had issued a report on 11 October 1998, concluding that the prisoner had been tortured.

### **Cengiz Süslü**

At the end of December the public prosecutor in İstanbul indicted the police officers Lokman Yılmaz, Mehmet Şirin Yıldız, Ramazan Bingöl, İrfan Güner and Cevdet Çelik, employed at the department against pickpocketing and fraud. They were charged under

Article 243 TPC for having tortured Cengiz Süslü, who had been detained on 4 May 1998 on suspicion of pickpocketing. He was reportedly raped with a truncheon and had to be treated in hospital.

### **5.3. Human Rights in Prisons**

Pressure and attacks on prisoners on remand or convicts increased in 1999. Compared to the intense pressure on political prisoners the prisoners accused of mafia-like crimes and fraud led an almost free life in prison. Tekin Yıldız, chairman of the trade union of prison staff (Tüm Yargı-Sen), pointed at the different treatment saying:

“If the prisoner from gangs clash in Bayrampaşa Prison the administrator use to say, ‘Sirs, please stop the fighting, let us find a solution, we’ll work as mediators’. Such a soft approach can change in 6 days and 10 prisoners are killed in Ulucanlar Prison. This is a double standard and is the source for the riots in prison. It is a requirement not only of the Constitution, but also Article 48 of the Law No. 647 on the Execution of Sentences to treat the prisoners equal, regardless of their political stand. On the one hand you let the members of gang continue their luxury life and on the other hand you take bed and books away from other prisoners. If this approach does not change, there won’t be much meaning in changing the physical conditions.”

According to the figures of the General Directorate for Statistics on Criminal Record within the Justice Ministry a total of 43,895 convicts (42,410 male and 1,485 female) and 23,470 remanded prisoners (22,547 male and 923 female) were imprisoned at the end of 1999.

The 10<sup>th</sup> Chamber of the Supreme Administrative Court ruled in April of 1999 against the Decree on Transfer that had been issued under Mehmet Açar as Minister of Justice (1996) and which had been applied under Şevket Kazan as Minister of Justice (1996-1997). The cancelled the decree that had been the reason for the hunger strike in 1996 that resulted in the death of 12 prisoners to be against jurisdiction. İstanbul Bar Association had appealed against the second paragraph of the decree of 9 July 1996 with the number 8-59. The Supreme Administrative Court found the provision of transferring prisoners to places outside the region, for which the court at which the prisoner was charged was responsible, in contravention to the relevant provisions of the European Human Rights Convention. Such a ruled would violate the right of the defendant to be present in court, the equality between the prosecution and the defense and as a result would violate the right to a fair trial.

In February Turkey permitted the publication of the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Turkey in October 1997. The report stated inter alia that it was necessary to increase common activities of prisoners parallel to the construction of smaller living units in the prisons. The lack of common activities would be felt more intense, if the prisoners were kept in smaller units and, if progress on common activities were not made, smaller units would create more problems than they solved.

The 1999 progression report on Turkey’s entry to the EU stated on the prisons that the conditions seemed to have improved. Yet, the problems with overcrowding and insufficient health services continued to be the main problems. Hunger strikes and riots were frequently based on such problems. The riot in one big prison was suppressed in a harsh manner in September (the attack in Ankara Closed Prison on 26 September).

Like in the years before official institutions and NGOs issued a large number of reports on the situation in the prisons. The prison situation was on the agenda of the NSC meeting on

30 September. The Secretariat of the NSC issued a statement saying, “necessary administrative and legal measures have to be taken without delay in order to secure the rule of the State and law in the prisons”. However, the prisons conditions were not improved and preparations for the establishment of F-type prisons were made.

#### **a) F-type Prisons**

On 3 February the Council of Ministers approved the project of the Justice Minister to build F-type prisons. State Minister and spokesman for the government, Şükrü Sina Gürel, said after the meeting that the ward system would be replaced by cell-type prisons for 2-3 persons to stay in one room. Gürel argued that the negative developments in F-type and other prisons and problems of security would be solved. The aim was to build 12 such prisons. The budget for the first 6 of them was ready.

The F-type prison project of the Justice Ministry gained speed in April. The construction of the F-type prisons in Ankara, Bolu, Kocaeli, Tekirdağ, İzmir and Edirne was commissioned on 23 April. The Soğanlık Prison in Kartal (İstanbul) that had been under construction before was opened as a cell-type prison. Political prisoners in the İstanbul and Marmara region were transferred to this prison.

Hikmet Sami Türk (DSP), who became the Justice Minister after the 18 April elections, declared in his speech to the GNAT on 13 June that the government was determined to realize the transition to the cell-type prisons. He claimed that the crowded ward system was the reason for organizations to put pressure on prisoners, hunger strikes, riots, escapes, ideological education, and the means to develop communication in and outside the prisons. He said: “We urgently need new prison buildings that are secure, equipped with mechanical and electronic devices, are in line with workshops and enterprises for the rehabilitation of prisoners, based on the room system and high security standard and have independent open air spaces.”

Criticism and actions of NGOs, in particular the HRA, against the cell-type prisons did not find attention in the media except for the oppositional press. The other press organs made propaganda for the F-type prisons in line with official statements. News on the subject termed such prisons “holiday resorts” or “2-storage villas”. Ümit Efe from the “prison desk” of the İstanbul branch of the HRA announced that the political power wanted to implement a policy of isolation and carried out a conscious and planned program for the transition to the cell-type prisons that was aimed at creating obedient individuals and wanted to annihilate those, who did not conform to it.

Ali Suat Ertosun, General Director for Prisons in the Ministry of Justice, prepared a report on the “critical situation in the prisons”. The report stated, “if 15-20 high security prisons are not build in a short time incidents that cannot be corrected are inevitable” and continued:

“The institutions for the execution of sentences in our country are built on the ward system, contrary to the prisons in Western Europe. All problems in these prisons stem from the situation created by this system. Under this system the prisoners can easily carry out actions such as develop solidarity, can issue directives for actions outside, can kill their comrades, take people hostage, escape, riot, build tunnels, create a fire, blackmail others, gamble, refuse to be counted, arbitrarily decide not to go to hearings or to hospital or attack officials.”

After the massacre in Ankara Closed Prison on 26 September Justice Minister Türk advocated that the ward system had to be abandoned and small wards for a maximum of three prisoners or individual rooms had to be introduced in the prisons. He said that the

commission for a minimum of 10 prisons (3 in İstanbul and 1 each in Sakarya, Ankara and Adana) would be distributed until the end of the year. Afterwards six such prisons would be built every year. In October Türk stated that the construction of such prisons continued in Ankara, İzmir, Bolu, Kocaeli, Tekirdağ and Edirne. Until the end of the year the construction of another 5 prisons would start.

In July Human Rights Watch (HRW) published a "Memorandum to the Turkish Government on Small Group Isolation and Kartal Soganlik F-type Prison" stating that the 190 prisoners in this prison build for 500 prisoners were held under heavy isolation. The report further stated:

"The cells are not spacious, but provide room for bunks, a table, a shower, and a toilet. Although there is no natural light within the cell, a door leads into a high walled courtyard with an estimated area of sixteen square meters. It is not known how many hours each day that prisoners have access to this courtyard. Photographs confirm that the prison has few if any external windows.

"The door from the corridor to the cell is kept closed night and day. Meals are delivered under or through the door. Although some cells are permitted to have a television or radio, no facilities are provided for exercise or sport and no access is provided to a library or canteen. Therefore, apart from weekly family visits lasting half an hour, prisoners are locked down twenty-four hours a day, seven days a week with no social -or even visual -contact with any person outside their cell.

"There seems to be an attempt to impose a military discipline on the prisoners. Warders who do not reveal their names require prisoners to stand at attention when they enter the cell to take them for family visits. Only clothes of a limited range of color may be worn... It appears that the arrangements at Soganlik F-type Prison are the latest step in a move away from Turkey's traditional system of holding prisoners in very large wards with up to 100 prisoners... Because wards bring together large numbers of people with minimal outside supervision, they provide an environment in which gang-like structures, criminal or political, can develop... Some former prisoners have told Human Rights Watch that the political organization within wards offered them stability as well as support and protection against the worst excesses of the prison authorities -but it is also true that political organizations exert tough party discipline, to the extent that they have sentenced and "executed" many supposed spies and informers.

"The regime at Soganlik F-type Prison is apparently an attempt to enact the provisions of Article 16 of the Anti-Terror Law which states: "The sentences of those convicted under the provisions of this law will be served in special penal institutions built on a system of cells constructed for one or three people ... Convicted prisoners will not be permitted contact or communication with other convicted prisoners."

"In its report on a visit to Turkey between February 27 to March 3, 1999, the European Committee for the Prevention of Torture summarized the basic criteria used by the Council of Europe in assessing the regime in a high security unit: 'Prisoners who present a particularly high security risk should, within the confines of their special unit, enjoy a relatively relaxed regime (able to mix freely with fellow prisoners in the unit; allowed to move without restriction within what is likely to be a relatively small physical space; granted a good deal of choice about activities, etc.) by way of compensation for their severe custodial situation.'

"Recommendation No R (82) 17 of the Committee of Ministers of the Council of Europe (September 24, 1982), urges member governments such as Turkey to apply ordinary prison regulations as far as possible to dangerous prisoners, to apply security measures in a way respectful of human dignity, to counteract, to the extent feasible, the possible adverse effects of reinforced security conditions and 'to provide education, vocational

training, work and leisure-time occupations and other activities to the extent that security permits.'

"The regime at Soganlik Prison, by contrast, appears to be one of extreme isolation, falling far short of such criteria, and may amount to cruel, inhuman and degrading treatment."

The Ministry of Justice replied to the memorandum on 16 September stating that allegations such as meals being supplied from under the door, no possibilities for sport or gymnastics, no access to library or a canteen were not true.

On 9 August Eren Keskin, chairwoman of the HRA in İstanbul, declared that she had faced great difficulties in meeting her clients in Kartal-Soğanlık Prison. They had been forced to talk to each other through iron bars. Only the "gang leaders" Murat Topal and Kürşat Yılmaz had been able to speak to their lawyers in separate rooms. She called in the Justice Ministry to put an end to this kind of discriminatory practice.

## **b) Deaths in Prison**

The HRFT received information on 44 deaths of prisoners in 1999.

### **Massacre in Ankara Central Closed Prison (Ulucanlar)**

Security forces carried out an operation in Ankara Central Closed Prison on 26 September and killed 10 prisoners with arms or beating them to death. The names of the killed prisoners were given as: Habib Gül (Nevzat Çiftçi), Ahmet Savran, Ümit Altıntaş, Halil Türker, Mahir Emsalsiz, Abuzer Çat, Önder Gençarslan, Zafer Kırbıyık, Aziz Dönmez and İsmet Kavaklıoğlu. Another 30 prisoners were wounded.

The operation started at 3am in connection with a decision by the Ministry of Justice to transfer 76 prisoners, 33 of them female, to other prisons, because of overcrowding. The first attack was conducted against the women's ward 4. The prisoners did not want to be transferred and a clash occurred. At the same time ward 5 and 7 were raided. Ward 7 had been occupied by the prisoners of ward 5 on 2 September. They had torn down the wall, because their ward had become too small for them. In these wards the prisoners built barricades at the doors. The soldiers answered by firing at the prisoners. Gas bombs were used during the raid and after the soldiers entered the wards they reportedly beat the prisoner in a manner that might kill them.

The operation lasted until the morning. In the end seven prisoners died in the prison and three died in hospital. The names of some of the injured prisoners were: Cemal Çakmak (bullet wounds in the feet and the head, fractures in the rib bones), Feyzullah Koca (transferred to a cell in Amasya Prison), Cengiz Aslan (lost one eye, bullet wound on the ear), Gürhan Hızmay (left arm was broken, traces of blows on the head and the body), Behzat Örs (fracture in the left foot due to the bullet wound, severe traces of blows on the head and the body), Özgür Soylu (bullet wound in the left foot, fractures of rib bones), Ercan Akpınar (fractures in the fingers of the left hand, unable to move his back), Murat Güneş (three deep wounds in the head, fractures in the rib bones). 24 of the wounded prisoners were taken to Ankara Numune Hospital. Prime Minister Bülent Ecevit claimed that a tunnel had been found in the prison and the Ministry of Justice alleged that the prisoners had used arms against the security forces. One officer, two lieutenants and three soldiers had been injured in the incident. Ankara Medical Association alleged that the wounded prisoners had been taken to hospital only six hours after the incident.

Those who survived the attack later informed their lawyers about the incident. Cemal Çakmak told his lawyer Kemal Yılmaz: "After the attack they gathered us in the bathroom. Many of us were injured. Specially dressed and armed men came into the room and chose

some of us to interrogate them in the corridor. I was among the interrogated persons. They asked questions on whether we were in possession of mobile phone and whether there was a tunnel in prison. The shot at us and beat us with sticks that had nails in it. Two bullets hit my legs and one bullet passed my head. They had a liquid. They stuck a lancet in it and marked our bodies. Afterwards I felt numb. İsmet Kavaklıođlu, representative of the DHKP/C was with us. He was not wounded, when he was called out of the bathroom for an interrogation. Later we were informed that he had been shot dead.” Talking about the beginning of the incident Cemal akmak stated that the prisoners went out of the wards to the open air space, when gas bombs were thrown at them. In the open air the prisoners were shot at and many got wounded, but were not treated. Cemal akmak alleged that some died because of a loss of blood. He added that prisoners responded with slogans to the demand of surrender. After the attack soldiers had split the mouth of zgür Saltık, because he had shouted the slogans very loudly.

The autopsy reports on three prisoners (Aziz Dnmez, Zafer Kırbyık and İsmet Kavaklıođlu) stated that they had been killed with hunting rifles, while the others had been hit by other shooting devices. On most prisoners traces of blows were found and it was understood that the shots had been directed to their hearts. Ahmet Savran and Halil Trker had been shot to their heads and Habib Gl (Nevzat ifti) had died because of a loss of blood. No bullets could be found in the bodies of some prisoners. This was interpreted by saying that the shots must have been fired from a short distance.

Following the massacres prisoners in various towns staged protests by occupying the open air space or taking persons hostage. Prison staff was taken hostage in BayrampaŐa (4), mraniye (14), Bartın (9), anakkale E-type (9), Bergama (5), Gebze (17) and ankırı (11). In Bursa Special Type Prison, Aydın E-type Prison and Buca Prison the inmates refused to be counted.

The police prevented a protest meeting in Sultanahmet (İstanbul) organized by the HRA, HD and political parties on 28 September. The police detained 101 persons including 47 women. For lawyers including Eren Keskin were released in the evening. The other prisoners used their right to remain silent. The following day 30 HRA members were prevented from sending protest telegrams from the post office in Sirkeci.

Reports on the massacre in Ankara Closed Prison were restricted to quotes from official statements that held the prisoners responsible. Apart from the oppositional press reports on the incident carried headlines such as “the prisons are educational camps of illegal organizations”, “the organizations have established interrogation rooms in prison”. The Chief of the General Staff declared that the prisoners should not be termed political prisoners but “terrorists”.

The protests in the prisons were stopped on 30 September after Ferzan itici, chief prosecutor in İstanbul and Ycel Sayman, chairman of İstanbul Bar Association, had spoken to the prisoners in BayrampaŐa Prison. Subsequently the 54 prison staff was released.

Funerals of the victims also turned into events. During the funeral of Nevzat ifti in Aliađa-İzmir 68 people were detained and 14 of them were later remanded in charges of having staged an illegal demonstration. (For details see the chapter on human right defenders.)

On 7 October the 1<sup>st</sup> Chamber of the Court of Cassation turned down an appeal by lawyers, who had not been allowed to participate in the autopsies. This decision was an example for later cases, in which the lawyers were not permitted to participate in

autopsies.

After the massacre prisoners were transferred to Yozgat, Amasya, Ermenek, Burdur, Zile, Niğde, Nevşehir and Gaziantep Prisons. Reportedly the injured prisoners were not treated and all prisoners were not allowed to see their relatives for a long time. After visits in hospitals many relatives told that police officers and soldiers had urged them not to tell anybody what the prisoners had related.

Süleyman Turan and Süreyya Keskin made a statement on 9 October in the name of the relatives of the prisoners, and said that the prisoners had been put in cells after their clothes and underwear had been seized. The relatives listed the conditions of the wounded prisoners:

Prisoners in Ankara Central Closed Prison (Ulucanlar Prison):

Filiz Güllökuer (traces of blows on the back, neck, head and arms), Resul Ayaz (blood in the right eye, gas bombs had exploded on his arm, unable to feel 3 of his fingers, fractures at the nose and left hipbone, unable to feel the region below the waist), Haydar Baran (blow to rib bones and lungs, internal bleeding, air gathered in the lungs, fracture in the nose, low level of hemoglobin due to loss of blood), Özgür Saltık (fracture of the chin, unable to use his fingers), Kemal Yarar (fractures in the chest bone and broken teeth, herniation of intervertebral disk), Gazi Arıcı (stab wound on the left elbow, unable to walk), Savaş Kör (blow to the head, G-3 bullet wound in the right arm, three fingers of the left hand had to be cut due to bullet wounds, fractures in the hipbone and nose, internal bleeding and blood in the eyes), Aynur Siz (swelling at the head, bruises on the legs and arms), Devrim Turan (wounds in the head due to truncheon blows, bruises on the body, a big scar on the waist, swellings on the hands due to truncheon blows), Sevinç Şahingöz (difficulty in breathing), Gürcü Çakmak (traces of blows on the eyes due to the beating with the butt of a rifle, broken teeth), Filiz Uzal (fracture of the nose, blood in the eyes, traces of blows on the face and the whole body), Kansu Keskinan (stitches on the head, fracture on the left arm, heavy trauma on the back of one ear), Nihat Konuk (trauma in the brain, bullet shell in the wrist, danger of gangrene in the ankle), Fatma Hülya Tungan (fracture in the arm), Hatice Yürekli (fractures in 2 fingers, blood in the eyes).

Prisoners in Burdur Prison:

Cem Şahin, Mustafa Selçuk, Sadık Türk, Erdal Gökoğlu, Barış Gönülşen (One of these persons was wounded with bullets, the others because of blows).

Ermenek Prison:

Ertuğrul Kaya (wounded), Veysel Eroğlu (in danger of losing his right eye, fracture in the left hand),

Niğde Prison:

Zeynep Güngörmez (one of the participants in the previous death fasts, her condition was serious), Döndü Özer (wounded).

Yozgat Prison:

Gürhan Hızmay (fracture in the left arm, many traces of blows in the head and the whole body), Murat Güneş (three serious wounds in the head, fractures in the rib bones, numbness in the arms, bullet wound in the back), Cemal Çakmak (bullet wounds in both feet and in the head, fractures in the rib bones), Özgür Soylu (bullet in the fibula, traces of blows on the head and the body), Cenker Aslan (lost his left eye, traces of blows on the head, bullet wound in the ear), Behzat Örs (fracture of the left foot, blows to the head and

the body), Ercan Akpınar (fractures in two of his fingers in the left hand and in the head, unable to move his belly).

Zile Prison:

Aydın Çınar (wounded), Ertan Özkan (bullet wound in one foot, danger of gangrene), İlhan Emrah (bullet wounds in left foot and left hand, fractures in the chest bone), Serdar Atak (bullet wounds in the chest and left arm), Bülent Çütçü (plastic bullet in the leg), Küçük Hasan Çoban (bullet wound in the left leg).

On 15 October 17 male and 11 female prisoners, who had gone on hunger strike in protest at having been put in isolated cells, stopped their actions after Justice Minister Hikmet Sami Türk declared that he had accepted their demands. Members of the Human Rights Commission in the GNAT had gone to the Justice Minister and he had informed them that the prisoners should be transferred to other prisons and those, who could not be transported, should be treated.

The Human Rights Commission in the GNAT met with the HRA, the HRFT, the TTB and Mazlum-Der on 15 October. The representatives of the NGOs jointly declared that there had been no riot in prison, it was impossible to dig a tunnel in the open air space and, although the Justice Minister tried to solve the problem the Minister of the Interior had insisted on the operation. The fact that the wards had been sprayed with foam although there was no fire and the detention of relatives was an indication that the attack had been planned before. The killed prisoners had been wounded by bullets as well as by blows.

### **Sabah/09.10.1999/Can Dünder**

Ulucanlar Operation

The day before yesterday the Justice Minister opened Ulucanlar Prison for the journalists, who could see for themselves what the prison looked like after the operation.

The scenery resembled in fact a situation after war. Anyone, who did not know the result, could indeed get the impression that the “terrorists conducted a cruel massacre” when looking at the arms and the torn down walls of the wards. But the balance sheet showed another picture. There were 10 prisoners with bullets in their brains. Who had killed these prisoners, why and how?

Does the Justice Minister intend to inform the public on this?

...

While writing these lines the photographs of the prisoners before their funerals are on my desk. It is hard to look at them. Nine of the ten prisoners were killed with shots to their brains. Therefore, the faces are unrecognizable. Looking at the autopsy reports, almost all of the victims had bullets in their bodies. In addition, there were traces that they had been beaten brutally; fractures of the skull, destroyed livers, crushed meninges...

Altan Öymen, chairman of the CHP, interpreted these photographs in the most obvious manner. He said that the deaths were caused by beatings. They were “beaten to death”. In any civilized country such an allegation would cost the Justice Minister his post, but our government pretended not to know anything. Prime Minister Ecevit commented the killing of prisoners under the protection of the State saying, “The State will establish authority in the prisons”.

The suspicion exists that members of special teams committed the murders with hunting rifles called shot-guns.

The Ministry of Justice said: "They were digging a tunnel. Therefore the operation was carried out." The prison was occupied, but no tunnel was found. Officials said, "we could not find it yet". In the end the journalists were shown the tunnel. It started in the corner of the space the prisoners use during open-air sessions. For an unknown reason the prisoners had chosen one of the places to be controlled from the watchtowers to dig their tunnel. The earth was still so fresh that the cameraman got muddy shoes when stepping on it.

...

The day before yesterday the Human Rights Commission in Parliament dealt with the Ulucanlar operation for the first time.

Sema Pişkinsüt, chairwoman of the Commission, known for her brave investigations in police stations and prisons during last year, asked officials from the Interior and Justice Ministry for details.

They stated that the first intelligence information was received on 2 September. So why did they wait until 26 September?

The answer from the Justice Ministry was quite interesting. They said: "Since 1993 gendarmerie soldiers did not participate in searches in Ulucanlar Prison. Because deaths occurred, whenever they entered prison".

Pişkinsüt asked whether deaths were expected, when the operation started.

The official attending the meeting said: "We were forced to. Shots came from the inside".

The discussion in the Commission went on like this:

"Do you consider the operation successful with 10 deaths?"

"The fire brigade sprayed foam and gas was used inside. When we entered the wards they were half filled with water."

„Was there no other alternative than using arms? The prisoners were in a closed area... One could have tried to persuade them and if that failed cut food or besiege them. Is it not a fault to start such an operation without considering (or even knowing) the possibility of deaths?"

"Had we not done it, the State would have shown weakness".

The last sentence was enough to make one's hair stand on end. The State fired shots to show that it was not weak.

The questions of Pişkinsüt were directed at the Justice Minister Hikmet Sami Türk. Both belong to the DSP. Türk is an academic, who has occupied many posts before, including the Ministry of State responsible for Human Rights. He had gathered the authority of different units and instead of looking for solutions without harming anybody and led the operation from the start until the end he had approved the suggestion of an operation, allowed for a bloody clash and that had gone home to sleep.

When I talked to Sema Pişkinsüt yesterday she was still outraged. She felt that the Minister had been persuaded into a wrong discussion by a state of mind that was deep-rooted in the bureaucracy. She said: "The honorable Türk should think about who convinced of such a decision. If he finds and replaces them the real reform of justice will have started then".

The parliament has taken over the case.

Five deputies from the Human Rights Commission will make a research in Ulucanlar Prison. We shall see whether the case will be closed by forwarding it to the Commission or whether the incident will be clarified.

We shall not stop looking for results.

On 22 October relatives of prisoners filed an official complaint in connection with the massacre with the public prosecutor of Ankara. The relatives claimed that they had received information on such an operation by the State, but had been unable to intervene successfully. Facsimiles had been sent to the Justice Minister, the General Director for Prisons, the GNAT, the prosecutor's office, the prosecutor for the prisons, civilian institutions, associations and the press. The press had reported on the initiative. Former Justice Minister Oltan Sungurlu (1997-1998) had declared that such a massacre had been planned two to three years ago.

In İstanbul 175 prisoners from Bayrampaşa Prison were indicted on 7 November in connection with protests against the massacre. The public prosecutor in Eyüp asked for sentences up to 10 years' imprisonment for having taken guardians hostage and damaged public property. The trial is underway at Eyüp Criminal Court No. 2.

In December the public prosecutor in Ankara indicted 85 prisoners, who survived the massacre in Ulucanlar Prison. Against 145 gendarmerie soldiers he decided not to be responsible because they had used their authority as provided in the law. In this case 15 officers and sergeants were shown among the victims. The indicted prisoners were held responsible for five of the 10 deaths. The prosecutor asked for the death penalty of Cemal Çakmak and wanted the other prisoners to be sentenced to imprisonment of between 12 and 47 years. The charges were murder, attempted murder, bodily harm, uprising against the prison administration, possession of arms and damaging the prison building.

### **İsmet Dilek**

İsmet Dilek died at the beginning of January, reportedly because he was not treated in Edirne-İpsala Prison.

### **Ali Yıldız**

Ali Yıldız (60), imprisoned in Siirt E-type Prison, died in the hospital of the medical faculty at Dicle University (Diyarbakır) on 19 January. His relatives stated that he had been detained in Eruh (Siirt) on 16 December 1998, had been remanded on 22 December and was suffering from liver complaints, because of torture in detention.

### **Engin Huylu**

On 6 February Engin Huylu, was taken from Çankırı E-type Prison to Ankara Numune Hospital, because he was suffering from extreme headache. He died the same day. He had first been taken to hospital on 5 February at 11.30pm, but was taken back to prison. His health deteriorated again and at 3am he was taken to hospital without being accompanied by health personnel and in a car that had no air-condition. Ergün Huylu, brother of Engin Huylu, stated that his brother died, because of water in his heart. He added that the health problems had increased during the last two months, but the only diagnosis had been migraine. Although they had been ready to meet the cost for the transfer to hospital, this had been delayed. Ayşe Akkuş, a relative of Engin Huylu, stated that a physician had told her that heart problems might result in headaches. The doctor had told them that water had gathered in his heart. This must have started 3 or 4 months ago, to reach such a state. Had he been sent to cardiologist, he might have been saved.

Engin Huylu had been arrested in 1996 and was later sentenced to 12.5 years' imprisonment in a trial against the organization DHKP/C.

### **Mustafa Duyar**

Mustafa Duyar, on trial for the killing of businessman Özdemir Sabancı, Haluk Görgün, official of Sabancı Holding and the secretary Nilgün Hasefe in 1996, and Selçuk Parsadan, a prisoner convicted of having misdirected money from a secret budget under the term of Tansu Çiller as Prime Minister, were attacked in Afyon Prison on 15 February. Mustafa Duyar died and Selçuk Parsadan was seriously wounded. Mustafa Duyar had been a confessing defendant in his case. The incident reportedly happened as follows:

In January 8 prisoners from the so-called Karagümrük gang were sent from Eskişehir E-type to Afyon Prison. These prisoners, Ahmet Yaygüden, Abbas Özcan, Yasin Al, Mustafa Ersoy, Ömer Kukul, Serkan Erdemli, Emir Alakaş and Sami Tokur, took the guardian Ahmet Adem Terim hostage, when he came at 7am to bring them bread. They took his keys, opened the door to the cell of Mustafa Duyar and killed him. They also fired one shot at Selçuk Parsadan. After the incident these prisoners took the guardians Hüseyin Bülbül, Şeref Demir and Ömür Kaşmaz as further hostages and resisted for about 12 hours, before they surrendered.

After a first treatment Selçuk Parsadan was sent to Ankara. The prisoner Sami Tokur was said to have shot at Mustafa Duyar. Afyon Governor Ahmet Özyurt stated that the prisoners Sami Tokur, Emin Alakuş, Ömer Tukut, Serkan Erdemli, Murat Ersoy, Abbas Özcan, Yasin Al and Ahmet Yargüder had been distributed to the prisons in Samsun, Trabzon and Amasya.

Nuri Ergin, chief of the Karagümrük gang, later confessed to have ordered the killing. When the eight prisoners stated that they got the gun from deputy prison director Necmettin Ateş he was arrested on charges of supporting a gang. Mustafa Duyar's wife, Semra Plat Duyar, who was held in the same prison, was transferred to Kırklareli E-type Prison for security reasons.

The prosecutor at Ankara SSC indicted Nuri Ergin, chief of the Karagümrük gang, and his brother Vedat Ergin on 26 May. He asked for the death penalty for having order the killing of Mustafa Duyar. The indictment stated that the gun was obtained from deputy prison director Necmettin Ateş. Selçuk Parsadan had been attacked, because he had harmed many people by petitions he sent from prison.

The indictment asked for the death penalty for Nuri Ergin and "his men" according to Article 450/4 TPC. Nurettin Ateş should be sentenced to five years' imprisonment for assisting the gang and violating the law on firearms. Nurettin Ateş was released after the first hearing at Ankara SSC on 4 August.

### **Serpil Polat**

Serpil Polat died on 17 February. She had sent herself on fire in Sakarya in protest at the abduction of Abdullah Öcalan and his arrest in Turkey.

### **Yakup Yaşar Güven**

Yakup Yaşar Güven, a famous person of the underworld, was killed in Çankırı E-type Prison on 18 February. He had been convicted for killing Mehmet Nabi İnciler on 6 December 1993.

İbrahim Kara, imprisoned for murder and said to be "a man" of Mehmet Nabi İnciler, was held responsible for the killing. At 1.30pm both men had started a discussion, during which

Kara pulled his gun. Both men had struggled and one bullet hit Kara in his left shoulder. Then he fired at Güven, who died on the spot, hit by one bullet to his head and another one to his chest.

### **Hüseyin Altuntaş**

Hüseyin Altuntaş (70) died in Ankara Numune Hospital on 13 March. Hüsnü Öndül, SG of the HRA, said that Altuntaş had been serving a sentence of 70 days in Osmançık (Çorum) Prison, when he was taken to hospital. Hüsnü Öndül alleged that the prisoner had been chained to the bed and two soldiers had been guarding him. On 8 March the daughter of Hüseyin Altuntaş had approached the HRA and asked for him. Altuntaş would have been released in 35 days.

### **Ferhat Çancı**

On 21 March Ferhat Çancı (40) was stabbed to death in Çanakkale E-type Prison. He had been imprisoned for killing Zeynel Yamaner, who had a criminal record for drugs, one week earlier. In the morning of 21 March a group of 15 prisoners entered the cell, where Çancı was held. They overpowered the guardian and killed Çancı by 16 cuts. The group of prisoners was reportedly led by Gürkan Aslanoğlu, brother-in-law of Yamaner.

### **Murat Keleş**

Murat Keleş (16), imprisoned for theft in İzmir-Buca Prison, died on 23 March. Reportedly he was heavily beaten in the children's ward and died in hospital. The relatives alleged that guardians wanted to rape the child and when he resisted beat him to death. They filed an official complaint. One week before his death Murat Keleş had said in the hearing on his case that his statement to the police had been extracted under torture. As a result of the investigation into his death a court issued arrest warrants against 10 prisoners.

### **Çetin Güneş**

Çetin Güneş (28) died in Ankara Closed Prison on 27 March. On 9 March he had been taken from Gaziantep Prison to Ankara, in order to be treated at Ankara Numune Hospital. On 24 March he was transferred from hospital to Ankara Closed Prison and died 3 days later. Çetin Güneş had written articles for the journal "Hedef" and joined the hunger strikes conducted after the abduction of Abdullah Öcalan. He had been imprisoned since 1989 and participated in the hunger strikes of 1996 that resulted in the death of 12 prisoners. Afterwards he suffered from "dilate cardiomyopathie". Reportedly his lung and liver had gathered water, he had lost weight, was constantly falling asleep and spitting blood. He had been released in 1997, but was imprisoned again on 5 July 1998 to serve a sentence of 16 months' imprisonment for an article in the journal "Alternatif" with the title "The Role and Characteristics of the Personality of a Militant in the Revolution in Turkey". İstanbul SSC ruled that the article contained separatist propaganda.

### **Uğur Hulagü Gürdoğan**

Uğur Hulagün Gürdoğan, held in İstanbul-Ümraniye Prison, died in Bayrampaşa Hospital on 20 April. Gürdoğan was on trial for membership of the Revolutionary Communist Union of Turkey (TİKB). When his health deteriorated he was taken to hospital at 1am on 20 April. He died at 4.30am. Officials stated that he died because of failure of respiration due to an influenza infection. He had been imprisoned since 3 years.

### **Oktay Yıldırım**

Oktay Yıldırım was killed in İstanbul-Bayrampaşa Prison on 19 May. Allegedly members of the DHKP-C killed him, because he was about to become a confessor, after he had been

sentenced to 12.5 years' imprisonment for membership of the DHKP/C.

Yıldırım reportedly informed the authorities of an attempt to escape in 1998 and was also accused that his testimony led to detention of prisoners' relatives.

### **Turan Ünal**

Turan Ünal, serving a sentence of 15 years', 2 months' imprisonment for membership of the DHKP/C in Çankırı Prison, was strangled to death on 4 July. Fellow prisoners accused him of having betrayed the organization.

### **Mehmet Fakir**

Mehmet Fakir, imprisoned in İstanbul-Metris Prison for causing bodily harm to someone, died in 11 July. Reportedly he court had ordered his release and he died, when he fell in the bathroom and broke his neck. The autopsy report stated that he died of brain bleeding as a result of a broken neck bone.

### **Eşref Özkaya**

The political prisoner Eşref Özkaya was taken from Tokat-Zile Prison to Ankara Numune Hospital because of complaints with his kidneys. He died on 13 July. His kidney problems allegedly resulted from torture and increased under prison conditions, Özkaya had been arrested on 21 October 1998 on allegations of supporting the PKK.

### **Mehmet Yıldız**

Common criminal Mehmet Yıldız committed suicide in Mersin E-type Prison on 21 July by hanging himself. Reportedly he had made another suicide attempt in 1998.

### **Murat Yeşilgöz**

Murat Yeşilgöz poured perfume over his body and set himself on fire in Amasya Prison on 8 August in support of Abdullah Öcalan and protest at the prison conditions. He was taken to Amasya State Hospital, but since there was no unit for burn wounds he was taken to Samsun State Hospital and from here he was transferred to Ankara Numune Hospital. He died on 12 August. Fellow prisoners alleged that the wounds had not been serious enough for him to die and asked for an investigation into the cause of death. Murat Yeşilgöz should have been buried in Toygülü village in Ömerli district (Mardin). This was not possible, because the village had been evacuated. He was taken to Tarsus, but soldiers did not allow the funeral. Finally he was buried in Adana.

### **Mehmet Canpolat**

Mehmet Canpolat, imprisoned in Ümraniye Prison, died on 9 August as a result of a heart attack. He had been arrested in May on allegations of transporting a bomb from Germany to Turkey and was arrested on charges of membership to the PKK. Allegedly he was tortured in detention. Other reports stated that he had undergone two operations of the heart and one operation of the stomach and his treatment was not continued in prison. Because of his poor health he had not been able to participate in the hearing at İstanbul SSC on 9 July. His wife Filiz Çevik was reported to be 5-month pregnant. Being held in the same prison she had a miscarriage on 27 July.

### **Selim Düzgün, Mustafa Yıldız**

Poet Yılmaz Odabaşı was imprisoned on 12 March in connection with his book "Dream and Life". He was released from Saray Prison on 8 September in connection with the Law on Suspension of Trials and Sentences of Editors-in-Chief. He made a statement after his release stating that two prisoners had died in Bursa E-type Prison. He alleged that Mustafa

Yıldız, who stayed in the same ward with him, died because of bad prison conditions. Guardians had killed Selim Düzgün.

The Justice Ministry commented on the cases that Selim Düzgün had been found to sell goods such as clothes and towels to fellow prisoners. Therefore, he had been put under observation on 4 July. On the third step of the staircase to the observation ward he had suddenly hit his head against the wall, had lost his balance and fallen on his back injuring his head. The Forensic Institute had concluded that the fractures might have been caused by hitting the wall and falling on the back.

Ali Suat Ertosun, General Director for Prisons, made another statement on 24 September. He could not clarify, how someone falling from a staircase with 6 steps had two different fractures of the head, but mentioned that the guardians Galip Meden and Hulusi Öz had been punished with a “warning” in connection with the death of Selim Düzgün.

On the death of Mustafa Yıldız, Ali Suat Ertosun related that he had fallen ill on 9 June. He had been taken to hospital and died on 16 June. His death had been caused by failure of respiration and circulation due to a brain edema. An investigation had been conducted under the number 1999/23382 and nobody had been found to carry responsibility for this death.

### **Ecevit Sütçü**

On 9 September the corpse of Ecevit Sütçü, imprisoned in Bayrampaşa Prison for drug dealing, was found. Reportedly two prisoners killed him, because he worked for the police.

### **Ferdi Heybet, Hasan Taşkın, Bilal Coşkun, Murat Özlü, Eser Yalçın Özşahin, Hüseyin Çalıřkan, Kemal Ali Gürsel**

On 20 September a clash between two Mafia groups broke out in İstanbul-Bayrampaşa Prison resulting the death of seven and injuries of 3 people. The clash started at 2.30pm, when Kemal Ali Gürsel, imprisoned for his involvement in the killing of Tefvik Nurullah Ağansoy, was wounded in the place for visitors. Reportedly the “men” of Hakan Çilliođlu shot at Kemal Ali Gürsel, the nephew of Alaattin Çakıcı. Subsequently the two groups clashed with knives and sticks. The clash lasted until 7.30pm and resulted in the death of Ferdi Heybet, Hasan Taşkın, Bilal Coşkun, Murat Özlü, Eser Yalçın Özşahin and Hüseyin Çalıřkan. Kemal Ali Gürsel died in hospital. Hakan Çilliođlu, Hüseyin Temiz and Ali Rıza Sakarya were wounded. During the incidents 15 guardians had been taken hostage. They were liberated in an operation carried out by the gendarmerie. Relatives of both sides alleged that Çilliođlu and Gürsel had been in dispute on the dominance in prison. The prison administration was responsible for the incident, because both men had been put in the same ward.

A court case was opened in connection with this incident. A total of 33 people including Hakan Çilliođlu and the deputy prison directors Müslüm Teke and Recep Şensoy were first charged at Eyüp Criminal Court No. 1. During the hearing of 23 November the Court ruled that the state security court had to deal with this case and declared itself not competent.

### **Abdülkadir Yılmaz**

Abdülkadir Yılmaz died in Diyarbakır E-type Prison on 25 September. Fellow prisoners declared that medical neglect had been the cause for the death. The sickroom in the prison was not sufficiently equipped and in the hospital Abdülkadir Yılmaz had not received the necessary treatment. The prisoners stated further that the prisoners İhsan Biç, Nezir Özdemir, Selahattin Humartaş, Kadri Gökdere, Abdullah Azizođlu, Fettah Karataş, Muhyettin Sevinç and Bahri Dađ were ill, but did not receive any treatment.

## **İhsan Biç**

One of these prisoners, İhsan Biç, died on 9 October. İhsan Biç was reportedly suffering cirrhosis. When his situation deteriorated he was taken to hospital on 28 September. The physicians reportedly stated that they could not do anything and he was taken back to prison. İhsan Biç had been detained in Yukarı Harın village in Bismil district (Diyarbakır) and was remanded for his alleged membership to the PKK.

On 11 October the lawyers of İhsan Biç appealed to the ECHR alleging a violation of Article 5 and Article 6 of the EHRC granting a fair trial. The lawyers argued that the trial against him had lasted too long and their requests for release had not been met.

## **XX**

On 17 November an unnamed prisoner of Iranian origin committed suicide in Ankara Closed Prison. He had been arrested on 15 November on allegations of theft. His name could not be established, because he had no papers on him.

## **Cemal Uçar**

Cemal Uçar, an alleged militant of Hezbollah, reportedly committed suicide in Diyarbakır E-type Prison on 24 November by hanging himself. He had been on trial with the demand of the death penalty for the violent attempt to overthrow the constitutional order

## **Yavuz Güzel**

Yavuz Güzel set himself on fire in Bartın Prison on 30 November in protest at the death penalty passed on the PKK leader Abdullah Öcalan. He was taken to İstanbul-Haydarpaşa Numune Hospital, where he died. Fellow prisoners alleged that he died because of negligence, since the burnings had been 60%. Yavuz Güzel, who had been sentenced to life imprisonment, had spent 6 years in prison.

## **Mehmet Nuri Adlığ**

Mehmet Nuri Adlığ, convicted in a PKK trial and sentenced to 12.5 years' imprisonment for membership, died in the intensive care unit of the medical faculty of Dicle University (Diyarbakır) on 2 December. In October he had been transferred to the hospital from Batman Prison because of a heart disease and was operated in 1 December. The operation reportedly lasted 11 hours.

The permission for burial issued by the public prosecutor in Diyarbakır stated that the prisoner died of heart failure, but the brother Tekin Adlığ alleged that his brother died because of torture. His elderly brother had been detained in 1992 and stayed in detention for 33 days. During this time he had been subjected to all kinds of torture. After 4 years he had been released. In February 1997 he had been detained again and had been tortured at Diyarbakır Police HQ during 9 days of detention. He had been arrested, because of a sentence in the first trial, where he had been punished by 12.5 years' imprisonment. Tekin Adlığ further alleged that they had asked for treatment many times, but only in October his brother had been transferred to a hospital, where they had to pay for the medication.

## **Mustafa Uyumaz**

Mustafa Uyumaz (51) died in the observation unit of Samsun Prison on 19 December. He had been sentenced to life imprisonment for murder. In the night of 19 December he fell ill and died on his way to hospital.

## **Necmi Akgün**

The political prisoner Necmi Akgün (61) died in Aydın E-type Prison on 24 December. He

had been taken to Aydın State Hospital during the day, but was sent back to prison supplied with serum. Fellow prisoners reported that Necmi Akgün's health deteriorated once again, but he refused to be taken to hospital, because he was afraid that the soldiers would ill-treat him on the way there. Türkan Aslan, lawyer of Necmi Akgün, stated that she had asked for an early release of Necmi Akgün, who had been in prison for 9 years, according to Article 399 TCPC. She had sent the petition to the public prosecutor in Aydın on 12 October, but had not received a reply. Türkan Aslan alleged that Dr. Ercan Harıkcı, employed in Yeşilyurt State Hospital (İzmir) had consciously protected the examination that needed to be done there. She said that she would file an official complaint against the physician. A first report issued at this hospital had stated that Necmi Akgün suffered from untreatable cancer.

### **Sinan Er**

On 7 May the trial against 9 repentant confessors from Diyarbakır E-type Prison concluded at Diyarbakır SSC. The defendants were accused of having killed the prisoner Sinan Er under torture on 6 March 1993. Diyarbakır SSC sentenced Mustafa Güneş, Halit Aslan and Kasım Çatak to 8 years, 4 months' imprisonment and acquitted Ahmet Tosun, Ramazan Soylu, Aslan Asal, Yüksel Önen, Mahmut Estaş and Ahmet Aslan.

### **c) Health Care in the Prisons**

Negative aspects of health care in the prisons increased in 1999. Many prisoners with complaints resulting from hunger strikes were not treated.

The pressure of prison administrations on physicians in prisons continued. Treatment of prisoners was prevented under the pretext that there was no budget for the transport or the administration of the prison did arbitrarily not allow the treatment. Reports indicated that gendarmerie soldiers insisted on being present during examinations and/or did not remove the handcuffs.

In a letter to the public prosecutors Ali Suat Ertosun, general director for the prisons, accepted gaps in the treatment of prisoners. In the letter of 13 September he said that some prison directors did not forward the patient cards or archive information on the prisoners and, therefore, "the files of many prisoners, who need treatment, are not forwarded and have to be examined again for the same complaints. This leads to a delay in treatment."

Here are the names of some political prisoners, who were not treated in 1999:

Ali Ekber Akkaya, Ali Yalçın, Muharrem Gündüz, Nursel Demirdöğen, Mehmet Güvel, Ünal Yılmaz, Dinçer Açar, Gülderen Baran, İkrâm Narin, Mehmet Ali Çelebi, Cafer Cangöz, Celal Turpçu, Murat Güleç, Veysel Akpınar, Oktay Karataş, Cemil Tiryaki, Binali Sarielmas, Cuma Şat, Fesih Karataş, Fahrettin Altun, Gülser Tuzcu, Habibe Çiftçi, Hüseyin Kırac, Mürşehit Durna, Hayrettin Toktaş, Leyla Akbaş, Leyla Büyükdağ Bütüner, Musa Gündoğdu, Münevver Köz, Nuray Ekingen, Nurettin Bahtiyaroğlu, Nusret Kılıç, Sadrettin Aydınlik, Şengül Mert, Şaban Tonta, Yaşat Hak Aslan, Selma Batmaz (in Kırklareli Prison): Veli Kılıç, Zeynep Bektaş and Akın Durmaz (in Ankara Closed Prison): Filiz Gülkokuer, Mehmet Özgen (2 legs amputated), Zübeyde Güveş, Nevzat Özgen, Memduh Kılıç, Reşit Koymaz, Cemal Çağan, Veysi Çelikten, Kenan Altın, Önder Sezgin (2 eyes missing), Veysel Kurt (1 eye missing); Semire Direk (in Midyat Special Type Prison): Hacer Halil Yusuf and Saadet Kuran.

The Prison Observation Commission of the HRA carried out a research in 34 prisons and found the following diseases of prisoners:

"226 persons with problems of the stomach, 142 persons with infection of the upper respiration ways, 104 persons with a trauma, 89 persons with an anemia, 35 person with high blood pressure, 123 persons with inguinal hernia, 78 persons with rheumatism, 52 persons with complaints in

muscles and joints, 67 persons with heart problems, 107 persons with problems in the urinary tract, 92 persons with sight problems, 45 persons with hearing problems, 57 persons with frontal sinusitis-respiration, 36 persons with chronic farangite-tansillite, 59 persons with migraine, 22 persons with the Wernicke-Korsakoff syndrome, 61 persons with TBC, 7 persons with burn marks, 5 persons with neck pains, 3 persons with diabetes, 19 persons with skin problems, 18 persons with women's diseases, 12 persons with an allergy, 52 persons with tooth problems, 57 persons with Hepatitis-B, 10 persons with insufficiency of the liver, 35 persons with problems of the intestines, 29 persons with psychological problems, 9 persons with thyroid problems, 25 persons paralyzed, 25 persons missing an organ, 10 persons with cancer and 16 persons with epilepsy."

## **Medical Neglect of Prisoners**

### **Murat Kaya**

Murat Kaya, who had set himself on fire on 18 October 1998 in protest at the abduction of Abdullah Öcalan, was not treated in 1999. (See HRFT 1998 Report.)

Kaya's lawyer, Şafak Yıldız, declared at the end of May that the life of her client was still in danger. His eyes might close because of the backwards development of the skin. There was a high risk of him going blind. Yıldız alleged that the treatment was not done on purpose, neither in İstanbul nor in Ankara. Later Yıldız stated that Murat Kaya had been taken to the medical faculty in Cerrahpaşa in June, but he had not been treated at the hospital. Binevş Kaya, mother of Murat Kaya, alleged that soldiers prevented her to see her son in hospital. One physician allegedly said: "The situation of your son is not urgent. We have no place for him".

### **Leyla Büyükdağ Bütüner**

Leyla Büyükdağ Bütüner, whose lens in one eye was damaged as a result of torture, should have been taken for treatment from Gebze Special Type Prison. The Justice Ministry had sent an order that she be examined at the forensic institute, but the gendarmerie in charge of outside security did not allow the transfer.

Bütüner had applied for a suspension of her sentence, but the application had been rejected on 17 September 1998. At the time the forensic institute had argued that her treatment could be done under prison conditions. Leyla Büyükdağ Bütüner was reportedly at risk of losing her sight, if a bleeding occurs in her eyes and an intervention is not done within a few hours.

On 20 March her brother Yusuf Büyükdağ and the lawyer Turan İçli, chairman of the Federation of the Blinds, appealed to the Ministry of Justice and the chair for the disabled in the Prime Ministry. They stated that Leyla Büyükdağ Bütüner, who was also suffering from inguinal hernia, was at risk of getting blind, if she was not treated.

The Ministry of Justice inspected various reports and on 19 July the prisoner was transferred from Gebze Prison to Bakırköy Prison for Women and Children. Bütüner had been sentenced to 12.5 years' imprisonment for membership of an illegal organization. The Court of Cassation ratified this sentence. She appealed to the ECHR, but no decision was taken in 1999.

### **Filiz Gülkoker**

On 14 April HRA Ankara branch chairman Lütfi Demirkapı declared that human rights organizations had obtained the necessary tool for a treatment of the Mediterranean anemia, the prisoner Filiz Gölkuher, imprisoned in Ankara Closed Prison, was suffering from, but the prison administration had not allowed the machine into prison. Demirkapı alleged that this might cause her death and demanded that the machine, obtained by the

Human Rights Foundation of Turkey, be allowed into prison.

On 22 October Demirkapı made another statement alleging that Gülsörner had been severely beaten in prison.

### **Işıl Taybaş**

The political prisoner Işıl Taybaş, imprisoned in Gebze Special Type Prison, was reportedly not treated, although she had a heart attack. Fellow prisoners stated that Taybaş, who had been convicted for membership of Dev-Sol and sentenced to 12.5 years' imprisonment, had a heart attack on 9 March, but was not taken out of the ward for 2 hours. Later she was taken to İstanbul-Kartal State Hospital, but sent back to prison on the pretext that no ward for prisoners existed in hospital.

### **Hanım Baran**

Hanım Baran, imprisoned in İstanbul-Ümraniye Prison, was reportedly not treated, despite cancer in the ovary. Her lawyer Şafak Yıldız declared that Hanım Baran had been sentenced to 45 months' imprisonment for supporting the PKK. At the beginning of June she had been taken to the birth service in the hospital of Cerrahpaşa medical faculty. She had been diagnosed to suffer from cancer in the ovary. The physicians had stated that they could not operate her, because her stomach had gathered water. According to the physicians Hanım Baran had just 10 days to live. Şafak Yıldız demanded that the execution of the remaining 18 months' imprisonment should be stopped.

Şafak Yıldız further said in the press conference at the HRA in İstanbul that she had appealed to the prosecutor in Üsküdar and the forensic institute so that her client could benefit from Article 399 TCPC. The investigation of her appeal would last at least 2 months, which meant that her client would die, before she got an answer.

AI issued an urgent action on behalf of Hanım Baran on 24 June.

On 2 July the prosecutor in Üsküdar sent her to the forensic institute. She was examined for one hour and sent back to prison. Based on this report Hanım Baran was released from prison in July, after having spent 14 months in prison.

Hanım Baran died on 31 December.

### **Fatma Buldu**

In Adana Kürkçüler Prison Fatma Buldu (30) was reportedly not treated, although she was suffering from bloodlessness. Lawyer İsmail Kartal stated on 24 July that Fatma Buldu was imprisoned since two years and had health problems because of torture and bad prison conditions. A short while ago she had been taken to Adana State Hospital, but was not treated. Cemile Buldu, the mother of the prisoner, said that her daughter could not meet her needs. From time to time she could not use her arms or could not walk. Fellow prisoners had to assist, if she wanted to meet visitors.

Fatma Buldu, former chairwoman of HADEP for Çiğli district (Adana) was on trial at Adana SSC. On 17 August the court convicted her for support of the PKK and sentenced her to 45 months' imprisonment.

### **Filiz Çevik**

Filiz Çevik, on trial for membership of the PKK, had a miscarriage. On 26 July she was taken to Haydarpaşa Numune Hospital. On 27 July she was taken back to prison, but had to be taken to hospital again the next day. Dr. Nurettin Akan carried out a Caesarian section, but the baby died when the umbilical cord strangled it. During a hearing on 9 July

Filiz Çevik had asked İstanbul SSC for release in order to deliver her baby under suitable conditions. This demand had been rejected. Filiz Çevik also stated that she had been tortured in detention.

### **Gülseren Özdemir**

Gülseren Özdemir was reported to be suffering from tuberculosis in an advanced stage. On 27 July she was taken from Ümraniye Prison to Haydarpaşa Numune Hospital, when blood came out of her mouth. She was diagnosed to suffer from tuberculosis, but the physicians stated that she did not have to stay in hospital. When her situation deteriorated again she should have been taken to hospital once again, but the prison administration allegedly prevented it.

The trial against Gülseren Özdemir charged with having killed the police officer İsmail Akkoyun in İstanbul-Ümraniye on 28 November 1997 and being a member of the PKK continued in 1999. She was tried together with Mehmet Çelik with the demand of the death penalty. The trial did not conclude in 1999.

### **Sadık Erdem**

Sadık Erdem, who had been detained in Tunceli in 1999 after an armed clash, was reportedly held in isolation for 6 months in Malatya Prison. His mother Sultan Erdem told the HRA in İzmir on 6 August that her son had four bullet wounds on his knee and shoulders and was suffering from fractures in the body. She added: "After the torture in Tunceli my son was taken to Diyarbakır. Here he was tortured another 41 days. Later he was taken to hospitals in Ankara, Muğla and Malatya. But each time he was taken back to prison, without having been treated. He is also under pressure of becoming a repentant confessor."

### **Gülay Efendioğlu**

Reports from Malatya E-type Prison stated that guardians beat Gülay Efendioğlu on 6 September. Gülay Efendioğlu had been partly paralyzed after that, but was not treated. The guardians had beaten her, when she taking her out of the ward to attend a hearing with another 10 prisoners. She later reported: "They beat us with truncheons and belts. I was wounded to my head and neck. Having lost my consciousness I was taken to Malatya State Hospital in a coma. I woke up from time to time and realized that I was not treated. I heard the staff say 'why did they not kill her?' In the end I got a few stitches to my head and was sent back to prison. In the hospital I could not feel my right leg and could not move my neck. Despite all this, the prison doctor Nail Umay looked at me from a distance and said that I was in good health, before he sent me to the ward." Efendioğlu added that she was taken to hospital again later, but again was not treated. Even though she was paralyzed she had been chained by her leg on the way to and from hospital.

### **Sabri Taş**

Sabri Taş, imprisoned in Diyarbakır Prison with a sentence of 36 years' imprisonment in a trial against the PKK, was reportedly not treated. His wife Zeynep Taş stated at the end of October that her husband had been detained in 1992. Due to the torture in detention problems with his heart started, but whenever he was taken to the prison doctor he was handcuffed and beaten.

In December Zeynep Taş approached the HRA in Batman and complained that he husband had been transferred to a hospital a few times, but always met with preventive acts of the gendarmerie. He had always been taken back without treatment. She said: "My husband had not health problems, when he was detained. The complaints started two

years ago. He has a weak hear and later caught pneumonia. Each time I see him in prison he has shrunk a little more. The guardians give us the prescriptions of the doctors. Last Thursday I went to see him again and his situation was worse than ever. I got 4 prescriptions. Over the last 2 years I have had great problems in buying the necessary medicine. Now I am unable to buy them.”

### **Yıldız Ağaoğlu**

Yıldız Ağaoğlu (27) was detained in Mazıdağı district (Mardin) on 13 October 1992. At the end of October Eren Keskin, chairwoman of the HRA in İstanbul stated that Yıldız Ağaoğlu had been held in detention at the gendarmerie headquarter in Mardin for 30 days. She had been hosed with water under high pressure, had been put on the hanger, beaten, given electric shocks and stripped naked. A knot had developed in her chest and she was complaining about swellings in her belly. Keskin suspected that Yıldız Ağaoğlu might have been raped in detention, because similar complaints had been made from other victims of rape. Eren Keskin added that Ağaoğlu was not treated and asked for a transfer to İstanbul, because the treatment was not possible in Mardin. Lawyer Keskin added that she would demand a temporary release according to Article 399 TCPC.

Following the hearing at Diyarbakır SSC on 25 November Yıldız Ağaoğlu was released.

### **Yücel Balyacı**

Yücel Balyacı was detained after an armed clash in Tunceli province in September. He had been wounded by two bullets to his leg. His lawyer Şehnaz Turan declared in November that her client was not treated. He had frequently been taken for interrogation under the pretext of seeing his lawyer or being transferred to the infirmary. The police officers had tried to persuade him to become a repentant confessor. The lawyer continued: “When I met him, six prisoners carried him in a blanket. Because of his wounds he cannot get out of bed. Despite of his wounds he was interrogated several times. He was taken to Elazığ State Hospital for treatment. He told me that he was operated twice, one of the bullets was taken out, but the other bullet was still in the leg. During one of the operation some metal was placed in his leg. Since the necessary care is not done he has an inflammation of the wound. The leg now looks twice as thick as it is. He is only getting pain-killers.”

Hacı Balyacı, the brother of Yücel Balyacı, told that he went to see his brother in December. “I could hardly recognize him. He consists only of bones and skin. His friends had to carry him, because he cannot walk. On 13 November he was taken to Elazığ State Hospital, when he got sick. He was held in the cellar for three days with his hands being tied to the bed. He did not get anything to eat and was put under pressure to become a repentant confessor.

### **Remzi Altun**

In 1997 Adana SSC had sentenced Remzi Altun to 12.5 years' imprisonment for membership of the PKK, but the Court of Cassation had quashed the sentenced. The health of Remzi Altun deteriorated allegedly because of torture in detention and bad prison conditions. His right arms and neck were reportedly paralyzed, because he had not been treated. The same applied to his left leg and left arm.

His father Sadık Altun stated that his son could not come to the visitors' cabin, unless two people supported him. “He cannot stand on his feet. His friends say that his situation is getting worse each day. He cannot meet his needs without the friends. During his trial he constantly fainted and told the court that he was in need of treatment. We, too, asked for treatment, but our demands were ignored. The State is responsible for the situation of my

son". Sadık Altun added that he approached the State President, but did not receive an answer.

#### **d) General Situation and Pressure in the Prisons**

Pressure, in particular on political prisoners continued in 1999. Preparations for the transition to cell-type prisons were started and in some cases prisoners were not allowed to meet their relatives. In other cases demands to be transferred to other prisons were not met.

Tekin Yıldız, chairman of the prison staff trade union Tüm Yargı-Sen, stated that 29,000 staff was employed in the prisons with an additional need of 12,000. He said: "The prisons are a paradise for members of the mafia. In İskenderun and Bayrampaşa they killed two of our friends. The personnel is constantly threatened in order to keep up their privileges. Our colleagues have no complaints about political prisoners, in particular not about prisoners of conscience. They did not threaten the security personnel and act in an understanding manner. From time to time political prisoners take guardians hostage, but they do not use force against them, since their demands are not directed at them personally".

Murat Çelik, chairman of the Association of Contemporary Jurists (ÇHD) in İstanbul, said that the State was in a position to solve the problems in the prisons and argued that no problem would remain if international standards were applied. "The State has to create the conditions for everyone to lead a humane life. In the prisons some people live in luxury. They can bring in everything, even machines to prepare special food. Other prisoners are unable to get their medicine or get a book from outside".

In June the Ministry of Justice issued a decree that only allowed relatives of the first degree to visit the prisoner. This raised tension between the families, the prison administrations and the prisoners. The relatives declared that this decree was in violation of UN convention and the European Human Rights Convention.

After Abdullah Öcalan left Syria in 1998 and when he was abducted and brought to Turkey and also during his trial many prisoners, mostly on trial or convicted in PKK trials, but also other political prisoners staged a variety of actions including hunger strikes. The interventions of gendarmes and guardians resulted in injuries of the prisoners and subsequently health problems of them.

Another element that contributed to the tension in prison was the discussion on an amnesty. During 1999 various actions were conducted with the demand of a general amnesty. After the State President vetoed the amnesty bill passed in the GNAT, prisoners conducted a number of actions with the demand of a new amnesty bill to be introduced as soon as possible. Prisoners in Bayrampaşa Prison, for instance, took 6 guardians hostage on 17 December and sent the ward B-2 on fire. Four guardians were rescued in an operation by the gendarmerie and the other two were set free in the evening, after talks between the prosecutor and prisoners. It was alleged that the action was started in protest at members of the Human Rights Commission in parliament, who had visited the prison on 16 December, but had not given satisfactory answers on question of the prisoners on an amnesty.

Many political prisoners staged hunger strikes in protest at the pressure in prison, being forced to become repentant confessors, or the refusal to be transferred to other prisons for reasons such as "no ward for political prisoners". The names of some of these hunger strikers were: Nesim Yıldız, Mehtap Tayboğa, Cemal Sürgeç, Aydın Keser, Sinan Doğan, Mehmet Candemir, Yakup Soylu Ömer Kutal, İmam Çelikdemir, Nurettin Geçit, Hüseyin Kar, Kemal Evcimen, Atilla Selçuk, Cemal Yaşar, İrfan Yıldız, Sami Kol, Şefik Akol, Murat

Cingöz, Şaban Murat Özten, Ceyhan Özdemir, Zeki Ardiç and Erkan Doğan.

The hunger strike conducted by Kemal Ertürk and Bülent Ertürk, tried with the demand of the death penalty for the assassination attempt on the governor of Çankırı on 4 March, was supported by many prisoners in other prisoners. Kemal and Bülent Ertürk had been sent to Eskişehir Special Type Prison. They claimed that they were not safe there and asked for a transfer to Ankara Closed Prison, since their trial was conducted in Ankara. Their families approached the Justice Ministry and the lawyers appealed to İstanbul Bar Association with the same demand.

When the requests were not met Kemal Ertürk started a hunger strike on 18 May. Bülent Ertürk started his hunger strike on 25 May. Lawyer Filiz Kalaycı and the father Dursun Ertürk spoke on a press conference organized by the HRA in Ankara on 6 July. They stated that both prisoners were in a critical situation because of their hunger strike against the pressure of MHP prisoners and the prison administration and for their transfer to Ankara Closed Prison. Prisoners in other prisons started actions such as hunger strikes, occupation of the open air space or refusal to be counted in support of the Ertürk brothers.

On day 58 of his hunger strike Kemal Ertürk was reportedly taken to hospital, when his health deteriorated. Allegedly he refused treatment and was taken back to prison. His lawyers stated: "He is conscious, but not looking well and cannot hear. He has difficulties in speaking. He has lost weight. He said that he feels a burning pain inside, has headaches, hears sounds, cannot sleep, is frequently vomiting and cannot walk".

On 16 July the lawyer Muharrem Çopur appealed to the ECHR asking for transfer and treatment of Kemal Ertürk and Bülent Ertürk. The ECHR asked the Turkish government on 20 July: "What are the conditions of the hunger strike? What is the state of health of the prisoners and what kind of measures has the prison administration taken? What kind of effect does the distance of the prison to the place of trial have on their right of defense?"

On 20 July prisoners in Ankara Closed Prison, Çankırı, Bursa, Bergama, İstanbul Bayrampaşa, Sakarya and Buca started against in support of Kemal and Bülent Ertürk. They took hostages, 8 in Ankara (4 of them female), 14 in Çankırı E-type Prison, 5 in Bursa Special Type Prison, 6 in Bergama Prison, 3 in Çanakkale E-type Prison, 7 in Bartın Prison. Elsewhere prisoners refused to be counted or occupied the open-air space. The prison administrations cancelled visits.

After long negotiations Kemal Ertürk and Bülent Ertürk were granted transfer to Ankara Closed Prison on 21 July. They were taken under treatment and the actions in other prisons stopped.

Kemal Ertürk had been taken to hospital on 27 July. He was discharged on 27 July. On this date officials in Eskişehir Special Type Prison stated that they had not received orders from the Ministry of Justice for a transfer of Kemal Ertürk and Bülent Ertürk.

### **Ankara Central Closed Prison**

First signals for the massacre in Ankara Central Closed Prison (Ulucanlar) on 26 September started at the beginning of the year. In January allegations were raised that a tunnel had been discovered in the women's ward. On 30 January a fight between guardians and prisoners broke out resulting in injuries of the guardians İsmail Ercan, Tacettin Hasret, Nuri Coşkun and Necati Akar and the prisoners Ömer Keskin, Adnan Keçe, Mehmet Köse and Dursun Avcı.

On 4 March the daily "Radikal" quoted from an intelligence report on Ankara Closed Prison. The report claimed that the prison was under control of PKK militants. Some

officials in the prison allegedly supported the militants. Members of the organization had intimidated the staff with threats and bribes.

In mid-March the public prosecutor in Ankara indicted 28 prisoners, 22 of them convicts on charges of having dug a tunnel with the purpose of an escape from prison. The indictment alleged that a tunnel had been found in the women's ward on 26 January. In connection with this incident the remanded prisoners Alev Yılmaz, Selda Yıldız, Tülin Doğan, Fatma Hülya Tümgan, Edibe Tozlu and Rezzan Zümbül and the convicts Sabiha Sunar, Yıldız Alpdoğan, Esmehan Ekinci, Başak Otlı, Fatma Akalın, Döndü Özer, Ayten Öztürk, Nergiz Şahin, Filiz Gülkoşar, Hatice Yürekli, Hayriye Keskin, Ayşe Betül, Filiz Uzal, Sevgi Ünal, Sultan İzra, Emine Mısır, Safiye Akalın, Evrim Turan, Cemile Sönmez, Esen Erdoğan, Cemaat Ocak and Sibel Aktan were indicted under Article 299/3 TPC with a possible sentence of up to 8 years' imprisonment.

At the beginning of September the prison administration cancelled visits as a reaction to actions by the prisoners in protest at overcrowding of the wards. The police prevented officials from the HRA and ÇHD to hold a press conference in front of the prison on 13 September. Relatives of the prisoners alleged that three prisoners had to share one bed. "For about two years the prison administration has done nothing to make use of new wards in order to avoid overcrowding. The prisoners had to sleep in the open-air space during the summer and were forced to occupy an additional ward. Although the prisoners do not refuse to be counted the administration has stopped to count them." Various NGOs made calls for an improvement of the prison conditions, but despite finding a solution the operation of 26 September was conducted, resulting in the death of 10 prisoners.

In an incident on 7 December 8 people, 3 of them guardians were injured in Ankara Closed Prison. Following a hearing at Ankara SSC the alleged Mafiosi Fatih Mehmet Bucak (nephew of DYP MP Sedat Bucak) and five "men" were transferred to prisons in Niğde and Kırşehir. Since they did not return to the prison other members of the gang lit fires in some wards. They injured five fellow prisoners and three guardians, who wanted to hinder them.

### **Ümraniye Prison**

Prisoner in İstanbul-Ümraniye Prison made a statement at the beginning of January stating that they soldiers beat them on their way to and from court. They also alleged that their treatment in hospital was obstructed. The prisoners complained that there were only very few cabins for visitors and accused the prison administration of misinforming the public by saying that the prisoners rioted and they could not enter the ward, although the prisoners did not refuse to be counted.

On 7 May political prisoners in Ümraniye Prison occupied a part of the prison used by guardians, after their demand to use this section as a ward had been rejected.

### **Adana Prison**

During the earthquake of 27 June 1998 parts of the Kürkçüler E-type Prison (Adana) had been damaged and 29 political prisoners had been transferred to Gaziantep Prison. At the beginning of January they were taken back to Adana and alleged that they were attacked during the transfer resulting in injuries of five of them.

On 9 April 150 political prisoners in Kürkçüler E-type Prison protested at the cancellation of representation of the prisoners by not meeting their visitors.

On 13 May political prisoners from various groups issued a statement: "The administration does not solve any problems and under the slightest pretext soldiers are called into prison. The prisoners are threatened this way and the situation is kept tense." Gönül Kızmaz,

Mehmet Tutaş and Efrail Kızılyamaç stated after their release on 10 May that many prisoners were coughing and had fever. They accused the prison administration of being indifferent on sickness. They added that diseases might spread easily because of the hot weather and overcrowded wards.

### **Bingöl Prison**

Report from Bingöl Prison stated that 41 prisoners on trial for membership of Hezbollah and involvement in various killings had been put into isolation, because they had started an action asking for their transfer to other prisons. The prisoners alleged that guardians had attacked the prisoners on 12 January. They demanded to hold the Friday prayers together and to get back to their wards.

In May relatives of the prisoners stated that the pressure had increased. The prisoners did not get enough to drink and eat. Actions of the prisoners continued in June. They were supported by some 500 prisoners held in Mardin, Diyarbakır, Elazığ, Şanlıurfa and Bandırma.

The Commission to Observe Human Rights Violations, working on behalf of the human rights organization Mazlum-Der, issued a statement in July. The Commission alleged that some 300 soldiers and about 250 guardians attacked the prisoners in Bingöl on 28 December 1998 on the pretext of a search. The prisoners had been put in cells and started to resist. In response the prison administration had cut food and heating. Later electricity and water had been cut, too. On 12 January the resistance had been suppressed with gas bombs and the prisoners had been locked in cells under beatings. The report also alleged that the prisoners were forced to strip down to their underwear, when they came back from trials or the hospitals. Often they were unable to go to court or hospital.

### **Buca Prison**

Incidents broke out in İzmir-Buca Prison on 21 December 1998, when soldiers prevented two visitors (one of them female) to take the journal „Kurtuluş” into the prison. Eight people, including two prisoners were injured. The prisoners protested by not going back to their wards. Some of them reportedly burned blankets. The tension in prison vanished after prisoners and the administration reached an agreement in the evening of 22 December 1998.

On 17 June the Prison Commission of the İzmir branch of the HRA stated that the pressure in Buca Prison had increased during the year. The Commission alleged that the prison administration ran the premises based on violence and force. The problems were listed as: “It is no longer possible to buy certain stationary from the canteen. Some publications that can be bought legally outside the prison are not allowed in prison. Some letters are not handed over, others are given very late. Letters written by the prisoners are not forwarded immediately. The right of representatives to receive visits was granted earlier. Now they are not allowed to receive visits on Fridays. Talks between representatives and prisoners on 7 June did not show any result. On 11 June guardians attacked the representative Ali Osman Çöpel on his way to the visitors and repeated the attack in the open-air space. When female prisoners reacted the guardians also attacked them with truncheons and kicked them. The prisoners Ali Osman Çöpel, Nuray Özçelik, Hüsne Davran, Hülya Tüküç, Mürüvet Küçük and another 3 female prisoners were injured in this attack”.

On 5 August the prisoners in Buca started a protest against the prevention of meeting prisoners in other wards and not treating sick prisoners by refusing to be counted. On 11 August guardians tried to enter the wards and a fight broke out that resulted in injuries of

the guardians Nazif Türk, Yaşar Türk Bilgi, Rıza Yılmaz and Murat Doğan. They were taken to hospital and treated as outpatients. Prison officials alleged that the prisoners tried to set the prison on fire. Relatives were prevented from visiting the prisoners.

The action of the prisoners continued until September. On 20 September relatives asked AI to intervene so that the demands of the prisoners would be accepted. They stated that the prisoners did not meet visitors, because they feared for their security.

The action was terminated on 11 October. Lawyer Ahmet Hamdi Yıldırım stated: "The negotiations had come to a standstill on the question of meeting prisoners from other wards. The problem of body searches during visits of the lawyers was solved by conducting the searches with electronic devices. The Ministry of Justice has promised to look into requests for transfer. Male prisoners will be sent to Bergama and female prisoners will be taken to Uşak Prison. Convicts will be transferred to one of three prisons that they prefer".

Problems occurred during the transfers. The Prison Commission of the İzmir branch of the HRA stated that Yavuz Mamaç and Akın Demirci were transferred to Aydın E-type Prison on 9 November. At the entry they had been forced to strip stark naked in order to be searched. "They were tortured in order to undress. Attacks on prisoners must stop and their life security has to be granted."

### **Burdur Prison**

Pressure in Burdur Prison reportedly increased in April. The photographs of the prisoners were disposed in the corridor to the wards. It was also alleged that books, sent for the prisoners, were not delivered. The prisoners refused medical treatment, because the handcuffs were not removed during treatment.

In September relatives of the prisoners stated that joint visits had been banned in the prison. One prisoner, whose name was not known, had been beaten by the prison director, when he was taken to hospital for an examination. The statement also alleged that 5 prisoners, who had been taken to Burdur after the incident in Ankara Closed Prison, were not treated-

On 30 September the prisoners in Burdur started to boycott appointment with physicians and did not meet their lawyers or relatives. The relatives of prisoners Olcay Ergün, Hüsne Mitil, Hatice Tiryaki, İnce Günay and Necip Denli spoke at a press conference in the premises of the HRA in İstanbul on 9 November. They claimed that a similar massacre to the one in Ankara was planned for Burdur. At the beginning of October guardians had entered the wards and demolished the belongings of the prisoners. Some belongings had been confiscated and the guardians had also insulted and provoked the prisoners.

Fahriye Aydın, who went to see a relative in Burdur Prison on 21 October, stated that the prison administration was working together with the political police and soldiers in order to create an atmosphere of provocation. She had faced difficulties to visit her relative and had talked to the prison director Katip Özen. This director had been appointed to Burdur Prison from Erzurum Prison. He had told her that he would make Burdur Prison look like the prison in Erzurum. He had allowed her to meet her relative only for half an hour and told her that this was an official place, where she was obliged to do, what was told her.

On 25 November the prisoners declared that the Director Katip Özen was responsible for the problems in the prison. He did not enter a dialogue and did not accept representatives of the prisoners. The prisoners stated: "The massacre of Ulucanlar shall be completed here. The chief prosecutor claims that there is no problem in prison. He and the director

Katip Özen are implementing the incidents”.

On 11 November prisoners on trial for membership of MLKP, TKP (ML) and DHKP/C made a statement from Burdur Prison, alleging that an article in the daily “Milliyet” of 7 November entitled “Burdur Prison is like an organizational flat” served no other purpose than to legitimate an attack in the prison.

On 3 December relatives of prisoners held a press conference at the HRA in İstanbul. They alleged that the prisoners, who had been transferred to Burdur E-type Prison after the massacre in Ankara Closed Prison, were under intense pressure. Selvi Çakmak, sister of the injured prisoner Cemal Çakmak, stated that she had gone to see her brother during the last week. The prison director had told the relatives waiting in front of the prison that they should go away, if they did not want Burdur to become another Ulucanlar case. Her brother had 3 bullets and parts of a nail in his body. One bullet and the piece of nail had been removed by an operation, but her brother had not been given the necessary medicine.

### **Siirt Prison**

Repentant confessors, soldiers and guardians attacked prisoners in Siirt E-type Prison on trial for membership of the PKK on 27 January. The prisoners stated that the wards were demolished and declared that they would go on hunger strikes in groups, three days for each group.

On 27 April Kenan Sidar, chairman of THAY-DER, met with the prisoners. After the meeting he stated that the visits had been shortened to 15 minutes. A lawyer was able to talk to more than one client at a time, but in Siirt Prison the prisoners were brought in one by one and with a delay of up to 45 minutes.

Sidar added that the policy of creating confessors continued. Attacks on the wards could be conducted at any time. The Criminal Procedure Code was being violated. He believed that the increased pressure was the result of the votes the MHP gained during the last election. He also maintained that so-called A-teams were present in all prisons.

When searches of prisoners, who had visitors, continued the prisoners in Siirt E-type Prison went on hunger strike on 4 May. On 1 June M. Ali Yüksek and Refik Eren made a statement in the name of a group of prisoners in Siirt. They alleged that the deputy prison director İbrahim Aydın incited the prison staff against the prisoners. The prisoners feared that a massacre might be conducted. On Kemal Uzun, who had been transferred to Siirt Prison from Yozgat Prison on 26 May the prisoners stated that he had been under torture since his arrival. He had been beaten on entry and stripped stark naked.

On 26 August Yavuz Kardeşler, Selim Könek, Hakkı Taşçı and Şehmus İlhan were transferred from Diyarbakır E-type Prison to Siirt Prison. They were reportedly beaten, because they refused to join the ward of non-organized prisoners or the ward of the repentant confessors. Şehmus İlhan had to be taken to hospital, because of bleeding of the stomach as a result of the torture.

### **Malatya Prison**

Reports from Malatya stated that prisoners took 4 guardians hostage on 14 September in protest at the increasing pressure. Gendarmerie soldiers conducted an operation in Malatya E-type Prison and beat the prisoners heavily. The prisoners Havva Doğan, Elif Akkurt and Gülay Efendioğlu were wounded. Efendioğlu was reportedly partly paralyzed. Lawyers went to the prison on 17 September, but were not allowed to see the prisoners without being given any reason.

## **Metris Prison**

Security forces conducted an operation against the ward in İstanbul-Metris Prison, where alleged members of the radical Islamic organization İBDA/C were staying, on 5 December. The alleged leader of İBDA-C, Salih Rıza Erdiş (Salih Mirzabeyoğlu) and another 67 members were staying in the ward and showed resistance. One major and 54 soldiers were wounded. The prisoners took 150 soldiers hostage. Reportedly the prisoners stripped the soldiers naked, tied their hands and feet and put hammocks over them. Lawyer Hasan Ölçer went to the prison after the incident. He stated that the operation of 600 soldiers had been aiming at transferring the leaders Salih Rıza Erdiş, Ali Osman Zor, Ali İhsan Demirci and Hayrettin Soykan to prisons in Niğde, Kırklareli and Bandırma. The prisoners had demanded that their relatives, who came for a visit, should not be detained and asked to be held under healthier condition than to be held in a ward for 30 people in the number of 70. The prisoners stopped the action in the evening.

### **e) Court Cases in Connection with Incidents in Prisons**

#### **The massacre in Diyarbakır Prison**

On 29 January the trial against 65 security members including 29 police officers and 36 gendarmerie soldiers continued at Diyarbakır Criminal Court No. 2. The case had been brought in connection with an operation in Diyarbakır E-type Prison on 24 September 1996 that resulted in the death of 10 and injuries of 23 prisoners. In the hearing the guardians Murat Şahin, Bedirhan Oğuz and M. Zülfü Aslan were heard as witnesses. They stated that they had not seen iron or wooden sticks in the hands of the prisoners. Being asked for the wounds of the prisoners the witnesses simply stated that the prisoners showed traces of blows on the head and other parts of the body and that they were bleeding.

In the hearing of 12 March the court rejected the demand by intervening lawyer Mustafa Özer to remand the defendants. Lawyer Sezgin Tanrıku, SG of Diyarbakır Bar Association, mentioned that the defendants had not been suspended from duty.

During the hearing of 7 May the court announced that photographs of those defendants, who had not appeared in court, had been sent. The guardian Abdullah Yıldırım stated as a witness that he had not seen sticks or similar things in the hands of the prisoner. He had not seen any incident of death or wounding. The Court rejected the demand of the intervening lawyers to conduct an on-site inspection in the prison.

On 25 May the ECHR accepted the case in connection with Kadri Demir. He had died on his way to Gaziantep Prison, after he had been wounded during the massacre in Diyarbakır E-type Prison. The lawyer Mahmut Vefa had taken the case to the ECHR in 1997. On 6 September the ECHR asked the Turkish government whether the domestic remedies in this case had been effective and wanted to know, whether Articles 2 and 3 EHRC had been violated.

During the hearing of 17 September intervening lawyer Sezgin Tanrıku told Diyarbakır Criminal Court No. 2 that the case was about to enter its third year and asked that the hearing should not be adjourned for long periods of time. The court should make sure that the defendants and the victims are present. In that case a verdict could be reached in 1 or 2 hearings. Tanrıku also asked the court to file an official complaint against the officials responsible for the transport of Kadri Demir to Gaziantep Prison.

Meanwhile the Turkish government sent a response to the ECHR stating the following (in summary): "31 prisoners including Kadri Demir violated the prison regulations by opening the peepholes of their cells 35 and 36. They started to talk to the other prisoners. When

the guardians asked them to stop it the uprising started. The prisoners shouted separatist slogans and tore down the iron bar. They tried to break the door locks and the windows to the outside, damaging the building. Fearing that the riot might spread the gendarmerie and police were called for support. Despite all warnings the prisoners continued rioting. They attacked the security forces. The responsible persons had to respond to the violent resistance of the prisoners. The uprising was suppressed with legal means.”

The intervening lawyer repeated their demand to arrest the defendants in the hearing of 12 November. Diyarbakır Criminal Court No. 2 rejected the demand once again. The same happened in the hearing of 20 December, the 23rd hearing of the case. This time the court issued an arrest warrant in absentia against Muhammed Özdil. He had been doing his military service at the time, but after suspension from the military his address could not be established. The hearing was adjourned to a date in 2000.

### **The incident in Ümraniye Prison**

In January the Turkish government answered questions by the ECHR on an incident in İstanbul-Ümraniye Prison on 4 January 1996. The government stated that the operation in the prison had been carried out without the intention of killing or injuring anyone. The injured prisoners had been taken to a hospital and treated with care. Yet, four of them had died. It was true that sticks, fog bombs and water was used against the rioting prisoners. Accidentally four of the prisoners had been injured to their heads and died because of bleeding of the brain. Had the security forces intended to kill them, they would have shot them dead.

The government further argued that some demands of the prisoners might have been accepted, while others were unacceptable.

Lawyer Metin Narin responded to the government’s view by saying that the attack had been carried out with the intention to kill and the deaths had occurred because of medical neglect in hospital.

On 4 January 1996 guardians, police officers and soldiers had attacked prisoners in İstanbul-Ümraniye Prison causing the death of Rıza Boybaş, Abdülmecit Seçkin, Orhan Özen and Gültekin Beyhan and injuring 54 prisoners. The official complaint into this incident had resulted in a decision not to prosecute anyone. The case was taken to the ECHR in December 1996 alleging violations of Article 2 (right to life) and Article 3 (ban of torture) of the EHRC.

### **Incident in Erzurum Prison**

In connection with an incident in Erzurum Prison on 28 October 1998 that resulted in injuries of 26 prisoners the prosecutor in Erzurum indicted 8 prisoners. No legal steps were taken against guardians and soldiers, who had used sticks and truncheon during the attack. The prisoners Turgut Koyuncu, Celal Turpçu, Cengiz Çelik, Mustafa Okçul, Hasan Mesut Çelebi and Cengiz Eker were charged with an effective action against officials in duty and damaging public property. The prosecutor asked for a punishment according to Articles 271/1, 456/4, 272/1 and 273 TPC.

The prisoners Mustafa Okçul and Servet Bağcı stated from Erzurum Prison that the indictment was a tragic-comic event, because the damaged public property were the sticks and truncheons that split on their head. The real damage had been done to their belongings and of course their bodies that had fallen into a coma.

### **f) Pressure on Prisoners’ Relatives**

Parallel to the increasing pressure in the prisons the intimidation of relatives of prisoners increased in 1999 as well. The Ministry of Justice issued a decree in June, once again banning relatives of the second and third degree from visits. Over the year protests against the F-type prisons were suppressed and intense force was used to disperse demonstrations.

On 9 January the offices of the Solidarity Association of Prisoners' Relatives (TIYAD) in Ankara were searched on the pretext that a fire had broken out. Betül Gökoğlu, chairwoman of the branch, and her husband Ercan Gökoğlu were detained. The same branch announced on 23 April that a bomb in the meter for electricity had exploded in the building causing material damage.

In İstanbul the offices of the Association for Support and Solidarity with Prisoners (TUHA-DER) were raided by officers from the department to fight terrorism on 27 February. Chairman Tamam Yical stated that the police officers checked all IDs and left the offices under threats.

On 22 April the police hindered a group of people, who wanted to hold a press conference in front of İstanbul-Ümraniye Prison in connection with the death of Uğur Hulagü Gürdoğan, who had died on 20 April. The police dispersed the crowd under force and detained 61 people including Evrensel reporter Elif Bulut, Özgür Bakış reporter Ali Kalaya and the reporter of the journal Alinteri, Manolya Gültekin under beatings. All but Suzan Bozkurt and Mehtap Kuruçay were released the next. Officials stated that the two women were held in connection with a different investigation.

On 6 May Sabri İlgen, who had gone to see his brother Hakkı İlgen in Adana-Kürkçüler Prison, was detained, when he discussed with soldiers, who did not want to let him into the prison. Reportedly Sabri İlgen was later remanded and put into isolation.

On 16 June three people, who identified themselves as police officers from the department to fight terrorism, forced Zöhre Polat from the Solidarity Association of Prisoners' Relatives in Adana into a car stating that she was a suspicious person. She said that she was taken to an unknown place and tortured. She had constantly been threatened and "when I said that I had nothing to tell, they kicked at me. I do not know, how long the beatings, cursing and threats lasted. They died me to a tree with my hands on the back and left me there. I stayed there for the whole night. In the morning a shepherd untied me and after a long walk I came to the final bus stop of busses to the quarter 100. Yıl. I arrived home at 6.30am." Zöhre Polat stated that she would file an official complaint.

The police prevented members of the Struggle for Freedom Platform, who wanted to send signatures for an improvement of the health conditions in prison to the Justice Ministry. The people had gathered in front of Sirkeci Post Office on 17 June. The police detained Mehtap Kuruçay from Alinteri, Saadet Pehlivan, Meliha Yıldız, Nursel Türüç, Erdal Doğan and two persons with the first name of Nevreste and Neslihan under beatings. The cameraman of NTV, who wanted to document the incident, was also beaten.

On 14 July the police intervened when the Platform of Relatives of Martyrs and Prisoners from Partizan wanted to hold a press conference in front of the courthouse in İstanbul in protest at the cell-type prisons. Fatoş Kılıç, Gülsen Dinler, Suzan Zengin and Hüseyin Çakıroğlu were detained.

**On 17 July a group of people visited the DSP in İstanbul-Şişli on connection with the demands of Kemal and Bülent Ertürk, who were on day 63 of their hunger strike in Eskişehir Prison. They asked the politicians to support the transfer of the prisoners. Outside the police had gathered and the prisoners' relatives said that they would**

**only leave the building, if the police did not detain anybody. The party officials said that they had talked to the police and assured that no detentions would be made. The families left the building but the police detained Fecire Karataş (50), İpek Bulut (48), Gülizar Şahin (5G), İbrahim Yılmaz (45), Mehmet Soylu (40), Adile Soylu (35), Suzan Zengin (32), Birsen Gülünay (30), Hatice Çağlar (35) and Kemal Karataş (10).**

Following a visit of his brother in İzmir-Buca Prison the police detained Yahya Alkan on 10 August and took him to the department to fight terrorism. His mother Alime Alkan said that her son had gone for another visit only last week. During this visit his brother had told him, why they were boycotting visits and Yahya Alkan had taken notes of what he said. The political police wanted to know why he had taken the notes. He had been asked to sign a paper and, when he refused, he had been detained.

Gülşen Tur alleged that she was tortured. On 1 September, she had come from Diyarbakır to visit her son Şinasi Tur in Konya Prison. After the visit police officers had forced her out of the bus that should take her back. At Konya Police HQ the officers had put a bag over her head and beaten her on the grounds that she had taken things into the prison. Gülşen Tur was released on 3 September and applied to the HRFT for treatment.

On 28 September the police detained 101 people, 47 of them female, who wanted to stage a protest on Sultanahmet Square against the massacre in Ankara Closed Prison that had resulted in the death of 10 prisoners. The police also beat journalists.

The prisoner's relative Orhan Kılıç was detained in front of Bayrampaşa Prison at the end of September and taken to the department to fight terrorism. He had been on his way back home, when three plainclothes police officers forced him into their car. In the car they started to beat him. Orhan Kılıç alleged that psychological torture had been applied at İstanbul Police HQ. After the first interrogation one police officer, who had tortured him before, had beaten him. Kılıç further stated that he had been warned not to go to the prison again, before the police officers released him. Orhan Kılıç stated that he would file an official complaint against the police officers.

During the funeral of Nevzat Çiftçi, who had died in the operation in Ankara Central Closed Prison, the gendarmerie detained some 70 people in Helvacı village, Aliağa district (İzmir) on 30 September. On 1 October the detainees were taken to the public prosecutor in Aliağa, who interrogated them on the allegation of having violated Law No. 2911 in Demonstrations and Meetings. Aliağa Penal Court order the arrest of the trade unionists Hacal Yılmaz (Maden-İş), Mihdi Perinçek (Tarım Gıda-Sen), the politicians Haydar Canan (Emeğin Partisi), Ahmet Birge Uzuner (HADEP), Birol Karaaslan (HADEP), the staff members of the HRFT, Alp Ayan and Günseli Kaya, as well as Sinan Yaman, Sokullu Cem Pekdemir, İrfan Güleser, Turgut Yenidünya, Erkan Polat, Zafer Doğan and Cem Cihan Erkul and released the other to be tried without remand. On 8 October some 60 people filed an official complaint against the soldiers in duty, because they had used excessive force during the detention.

On 4 October Yusuf Yenidünya, Sürmeli Yenidünya, Haskar Doğan, Gülhan Kılıç and Zelal Polat were detained for five hours, when they went to see the prisoners held in Bergama Prison.

On 1 November İzmir Penal Court No. 12 acquitted the board members of the İzmir branch of the Support and Solidarity Association with Families of Prisoners (TAYD-DER) from charges of having violated the Law on Associations. The governor in İzmir had closed the offices of TAYD-DER on the same ground. The Court ruled that a list of signatures and the possession of single copies of banned publication was no criminal act.

On 5 November Ali Bakır was detained in Yozgat. He had gone there to visit his son Vedat Bakır in Yozgat E-type Prison.

**Meliha Özcan, chairwoman of the Support Association of Prisoners' Families (TAY-DER) in Ankara, stated that their delegation had been under police pressure in Van after 7 November. They had gone there to carry out research, but police officers had followed them constantly. Meliha Özcan and her deputy Meryem Aydın filed an official complaint stating that they had frequently been stopped, searched and been subjected to disgraceful treatment. On 9 November they had intended to go to Iğdır, but had been stopped, when they wanted to leave the provincial capital. The two women feared for their lives.**

Veysel Işık, distributor of the daily "Özgür Bakış", stated that soldiers beat him on 15 December, when he went to see a relative in Bursa Prison.

Hasan Ölçer, defense lawyer of alleged İBDA/C members, spoke at a press conference of the HRA in İstanbul on 21 December. He alleged that relatives of the prisoners were detained before and after visits for no reason. Hasan Ölçer reminded of the fact that this problem had been solved in the fifth item of an agreement they had reached after the incidents in Metris Prison on 5 December. Prisoner's relative Emel Zor stated that police officers assaulted them, when they went to see their relatives in prison.

#### **g) Discussion on Amnesty**

There was an intense discussion on an amnesty in 1999. In July Justice Minister Hikmet Sami Türk declared that the 57th government had taken the amnesty on its agenda.

The draft of the Justice Ministry only wanted to pardon theft, bodily harm, insult, manslaughter, illegal entry to property and crimes committed via publications. Jurists criticized the bill for its discriminating character and argued that the draft could not be accepted in its current form.

Justice Minister Türk presented a draft on repenting and amnesty to the leaders of the political parties in power on 28 July. On 29 July he declared that the coalition members had agreed in principle and the law that they would pass would not disturb the public conscience.

NGOs stated that the discussion on an amnesty had raised hopes among the prisoners and called for a general amnesty.

The discussion on the amnesty continued for some time and finally a draft agreed by the coalition members passed the GNAT on 28 August. Intentional killing and assistance for escape from prison was included in the list of crimes to be pardoned. The Justice Ministry declared that a total of 58,518 prisoners would benefit from the law; 26,538 prisoners would be released immediately and 31,980 prisoners would have to spend shorter time in prison.

Prime Minister Bülent Ecevit declared that he was not happy with the new law. He stated that an amnesty had always created a discussion, "but a large proportion of our nation has been waiting for an amnesty for a long time. This is a coalition government. Each member of this coalition has different expectations. There are some points that I cannot or can hardly agree on. The same is true for the other coalition members. In the end we reached a compromise, which is necessary in a democracy".

State President Süleyman Demirel vetoed the law considering the criticism in public that the amnesty bill favored members of gangs. He sent the draft back to parliament on 1

September. The reason for the veto was stated as contradictions in the reduction of sentences and amnesty. Demirel reminded that Article 87 and 169 of the Constitution furnished the GNAT with the right to pass laws on a general and special amnesty, but there were restrictions for it. The State President had the right to send laws back for another review.

The reasoned veto further stated: "According to Article 10 of the Constitution everyone is equal before law, without discriminating according to language, religion, race, sex, political view, philosophical belief, sect or similar reasons. No person, family, group or class can have privileges. All state organs and the administration have to act according to the principle of equality. In addition, laws have to be generally applicable. In this context was Article 313 TPC not included in the amnesty section of Law No. 4453, but included in the crimes, for which sentences are to be reduced. In consequence, the people, who establish organizations in order to commit crimes, will be privileged. Article 2 of the Law No. 4453 on an Amnesty for Some Crimes and Sentences provides for a general amnesty with all consequences of the punishment, while Article 4 provides for a reduction of sentences for some crimes that were not included in the scope of the amnesty. This provision is a special amnesty and since a later provision provides that all consequences of such a punishment are to be lifted and the sentences are to be suspended the law has lost its complexity."

The GNAT dealt again with the law after the summer holidays. The coalition partners agreed on a bill in October, but did not find support from the opposition. Finally a crisis developed among the coalition parties on the question of whether or not Haluk Kırcı, suspected of being responsible for the Bahçelievler massacre, would benefit from the law or not. Because of this crisis the discussions on an amnesty were suspended on 10 November.

## 6. Judgments of the European Court of Human Rights

The European Court of Human Rights (ECHR) ([\[39\]](#)) remained the only judicial organ to control Turkey's international obligations on human rights.

After the Commission and the Court joined in 1998 under additional protocol No. 11 the caseload of the Court increased rapidly. The number of applications in 1999 was 8,369; 972 from Russia to be followed by Turkey with 655. The ECHR reached 177 judgments and terminated 3,519 cases either by a friendly settlement or decisions of unacceptability. Violations were found in 120 cases. Of these cases 44 had been launched against Italy and 18 against Turkey.

The Öcalan case raised broad attention and even resulted in changes to the shape of the state security courts in Turkey.

### The Right to Life

#### *The Case of Oğur v. Turkey*

In a judgment delivered at Strasbourg on 20 May in the case of Oğur v. Turkey, the ECHR held that there had been a violation of Article 2 (right to life) of the ECHR as regards the planning and execution of the operation that had led to the death of the applicant's son (16 votes to 1) and as regards the investigations carried out by the national authorities (unanimously).

On 24 December 1990 security forces carried out an armed operation at a site belonging to a mining company some six kilometers from the village of Dağkonak Şırnak province). Musa Oğur, who worked at the mine as a night-watchman, was killed at about 6.30am, as he was about to come off duty.

On 26 December 1990 the public prosecutor's office declared that it had no jurisdiction to institute proceedings against civil servants and forwarded the file to the Administrative Council of the province of Şırnak. On 15 August 1991 the Administrative Council delivered a decision in which it concluded that no proceedings should be brought in the criminal courts against the members of the security forces who had taken part in the operation of 24 December 1990. In its view, the victim had died after warning shots had been fired during the operation in question. Neither the evidence in the file nor taking statements from witnesses would make it possible, however, to identify with any certainty the person who had fired. On 19 September 1991 the Supreme Administrative Court upheld that decision.

In its judgment the ECHR noted, first of all, that none of those appearing before it had disputed that the victim had been killed by a bullet fired by the security forces. The disagreement related solely to whether that bullet came from a warning shot or from a shot fired at the victim, and on the circumstances in which the shot was fired.

Several witnesses had explained the death of the applicant's son as having been caused by a warning shot and the Government had added, in their memorial, that as the shot had struck Musa Oğur in the nape of the neck, he had been running away... The Court consequently considered that, even supposing that Musa Oğur had been killed by a bullet fired as a warning, the firing of that shot had been badly executed, to the point of constituting gross negligence, whether the victim was running away or not.

In sum, all the deficiencies noted in the planning and execution of the operation in issue sufficed for it to be concluded that the use of force against Musa Oğur had been neither proportionate nor, accordingly, absolutely necessary in defense of any person from unlawful violence or to arrest the victim. There had therefore been a violation of Article 2

on that account.

The Court observed that when he inspected the scene of the incident, the Şırnak public prosecutor confined himself to noting findings in respect of the victim's body, making an inspection and a sketch of the scene, reconstructing the events and interviewing three witnesses, all of them night-watchmen colleagues of the victim. The Court observed, however, that here, too, a proper examination, in particular a ballistic test, could have revealed exactly when those items had been used.

The subsequent investigation carried out by the administrative investigation authorities had scarcely remedied the deficiencies noted above in that, again, no post-mortem or other forensic examination, notably in the form of ballistic tests, had been ordered and no members of the security forces that had taken part in the operation had been questioned, although their names were known.

It had to be noted, lastly, that during the administrative investigation, the case file had been inaccessible to the victim's close relatives, who had had no means of learning what was in it. The Supreme Administrative Court had ruled on the decision of 15 August 1991 on the sole basis of the papers in the case, and that part of the proceedings had likewise been inaccessible to the victim's relatives.

In conclusion, the investigations in the case could not be regarded as effective investigations capable of leading to the identification and punishment of those responsible for the events in question. There had therefore been a violation of Article 2 on that account also.

The Court awarded the applicant FRF 100,000 for non-pecuniary damage and FRF 30,000 for costs and expenses.

#### *The Çakıcı Case*

On 8 July the ECHR decided in the case of Çakıcı v. Turkey that there had been a violation of Article 2 (right to life) of the EHRC in respect of the death of the applicant's brother, who had disappeared after being detained by the security forces, and in respect of the inadequate investigation carried out by the authorities.

The Court also held unanimously that there had been a violation of Article 3 (prohibition of torture, inhuman or degrading treatment or punishment) in that Ahmet Çakıcı had been tortured during his detention; that there had been a violation of Article 5 (right to liberty) in respect of the unacknowledged detention of Ahmet Çakıcı in the complete absence of the safeguards required by that provision; and by sixteen votes to one that there had been a violation of Article 13 (right to an effective remedy) in that the applicant had not been provided with an effective remedy in respect of these complaints. The Court further found, unanimously, no violation of Articles 14 (prohibition of discrimination) and 18 (prohibition of restrictions on Convention rights for ulterior purposes).

İzzet Çakıcı had lodged the application on his behalf and on behalf of his brother Ahmet.

On 8 November 1993, an operation was carried out by gendarmes from Hazro at the village of Çitlibahçe where Ahmet Çakıcı lived. The gendarmes were looking for, among other things, evidence concerning the kidnapping and murder of teachers and an imam by the PKK and for anyone who might have been involved. In a coordinated operation, gendarmes from Lice apprehended three persons at the neighboring village of Bağlan, who were transferred the next day to the Diyarbakır provincial gendarmerie headquarters.

According to the applicant, the Hazro gendarmes apprehended Ahmet Çakıcı when they came to Çitlibahçe. They took him to Hazro from where he was transferred to Diyarbakır provincial gendarmerie headquarters. He was detained there for sixteen to seventeen days

in the same room as the three people who had been apprehended at Bağlan. One of these three, Mustafa Engin reported when he was released that Ahmet Çakıcı had been beaten, a rib being broken and his head split open. According to him, Ahmet Çakıcı had also been taken out for interrogation and received electric shock treatment. The applicant later learned from Hikmet Aksoy, who had been detained by gendarmes at Kavaklıboğaz station, that his brother had been taken from Diyarbakır provincial gendarmerie headquarters to Hazro gendarmerie station and from there to Kavaklıboğaz, where he had talked to Hikmet Aksoy. The applicant and his family had received no further news about Ahmet Çakıcı, until the Government provided information during the proceedings before the European Commission of Human Rights.

According to the Government, gendarmes did not take Ahmet Çakıcı into custody during the operation on 8 November 1993. They rely on the custody records of Hazro gendarmerie station and Diyarbakır provincial gendarmerie headquarters, where there are no entries concerning Ahmet Çakıcı. During the Commission proceedings, they provided information that it had been reported that Ahmet Çakıcı's identity card had been found on one of the bodies of terrorists killed during a clash with security forces from 17 to 19 February 1995 on Kılıboğan hill, Hani district.

On 13 June 1996, Hazro public prosecutor issued a decision of lack of jurisdiction concerning the allegations about Ahmet Çakıcı's disappearance, finding, among other things, that his identity card had been found on the body of a dead terrorist and that this confirmed the terrorist's identity as Ahmet Çakıcı.

The ECHR accepted the facts found by the Commission, which had carried out fact-finding missions in this case. It was accordingly established that the applicant's brother had been taken into custody by the security forces on 8 November 1993, that he had been taken to Hazro gendarmerie station that night and that he had been detained at Diyarbakır provincial gendarmerie command from 9 November until at least 2 December 1993 when he was last seen by Mustafa Engin.

It was established that during his detention Ahmet Çakıcı was beaten, one of his ribs broken, his head split open and that he had been given electric shock treatment twice. Though report was made by Hazro district gendarmerie that his identity card had been found on the body of a dead member of the PKK in February 1995, there was no evidence as to the identification of the body or the release of the body for burial and it could not be regarded as established that Ahmet Çakıcı's body had been found as alleged.

The Court rejected the Government's preliminary objection that the applicant had failed to exhaust domestic remedies. The Court found that the applicant and his father had made petitions and enquiries to the State Security Court prosecutor in relation to the disappearance of Ahmet Çakıcı and that though the authorities had been made aware of their concerns no effective response was made. No steps at all were taken by the public prosecutor to verify the report that Ahmet Çakıcı's body had been found. In these circumstances, the applicant had done all that could reasonably be expected of him to exhaust domestic remedies.

The Court found that the disappearance of Ahmet Çakıcı after he had been taken into custody led, in the circumstances of this case, to a presumption that he had died. No explanation having been provided by the Government as to what happened to him during his detention, the Government were liable for his death and there was a violation of Article 2 of the Convention.

The Court found that the ill-treatment, which Ahmet Çakıcı suffered during his detention, constituted torture contrary to this provision.

The Court held that the disappearance of Ahmet Çakıcı during an unacknowledged detention disclosed a particularly grave violation of the right to liberty and security of person guaranteed by this provision. It referred in particular to the lack of accurate and reliable records of the detention of persons taken into custody by gendarmes and the lack of any prompt or meaningful enquiry into the circumstances of Ahmet Çakıcı's disappearance.

Referring to its reasoning in, among other things, its judgment of 19 February 1998 in the case of *Kaya v. Turkey*, the Court considered that the national authorities had been under an obligation to carry out an effective investigation into the circumstances of the disappearance of Ahmet Çakıcı. Reiterating its findings under Articles 2 and 5 of the Convention that no such effective investigation had been conducted, the Court concluded that there had been a violation of Article 13.

The Court found that it did not have any evidence before it substantiating the alleged breaches of Articles 14 and 18. Accordingly, there had been no violation of these provisions.

The Court awarded GBP 11,534.29 for pecuniary damage for the applicant's brother's spouse and children, GBP 25,000 for non-pecuniary damage for his brother's heirs, GBP 2,500 for non-pecuniary damage for the applicant himself and GBP 20,000 for costs and expenses.

#### *The Tanrikulu Case*

Another judgment on 8 July 1999 referred to the case of *Tanrikulu v. Turkey*. The European Court of Human Rights held unanimously that it had not been established that the applicant's husband was killed in violation of Article 2 (right to life) of the European Convention on Human Rights, that there had been a violation of this provision on account of the failure of the authorities of the respondent State to conduct an effective investigation into the circumstances of the death of the applicant's husband, and that it was not necessary to consider the applicant's complaint under Article 2 regarding an alleged lack of protection in domestic law of the right to life .

The Court further held by 16 votes to 1 that there had been a violation of Article 13 (right to an effective remedy) of the Convention, unanimously that there had been no violation of Article 2 in conjunction with Article 14, and by 16 votes to 1 that the respondent State had failed to comply with their obligations under former Article 25 § 1.

Selma Tanrikulu had filed the application on behalf of her husband, Zeki Tanrikulu, who was a doctor in Silvan State Hospital. At around noon on 2 September 1993 he was shot on a steep road, which runs between the hospital and Silvan Police HQ. The applicant, who heard the shots, rushed over from her apartment situated in the grounds of the hospital and saw two men running away. Her husband died soon after.

According to the applicant, there were at least eight members of the security forces standing in a line across the road where her husband was shot, brandishing machine guns. She pleaded with them not to let the two men whom she had seen running away escape but they did nothing.

According to the Government, there were no more than two police officers present outside the police headquarters. These officers, who were under strict instructions not to leave their post, stood guard outside the entrance to the headquarters, which was around the corner from where the incident took place.

On 5 November 1993 the Silvan public prosecutor's office ruled that it had no jurisdiction to investigate the matter and transferred the file to the State Security Court in Diyarbakır. The chief public prosecutor at that Court took a statement from the applicant on 18

November 1994.

The Government had maintained before the Court that the applicant had not exhausted the domestic remedies afforded her by Turkish law.

The Court noted that civil law remedies could only succeed if the person responsible for the act complained of had been identified, which had not been the case. With respect to an action in administrative law the Court observed that it had not been provided with any examples of persons having brought such an action in a situation comparable to the applicant's. Moreover, an obligation to exhaust such an administrative law remedy that was capable only of leading to an award of damages might render illusory a Contracting State's obligation under Articles 2 and 13 of the Convention to conduct an investigation capable of leading to the identification and punishment of those responsible for the deprivation of life. The Court consequently dismissed the preliminary objection in so far as civil and administrative law remedies were concerned. It joined the preliminary objection concerning remedies in criminal law to the merits.

The ECHR accepted the facts as they had been established by the Commission, which had carried out a fact-finding mission in Ankara to this end. It noted, however, that the Commission's task of establishing the facts had been made more difficult since the Government had failed to provide the complete investigation file and had also not secured the attendance before the Commission's Delegates of two public prosecutors. The Court, considering that it was of the utmost importance for the effective operation of the system of individual petition instituted under former Article 25 of the Convention (replaced by Article 34) that States furnish all necessary facilities to make possible a proper and effective examination of applications (former Article 28 § 1 (a), replaced by Article 38), found that the Government had fallen short of this duty.

The Court considered that the material in the case file did not enable it to conclude beyond reasonable doubt that the applicant's husband had been killed by security forces or with their connivance.

The Court reiterated that the obligation to protect the right to life under Article 2, read in conjunction with the State's general duty under Article 1 to secure to everyone within its jurisdiction the rights and freedoms defined in the Convention, required by implication that there should be some form of effective official investigation when individuals had been killed as a result of the use of force. The investigation should have been capable of leading to the identification and punishment of those responsible.

The Court doubted that the examination conducted at the scene of the incident could have been more than superficial in view of the limited time that had been spent on it and because no photographs had been taken. There was, moreover, no record of any attempt having been made to retrieve eleven missing bullets that had passed through the body of the applicant's husband. The Court expressed misgivings as to the limited amount of forensic information obtained from the post-mortem examination and considered it regrettable that no forensic specialist had been involved and that no full autopsy had been performed.

The Court was further struck by the fact that the public prosecutor had referred the investigation to the Diyarbakir State Security Court, indicating that in his opinion the killing constituted a terrorist offence, since there did not appear to have been any evidence available supporting that conclusion. The applicant's statement had not been taken until more than a year after the event, and even when the authorities had been made aware of her complaints after she had filed an application with the Commission, the authorities had not been prompted, for instance, to take statements from those members of the security

forces who had been standing guard outside the police headquarters.

In conclusion, the investigations in the case could not be regarded as effective investigations capable of leading to the identification and punishment of those responsible for the killing of the applicant's husband. The Court was, moreover, not persuaded that the criminal law remedies nominally available to the applicant would have been capable of altering to any significant extent the investigation that was carried out.

Accordingly, the Court dismissed the remainder of the Government's preliminary objection and held that there had been a violation of Article 2.

The Court noted that the applicant had been questioned by the chief public prosecutor at Diyarbakır State Security Court about the authenticity of the power of attorney, which had been submitted to the Commission in respect of her legal representation in the proceedings before that institution. The Court was of the opinion that a deliberate attempt had been made on the part of the authorities to cast doubt on the validity of the application to the Commission and thereby on the credibility of the applicant.

In conclusion, the Court found that the respondent State had failed to comply with their obligations under former Article 25 § 1 of the Convention.

The Court awarded the applicant GBP 15,000 for non-pecuniary damage and GBP 15,000 for costs and expenses.

### **Freedom of Expression**

On 8 July 1999 at Strasbourg the European Court of Human Rights delivered judgment in the following thirteen cases: Ceylan v. Turkey, Arslan v. Turkey, Gerger v. Turkey, Polat v. Turkey, Karataş v. Turkey, Erdoğan and İnce v. Turkey, Başkaya and Okçuoğlu v. Turkey, Okçuoğlu v. Turkey, Sürek and Özdemir v. Turkey, and four cases of Sürek v. Turkey.

The Court held that there had been a violation of freedom of expression, as guaranteed by Article 10 of the European Convention on Human Rights, in the cases of Ceylan v. Turkey (16 votes to 1), Arslan v. Turkey (unanimously), Gerger v. Turkey (16 votes to 1), Polat v. Turkey (unanimously), Karataş v. Turkey (12 votes to 5), Erdoğan and İnce v. Turkey (unanimously), Başkaya and Okçuoğlu v. Turkey (unanimously), Okçuoğlu v. Turkey (unanimously), Sürek and Özdemir v. Turkey (11 votes to 6), Sürek v. Turkey (no. 2) (16 votes to 1) and Sürek v. Turkey (no. 4) (16 votes to 1). It found no violation of Article 10 in the cases of Sürek v. Turkey (no. 1) (11 votes to 6) and Sürek v. Turkey (no. 3) (10 votes to 7).

Further, in the cases of Gerger v. Turkey, Karataş v. Turkey, Başkaya and Okçuoğlu v. Turkey, Okçuoğlu v. Turkey, Sürek and Özdemir v. Turkey, Sürek v. Turkey (no. 1), Sürek v. Turkey (no. 2), Sürek v. Turkey (no. 3) and Sürek v. Turkey (no. 4), the Court held, by 16 votes to 1, that the applicants had been denied the right to have their cases heard by an "independent and impartial tribunal" within the meaning of Article 6 § 1 of the Convention because they had been tried by State Security Courts, in which one of the bench of three judges was a military judge.

In the case of Başkaya and Okçuoğlu v. Turkey, it held, unanimously, that there had been a breach of Article 7 of the Convention (no punishment without law) as regards the second applicant.

### **Ceylan v. Turkey**

While president of the petroleum workers' union (*Petrol-İş Sendikası*), Mr Ceylan wrote an article entitled 'The time has come for the workers to speak out – tomorrow it will be too late' in the 21-28 July 1991 issue of *Yeni Ülke* (New Land), a weekly newspaper published in İstanbul. Criminal proceedings were brought against him at İstanbul State Security Court

and on 3 May 1993 he was convicted under Article 312 §§2 and 3 TPC of inciting the people to hostility and hatred by making distinctions based on ethnic or regional origin or social class. He was sentenced to one year and eight months' imprisonment and a fine of TL 100,000.

### **Arslan v. Turkey**

Günay Arslan is the author of the book *Yas Tutan Tarih, 33 Kurşun* ('History in mourning, 33 bullets'). A first edition was published in December 1989. On 29 March 1991 İstanbul SSC sentenced Mr Arslan to six years and three months' imprisonment for making separatist propaganda contrary to Article 142 §§ 3 and 6 TPC. However, as that provision was repealed by the Prevention of Terrorism Act 1991 (Law No. 3713 of 12 April 1991), İstanbul SSC declared his conviction null and void in a supplementary judgment of 3 May 1991.

A second edition of the book was published on 21 July 1991. In a judgment of 28 January 1993 İstanbul SSC convicted Mr Arslan of making propaganda against the "indivisibility of the State" contrary to Article 8 of Law No. 3713 and sentenced him to one year and eight months' imprisonment and a fine of TL 41,666,666.

### **Gerger v. Turkey**

Haluk Gerger is a journalist living in Ankara. On 23 May 1993 a memorial ceremony was held in Ankara for Denis Gezmiş, Yusuf Aslan and Hüseyin İnan, the founders of an extreme left-wing movement among university students at the end of the 1960s. They had been sentenced to death for seeking to destroy the constitutional order by violence and had been executed in May 1972. The applicant had been invited to speak at the ceremony but was unable to attend and sent the organizing committee a message that was read out in public.

Holding that the message contained separatist propaganda against the unity of the Turkish nation and the territorial integrity of the State, Ankara SSC found Mr Gerger guilty of an offence under Article 8 of the Prevention of Terrorism Act 1991 (Law No. 3713) and sentenced him to one year and eight months' imprisonment and a fine of TL 203,333,333.

### **Polat v. Turkey**

Edip Polat lives in Diyarbakir. In 1991 a book of his entitled *Nevrozladık Şafakları* ('We made each dawn a Spring Festival') was published. In a judgment of 23 December 1992 Ankara SSC held that the work contained propaganda against the territorial integrity of the State and the indivisible unity of the nation, contrary to Article 8 of Law No. 3713. It sentenced the applicant to two years' imprisonment and a fine of TL 50,000,000.

### **Karataş v. Turkey**

Hüseyin Karataş lives in İstanbul. In November 1991 his anthology of poems entitled *Dersim – Bir İsyanın Türküsü* ('The song of a rebellion – Dersim') was published. In a judgment of 22 February 1993 İstanbul SSC held that the work contained propaganda against the indivisible unity of the State, contrary to Article 8 of Law No. 3713 and sentenced the applicant to one year and eight months' imprisonment and a fine of TL 41,666,666. After Law No. 4126 of 27 October 1995 came into force the sentence was reviewed, the term of imprisonment being reduced to one year, one month and ten days and the fine increased to TL 111,111,110.

### **Erdođdu and İnce v. Turkey**

Ümit Erdođdu and Selami İnce are journalists living in İstanbul and lives in Ankara. At the material time, Mr Erdođdu was the editor of the monthly review *Demokrat Muhalefet!* ('Democratic Opposition!'). The January 1992 issue of the review included an interview with a Turkish sociologist conducted by the second applicant, Mr İnce. İstanbul SSC held

that, by publishing the interview, the applicants had committed the offence of disseminating propaganda against the indivisibility of the State contrary to Article 8 of Law No. 3713. In a judgment of 12 August 1993 the first applicant was sentenced to five months' imprisonment and a fine of TL 41,666,666 and the second applicant to one year and eight months' imprisonment and a fine of TL 41,666,666. After Law No. 4126 of 27 October 1995 and Law No. 4304 of 14 August 1997 came into force, İstanbul SSC decided to defer passing a final sentence upon Mr Erdoğan and to suspend execution of Mr İnce's sentence.

### **Başkaya and Okçuoğlu v. Turkey**

Fikret Başkaya is a professor of economics and a journalist and lives in Ankara. Mehmet Selim Okçuoğlu is the owner of a publishing house, *Doz Basın Yayın Ltd Şti*, and lives in İstanbul. In April 1991, *Doz Basın Yayın Ltd Şti* published a book written by the first applicant entitled *Batılılaşma, Çağdaşlaşma, Kalkınma - Paradigmanın İflası / Resmi İdeolojinin Eleştirisine Giriş* ('Westernisation, Modernisation, Development - Collapse of a Paradigm / An Introduction to the Critique of the Official Ideology').

The Public Prosecutor at İstanbul SSC brought criminal proceedings against the applicants on the grounds that, through the book, they had disseminated propaganda against the indivisibility of the State contrary to Article 8 of the Prevention of Terrorism Act 1991. On 14 October 1992 the SSC acquitted the applicants, holding that the book as a whole was an academic work containing no elements of propaganda. The Public Prosecutor appealed to the Court of Cassation, which quashed the decision and remitted the case back for retrial. In a judgment of 5 August 1993 İstanbul SSC convicted the applicants, sentencing the first applicant to one year and eight months' imprisonment and a fine of TL 41,666,666 and the second applicant to five months' imprisonment and a fine of the same amount.

### **Okçuoğlu v. Turkey**

Ahmet Zeki Okçuoğlu is a lawyer living in İstanbul. In May 1991, issue No. 12 of a magazine called *Demokrat* ('Democrat') included an article on a round-table debate organized by the magazine and in which the applicant had taken part. The article was entitled 'Kürt Sorununun Dünü ve Bugünü' ('The past and present of the Kurdish problem').

On 11 March 1993 İstanbul SSC held that the views expressed by the applicant as reproduced in the article amounted to propaganda against the indivisibility of the State contrary to Article 8 of Law No. 3713). It sentenced him to one year and eight months' imprisonment and a fine of TL 41,666,666. After Law No. 4126 of 27 October 1995 came into force, the SSC reviewed the applicant's case on the merits and reduced his prison sentence to one year, one month and ten days but increased the fine to TL 111,111,110.

### **Sürek and Özdemir v. Turkey**

Kamil Tekin Sürek and Yücel Özdemir are Turkish nationals. Mr Sürek was born in 1957 and lives in İstanbul. Mr Özdemir was born in 1968 and lives in Cologne, in Germany.

At the material time, Kamil Tekin Sürek was the majority shareholder in *Deniz Basın Yayın Sanayi ve Ticaret Organizasyon*, a Turkish company which owns a weekly review entitled *Haberde Yorumda Gerçek* ('The Truth of News and Comments'), published in İstanbul. Yücel Özdemir was the editor-in-chief of the review.

In the 31 May 1992 and 7 June 1992 issues of the review, an interview with a leader of the PKK as published in two parts. The edition of 31 May 1992 also contained a joint declaration by four socialist organisations.

On 27 May 1993, İstanbul SSC found the applicants guilty of disseminating propaganda against the indivisibility of the State in the form of the above publications, contrary to sections 6 and 8 of the Prevention of Terrorism Act 1991. The first applicant was

sentenced to two fines totaling TL 300,000,000. The second applicant was sentenced to six months' imprisonment and two fines totaling TL 150,000,000.

### **Sürek v. Turkey (1)**

Issue no. 23 of *Haberde Yorumda Gerçek*, dated 30 August 1992, contained two readers' articles entitled 'Silahlar Özgürlüğü Engellemez' ('Weapons cannot prevent freedom') and 'Suç Bizim' ('It is our fault').

On 12 April 1992 İstanbul SSC held that the applicant, in his capacity as the owner of the review in which the articles had been published, was guilty of disseminating propaganda against the indivisibility of the State contrary to Article 8 of Law No. 3713 and sentenced him to a fine of TL 166,666,666. The applicant appealed to the Court of Cassation, which quashed the judgment and remitted the case to the Court for retrial. On 12 April 1994 İstanbul SSC sentenced the applicant to a reduced fine of TL 83,333,333.

### **Sürek v. Turkey (2)**

The 26 April 1992 issue of *Haberde Yorumda Gerçek* contained coverage of a press conference given by a delegation visiting Şırnak province in the wake of tensions in the area. The delegation comprised two former members of the Turkish Parliament, Leyla Zana and Orhan Doğan, together with Lord Avebury and a member of the Anglican Church. The coverage included an article reporting the Governor of Şırnak as having told the delegation that Şırnak Chief of Police had ordered his men to open fire on the local population. It also reproduced a dialogue between Leyla Zana, Orhan Doğan and İsmet Yediyıldız, a Gendarme Commander.

On 2 September 1993, İstanbul SSC found the applicant, in his capacity as the owner of the review, guilty of revealing the identity of officials responsible for combating terrorism and thus making them terrorist targets. It sentenced him to a fine of TL 54,000,000 under Article 6 of the Prevention of Terrorism Act 1991 (Law No.3713).

### **Sürek v. Turkey (3)**

Issue No. 42 of the review *Haberde Yorumda Gerçek*, dated 9 January 1993, contained an article entitled 'In Botan the poor peasants are expropriating the landlords!'.

On 27 September 1993 İstanbul SSC found the applicant, in his capacity as the owner of the review in which the article had been published, guilty of disseminating propaganda against the indivisibility of the State contrary to Article 8 of Law No. 3713 and sentenced him to a fine of TL 83,333,333.

### **Sürek v. Turkey (4)**

Issue no. 51 of the review *Haberde Yorumda Gerçek*, dated 13 March 1993, included an article entitled 'Kawa and Dehak Once Again'. The article discussed what might occur during the forthcoming *Newroz* (Spring Festival) celebrations. The same issue also contained an interview by the Kurdish News Agency with a representative of the National Liberation Front of Kurdistan, the political wing of the PKK.

On 27 September 1993 İstanbul SSC found the applicant, in his capacity as the owner of the review in which the article and the interview had been published, guilty of disseminating propaganda against the indivisibility of the State contrary to Articles 6 and 8 of the Prevention of Terrorism Act 1991 and sentenced him to a fine of TL 83,333,333.

### **The ruling of the ECHR**

The Court found that in each case the convictions amounted to "interference" in the applicant's right to freedom of expression. Accepting that the interference was "prescribed by law" within the meaning of the second paragraph of Article 10 and pursued at least one of the "legitimate aims" set out in that provision, the Court went on to examine whether the

interference was "necessary in a democratic society" for those aims to be achieved. It concluded that there had been a violation of Article 10 in eleven of the thirteen cases. In the cases of Erdoğan and İnce v. Turkey, Okçuoğlu v. Turkey, Sürek and Özdemir v. Turkey, Sürek v. Turkey (1), Sürek v. Turkey (2), Sürek v. Turkey (3) and Sürek v. Turkey (4), it referred in particular to the essential role of the press in ensuring the proper functioning of political democracy. While the press had not to overstep the bounds set, among other things, for the protection of vital interests of the State such as national security or territorial integrity against the threat of violence or the prevention of disorder or crime, it was nevertheless incumbent on it to impart information and ideas on political issues, including divisive ones. Not only had the press the task of imparting such information and ideas; the public had a right to receive them. Freedom of the press afforded the public one of the best means of discovering and forming an opinion of the ideas and attitudes of political leaders.

Lastly, in the case of Karataş v. Turkey the Court observed that Article 10 included freedom of artistic expression, which afforded the opportunity to take part in the public exchange of cultural, political and social information and ideas of all kinds. Those who created, performed, distributed or exhibited works of art contributed to the exchange of ideas and opinions, which was essential for a democratic society. Hence the obligation on the State not to encroach unduly on their freedom of expression.

The Court went to say in each of the judgments that, in line with its case-law, there was little scope under Article 10 § 2 of the Convention for restrictions on political speech or on debate on matters of public interest. Furthermore, the limits of permissible criticism were wider with regard to the government than in relation to a private citizen, or even a politician. In a democratic system the actions or omissions of the government had to be subject to the close scrutiny not only of the legislative and judicial authorities but also of public opinion. Moreover, the dominant position which the government occupied made it necessary for it to display restraint in resorting to criminal proceedings, particularly where other means were available for replying to unjustified attacks and criticisms of its adversaries. Nevertheless, it certainly remained open to the competent State authorities to adopt, in their capacity as guarantors of public order, measures, even of a criminal-law nature, intended to react appropriately and without excess to such remarks. Finally, where such remarks constituted an incitement to violence against an individual or a public official or a sector of the population, the State authorities enjoyed a wider margin of appreciation when examining the need for an interference with freedom of expression.

The Court reached its decision in each case in the light of the foregoing principles and having regard to the offending passages – the Court verifying in every case whether they constituted an incitement to violence, armed resistance or an uprising –, the context in which they were made and the type and severity of the sentence imposed.

In the nine cases in which it had jurisdiction to hear the complaint, the Court held that the applicants had been denied the right to have their cases heard by an "independent and impartial tribunal" within the meaning of Article 6 § 1 of the Convention, as they had been tried by SSCs, in which three judges sat, one of whom was a military judge.

The Court noted that, although the status of military judges sitting as members of SSCs provide some guarantees of independence and impartiality, certain aspects of these judges' status made their independence and impartiality questionable: for example, the fact that they were servicemen who still belonged to the army, which in turn took its orders from the executive; the fact that they remained subject to military discipline; and the fact that decisions pertaining to their appointment were to a great extent taken by the administrative authorities and the army. The Court held that there had also been a breach

of Article 6 § 1 in the nine cases before it.

In the case of *Başkaya and Okçuoğlu v. Turkey*, the Court reiterated that, according to its case-law, Article 7 embodied, among other things, the principle that only the law could define a crime and prescribe a penalty (*nullum crimen, nulla poena sine lege*) and the principle that the criminal law had not to be extensively construed to an accused's detriment, for instance by analogy.

The Court considered that in the case before it the applicants' conviction as such under Article 8 of the Prevention of Terrorism Act 1991 had not contravened the "*nulla poena sine lege*" principle embodied in Article 7. On the other hand, it held that the fact that the second applicant had been given a prison sentence was incompatible with that Article, as the sentence had been imposed under section 8(2), which expressly applies to editors, while publishers were liable only to a fine. The Court considered that section 8(2) was a *lex specialis* on the sentencing of editors and publishers and that the sentencing of the second applicant, who was in fact a publisher, had in that instance been based on an extensive construction, by analogy, of the rule in the same sub-section on the sentencing of editors.

#### *The Öztürk case*

In its judgment of 28 September the European Court of Human Rights held unanimously that there had been a violation of Article 10 of the ECHR (freedom of expression) and that it was not necessary to examine a complaint under Article 1 of Protocol No. 1 (protection of property).

In November 1988 Ünsal Öztürk published the second edition of a book by M.N. Behram entitled *Hayatın Tanıklığında – İşkencede Ölümün Güncesi* (A testimony to life – Diary of a death under torture) about the life of İbrahim Kaypakkaya, one of the leaders of the extreme left in Turkey.

On 30 March 1989 Ankara SSC found Mr Öztürk guilty, among other offences, of inciting the people to hatred and hostility, an offence under Article 312 TPC. The applicant had to pay a fine of TL 285,000 and the copies of the edition in issue were confiscated.

On 22 May 1991 the book's author, M.N. Behram, who had been charged under the same provisions of the TPC, was acquitted. Mr Öztürk applied to the appropriate branch of the State prosecution service asking them to refer his case to the Court of Cassation by means of an appeal on points of law against his conviction. The State prosecution service allowed this application and lodged such an appeal, but this was dismissed by the Court of Cassation on 8 January 1993.

The ECHR ruled that Mr Öztürk's conviction for helping to publish and distribute Mr Behram's book unquestionably constituted interference with the exercise of his freedom of expression, and such interference breaches Article 10 unless it satisfies the requirements of the second paragraph of that provision.

In the present case the Court accepted that the interference with the applicant's right to freedom of expression, being the result of his conviction under Article 312 § 2 TPC, could be considered to have been prescribed by law. Having regard to the sensitive nature of the fight against terrorism and the need for the authorities to exercise vigilance when dealing with actions likely to exacerbate violence, the Court considered that it could also accept that the applicant's conviction pursued two aims compatible with Article 10 § 2, namely the prevention of disorder or crime.

The Court observed that the book in issue took the form of a biography through which the author intended, at least implicitly, to criticize the Turkish authorities' actions in the repression of extreme left-wing movements and thus give moral support to the ideology

which İ. Kaypakkaya had espoused.

The ECHR reiterated that there is little scope under Article 10 § 2 of the Convention for restrictions on political speech or on debate on matters of public interest. It certainly remained open to the competent State authorities to adopt, in their capacity as guarantors of public order, measures, even of a criminal-law nature, intended to react appropriately and without excess to such remarks. Finally, where such remarks incited to violence, the national authorities enjoyed a wider margin of appreciation when examining the need for an interference with exercise of freedom of expression.

In that connection, it was important to note that the bench of the National Security Court which tried the author of the book, M.N. Behram, had ruled that nothing in the book disclosed any incitement to crime for the purposes of Article 312 of the Criminal Code. In the Court's view, this striking contradiction between two interpretations of one and the same book separated in time by about two years and made by two different benches of the same court was one element to be taken into consideration.

In the present case, the book had been on open sale since 1991 and had not apparently aggravated the "separatist" threat. Moreover, the Government had not explained how the second edition of the book could have caused more concern to the judicial authorities than the first, published in October 1988. The Court therefore discerned nothing, which might justify the finding that Mr Öztürk had any responsibility whatsoever for the problems caused by terrorism in Turkey and considered that use of the criminal law against the applicant could not be regarded as justified in the circumstances of the case.

The Court accordingly concluded that there had been a violation of Article 10 of the Convention.

The Court awarded the applicant USD 10,000 for pecuniary damage and FRF 20,000 for his costs and expenses.

## **Freedom of Association**

### **The Closure of ÖZDEP**

The judgment in the case of Freedom and Democracy Party (ÖZDEP) v. Turkey was delivered on 8 December 1999. The ECHR held unanimously that there had been a violation of Article 11 of the European Convention on Human Rights (freedom of association).

The Freedom and Democracy Party (ÖZDEP) was founded on 19 October 1992. On 29 January 1993, Principal State Counsel at the Court of Cassation applied to the Constitutional Court for an order dissolving ÖZDEP on the grounds that its programme sought to undermine the territorial integrity and secular nature of the State and the unity of the nation. While the Constitutional Court proceedings were still pending, the founding members of the party resolved to dissolve it in order to protect themselves and the party leaders from the consequences of a dissolution order – namely a ban on their carrying on similar activities in other political parties. On 14 July 1993 the Constitutional Court made an order dissolving ÖZDEP.

The Court dismissed the Government's preliminary objection in which they had pleaded that ÖZDEP could not claim to be the victim of its dissolution because it had dissolved itself voluntarily before its dissolution was ordered by the Constitutional Court. The Court ruled that since in Turkish law a voluntarily dissolved political party remained in existence for the purposes of dissolution by the Constitutional Court, the Government could not contend before the Court that ÖZDEP was no longer in existence when the dissolution order was made.

The Court could find nothing in ÖZDEP's programme that could be considered a call for the use of violence, an uprising or any other form of rejection of democratic principles. That was an essential factor to be taken into consideration. On the contrary, the need to abide by democratic rules when implementing the proposed political project was stressed in the programme.

The court noted in addition that, taken together, the passages in issue in ÖZDEP's programme presented a political project whose aim was in essence the establishment – in accordance with democratic rules – of "a social order encompassing the Turkish and Kurdish peoples". It was true that in its programme ÖZDEP also referred to the right to self-determination of the "national or religious minorities"; however, taken in context, those words did not encourage separation from Turkey but were intended instead to emphasize that the proposed political project must be underpinned by the freely given, democratically expressed, consent of the Kurds.

In the Court's view, the fact that such a political project was considered incompatible with the current principles and structures of the Turkish State did not mean that it infringed democratic rules. It was of the essence of democracy to allow diverse political projects to be proposed and debated, even those that called into question the way a State was currently organized, provided that they did not seek to harm democracy itself.

The Court noted the radical nature of the interference in issue: ÖZDEP had been definitively dissolved with immediate effect, its assets had been liquidated and transferred *ipso iure* to the Treasury and its leaders had been banned from carrying on certain similar political activities.

In conclusion, ÖZDEP's dissolution had been disproportionate to the aim pursued and consequently unnecessary in a democratic society. It followed that it had breached Article 11 of the Convention.

By way of just satisfaction, the Court awarded 30,000 French francs for non-pecuniary damage and 40,000 francs for legal costs and expenses.

## 7. Freedom of Expression

In 1999 persons with dissident views on the State's politics and critics met with oppressive punishment. Trade union, associations, political parties and similar organizations and those active in them in particular human rights activists faced detention, trials and imprisonment for such activities.

The General Directorate for Penal Records and Statistics stated that 113 cases opened on charges of violating Article 159 TPC (insult of state organs) resulted in acquittal during 1999, while 101 cases resulted in terms of imprisonment. Cases launched under Article 312 TPC (incitement to enmity and hatred) ended 136 times in acquittal and 246 times in a conviction. There were 5 cases in connection with Article 155 TPC (alienating the people from military service), but none of them was terminated in 1999. A total of 6,782 people (325 of them under 18 years of age) were charged with a violation of the Law No. 2991 on Demonstrations and Meetings. 294 such trials ended in acquittal, while 85 resulted in convictions.

A total of 5,023 people (123 aged under 18) were charged under Article 169 TPC (support for an illegal organization). In 886 court cases the verdict was acquittal and in 578 cases the courts ruled on terms of imprisonment.

A total of 2,604 cases were launched against 3,174 defendants on charges of having violated the Press Law. 434 cases ended in acquittal and 1,911 cases resulted in convictions.

No steps were taken to amend the provisions preventing freedom of expression. However, additional administrative, monetary and police measures were applied against dissidents. In April the Ministry of Interior issued a circular banning certain expressions in statements of public institutions. The circular of 26 April 1999 with the number 096 contained the following list of "dangerous" words and necessary replacements:

"Dangerous" terms	To be replaced by
guerilla	terrorist, bandit
Kurdish national liberation war, freedom fight	terrorist activity
PKK, KAWA, KUK	terror organization, bloody terror organization, killer gang
operation, sweeping offensive	search for terrorists and criminals
commander, governor	an official
Kurd, Kurdish race	Turkish citizen

ceasefire	pause in terrorist activities
call for peace	temporary stop of armed terrorist acts
Apo compensation, PKK compensation	compensation for duty in the OHAL region
Southern Kurdistan	Northern Iraq
Northern Kurdistan	East Turkey
provinces of Botan, Amed...	region of Van-Hakkari, Bingöl-Muş-Diyarbakır
Botan commander...	regional leader of terrorist
Apo	terrorist Öcalan
militia	supporter of terrorists
organization camp	terrorist shelter
organization leader	head of separatists
Marxist-Leninist organization	Terror organization
Crime against humanity	Terror crime, killing, massacre
Evacuated- burned down villages	Abandoned villages
Kurdish flag	Symbol of the terror organization
ERNK office	Contact office of terrorists
War on low intensity	Fight with terrorism
Kurdish State	Formation in Northern Iraq

HRA Chairman Akın Birdal made a statement on the list saying that this was a circular on

ensorship. He claimed that the circular was the consequence of obstacles put up in front of freedom of expression and showed the fear of certain words such as the term “Kurd”.

İsmet Demirdöğen, chairman of the Association of Contemporary Journalists (ÇGD) stated that playing with certain words could not solve the problems of Turkey. He called on those people, who advocated the change of words to change their minds first, because that might contribute to solve the problems of the country and asked them to study the speech of Necdet Sezer, President of the Constitutional Court

### **Legal Background**

There are a number of legal obstacles for the realization of the freedom of expression in Turkey. Frequently used Articles of the Turkish Penal Code (TPC) are Articles 159 and 312, but also Articles 155 and 311 TPC are used to punish certain opinions. The Law to Fight Terrorism and in particular Articles 6, 7 and 8 of this Law No. 3713 are used against the opposition. Law No. 5816 on Protection of Atatürk, the Press and the Law on Radio and TV broadcast (RTÜK) are other laws restricting freedom of expression. Special law on the administration of provinces, martial law and the law on a state of emergency provide for additional measures against critical voices.

The primary legal provisions that form obstacles to the freedom of thought are Articles 155, 159, 311 and 312 of the TPC; Articles 6, 7 and 8 of the so-called Anti-Terror Law with the number 3713; The Law for Protecting Atatürk which is numbered 5816; Press Law and the Law on Radio and Television. Additionally, Law on Provincial Administration, Martial Law and State of Emergency Law allow, on certain situations, military and administrative authorities to take prohibitive measures without a judicial decision.

The Press Law numbered 5680 holds responsible not only the writer, but also the editor-in-chief and owner of publication institutions for offences committed via the press. Therefore, more than one person gets punished for just one offence. <sup>(40)</sup>Article 31 of the same law empowers the Council of Ministers to “ban the entry and distribution of printed material published in foreign countries to Turkey in cases when they are considered to be contrary to the integrity of the State with its country and nation, to national sovereignty, to the existence of the Republic, to national security, to public order, to general order, to public interest, general morals and to general health. It also empowers the Minister of Interior Affairs to “confiscate printed material published in Turkey.”

Article 162 of the TPC states that “presenting a publication that is considered to be a crime is an offence by itself.” <sup>(41)</sup>According to this provision, those who quote from publications with the intention to criticize it, discussing it or inform the public may get punished. However, the persons who are accused by the SSC prosecutors of “making propaganda for a terrorist organization” may get punished on claims of being the direct source of the quotation.

Article 159 of the TPC defines the offence of “openly insulting and ridiculing the fact of being Turkish, the Republic, the Grand National Assembly, the moral character of the Government, Ministries, the military or security forces of the State or the moral character of the Court,” and prescribes heavy imprisonment of between 1 to 6 years. In Turkey where the border between criticism and insult is determined arbitrarily, this provision makes any criticism, particularly of human rights violations or the role of the Turkish Armed Forces and the National Security Council an offence.

Article 155 of the TPC provides for sentences of persons, who make oral or written statements that “endanger the security of the country” or “alienate people from military service”, ranging from 2 months to 2 years’ imprisonment.

Article 312 of the TPC regulates the offence of “inciting people to hatred and enmity.” <sup>(42)</sup>Article 312 has frequently been used against “offenders of thought” particularly following the amendment made to Article 8 of the Anti-Terror Law in 1995. National and international legal circles and human rights organizations have seriously criticized Article 312.

Article 168 of the TPC, which regulates the offence of “membership to and administration of armed gangs” is often used to prosecute human rights defenders and journalists for their views and actions. People, who worked for legal newspapers and journals defined by security authorities as “publication of an illegal organization,” were often put on trial on accusations of “being an executive or member of an armed gang” depending solely upon the files prepared by the security officers, even when there was no other material evidence.

The authorities also used Article 169 of the TPC, which regulates “aiding and abetting members of an armed gang” defined within “offences committed for terrorist ends”, against members of oppositional media on claims that they paved the way for the activities of the illegal organization through news reports. In 2001, there was an increase in the number of people, who were put on trial under Article 169 in connection with speeches they delivered or books they wrote.

The offence defined by Article 8 of the Anti-Terror Law as “making written and oral propaganda and holding meeting, demonstrations and marches aiming at destroying the unbreakable integrity of the State of the Republic of Turkey with its country and nation” has not only been frequently applied against persons having oppositional opinions concerning the Kurdish problem, but also against persons, who expressed or cited contrasting information and views regarding the “national security”. Article 8 prescribes a heavy prison term from 1 year to 3 years and heavy fines. The owners of publications convicted for such an offence can be fined heavily and their editor-in-chiefs can be imprisoned from 6 months to 2 years and be fined as well.

Article 7 of the Anti-Terror Law regulates offences of “founding or joining terrorist organizations apart from those defined by the TPC” or “aiding members of and making propaganda for such organizations.” Expression of any information and opinion considered by authorities to be in favor of “terror organizations” is sentenced under this article.

Article 6 of the Anti-Terror Law regulates the offences of “printing and publishing newsletters and statements of terrorist organizations” and “showing civil servants, who took part in the struggle against terror as targets.” This article can be used as a shield for public officers, who are on trial for torture, rape, extra-judicial execution or similar human rights violations.

Paragraph (b) of Article 3 of the Martial Law numbered 1402 empowers the martial law commanders to “censor, record or stop broadcasting and communication by any kind of means such as telephone, wireless, radio and television, and to have priority in using these means whenever necessary.” According to line (c) of the same article, martial law commanders are authorized to “control any communication means such as publication, correspondence, letters or telegrams either orally, in writing, as pictures, videos and sound; to ban or censor the publication, distribution, keeping or carrying more than one copy of newspapers, journals, books and other publications, and their admission to the state of emergency region; to confiscate any document, publication or communication means such as books, journals, newspapers, leaflets, posters, statements, banners, LP or cassette, whose publication and distribution was banned by the martial law commander; to close down publishing houses that printed these documents or the production places of cassettes and LPs, and even if a confiscation decision is not taken for certain products, the necessary measures should be taken for their destruction if the martial law commander objects to hand them back to their owners; and to ask for authorization for release of new newspapers and journals.”

Paragraph (e) of Article 11 of the State of Emergency numbered 2935 authorizes the governors to “ban or base on permission the publication, reproduction, release and distribution of newspapers, journals, leaflets, books, posters or fliers and admission and distribution of those published and reproduced outside the state of emergency region into the region; to confiscate books, journals, newspapers, leaflets, posters and similar material, whose publication had been banned. Paragraph (f) of the same article authorizes governors to “control and, if necessary, to record or ban any statement, article, picture, film, LP and sound and visual bands and broadcast of sounds”.

Paragraph (a) of Article 1 of the Decree with the Force of Law numbered 430, which is known in public as the SS (Exile and Censor) Decree empowers the Governor of the State of Emergency Region or the provincial governors in the State of Emergency Region “to ban or base on permission the publication, reproduction, release and distribution of any printed material, books,

journals, newspapers, leaflets, posters and the like, which might cause the destruction of the public order seriously by misrepresenting the activities in the region or producing untrue news reports or broadcasts or which might cause anxiety among the society or prevent security forces to fulfill their duties properly. If such material is printed or reproduced outside the State of Emergency Region, it may be banned. Their admission to and distribution in the region is subject to permission. In accordance with this provision, the Minister of Interior can, upon proposal or after taking the opinion of the Governor of the State of Emergency Region, "send a written warning to owners or publication directors of these publications for stopping the publication without taking into account whether they were published within or outside the state of emergency region. S/he can ban for an indefinite or definite period the reproduction, publication or distribution of them". The article also empowers the Minister of the Interior to close down the publishing houses that published these publications up to 10 days and in case of reoccurrence, up to 1 month.

The Law on Turkish Radio and Television (TRT) numbered 2954 includes clauses that seriously restrict the freedom of communication and receiving information. The Law defines the duties of the TRT in domestic broadcast as follows:

"To contribute to 1. Atatürk's principles and revolutions to take root and realization of national objectives that envisage the rise of the Republic of Turkey above the contemporary civilization level; 2. to protect and strengthen the existence and independence of the State with its indivisible integrity of the country and the nation, the peace of the society and the qualities of democratic, secular and social state in an understanding of national solidarity and justice, respectful for human rights and based on Atatürk's nationalism; 3. development of national education and national culture; 4. to protect national security policy and national and economic interests of the State; 5. constituting the public opinion freely and healthily in line with the Constitutional principles." (Article 9-e)

The regulation concerning "prohibition of broadcasts with regards to national security" is as follows:

"The Prime Minister or a minister in his/her place is authorized to prohibit a news report or program in cases that national security openly requires so. The ban should be announced in writing. But in cases of emergency the decision of prohibition can be communicated orally. In that case, the prohibition decision should be repeated in written form at the shortest. In cases the prohibition involves programs not produced under the responsibility of Turkish Radio and Television Institute, the general directorate communicates the prohibition decision to the relevant persons within 24 hours." (Article 23).

Article 22 of the Regulation concerning Broadcast Principles and Methods for Radio and Television Broadcasts brings the following arrangement: "Broadcasts cannot be inspected and stopped beforehand with reservations for judicial decisions. But in cases national security obviously requires so or in case of a strong possibility that the public order can be seriously destroyed, the Prime Minister or the Minister in his/her places can stop the broadcast". In this context Istanbul SSC prohibited any broadcast of news about the death fasts in prison on 14 December 2000 and trials were brought against people who did not stick to the prohibition. The media institutions that did not abide by the decision were confiscated or closed down. News reports and sights about the hunger strike in 1996 had been prohibited for the same reason.

The "Law on Establishment and Broadcast of Radios and Televisions" (called RTÜK like the High Council for Radio and Television) numbered 3984 and entered into force on 13 April 1994 also includes clauses that restrict freedom of expression, communication and getting information. For instance, Paragraph (a) of Article 4 of the RTÜK Law sanctions broadcasting in violation of the principle of "not allowing broadcast contrary to the existence and independence of the Republic of Turkey and the indivisible integrity of the State with its country and nation, paragraph (b) sanctions broadcasting in contrast to "national and moral values of the society, paragraph (c) "the principle democratic rules and personal rights mentioned in the general principles section of the Constitution, paragraph (d) "general ethics, social peace and Turkish family structure, paragraph (e) "freedom of expression, principle of pluralism in communication and broadcast", paragraph (f)

“principle of never condemning people for their race, sex, social class or religious beliefs” and paragraph (g) “not allowing broadcast that could incite people to violence, terror and ethnic discrimination and create feelings of hatred in society”. According to these provisions, the RTÜK has the authority to determine which programs are “in the interest of the country and people”, which are “ethical”, “in agreement with pluralist democratic principles”, and “developing tolerance and joint life culture against differences”. The article authorizes the RTÜK to “warn” or “close down” radios and televisions that broadcast about Armenians and Assyrians or play Kurdish music.

### *Amnesty for the Press*

On 28 August the GNAT passed the Law No. 4454 on the Suspension of Trials and Sentences in Connection with Offenses Committed via the Press or Publications. The Law entered into force on 3 September, when it was published in the Official Gazette with the number 23805.

The condition for journalists to benefit from this law was that they did not commit similar offenses within the next three years. If they did, the former sentence would be valid as well. The law provided that the sentences of journalists would be suspended, unless they had been convicted of membership of an illegal organization.

According to Article 1 of the law, all crimes committed until 23 April 1999 would be included. The maximum sentence to be suspended was set at 12 years’ imprisonment. After the law entered into force several journalists were released from prison, investigations and trial against others were halted.

Justice Minister Hikmet Sami Türk stated in the GNAT that the editors-in-chiefs were not the only persons to benefit from the new legislation. The law included reporters writing news, filming events and even cartoonists and everybody working in this area. Türk related that the law only included offences committed via the media and added: “In the future there will be no need to protest against Turkey as a country that imprisons journalists, scientists and philosophers.” He said that 50 prisoners would be released according to this law, but 26 journalists, who had been convicted of membership of an illegal organization, one journalist, who had been convicted of rape and one, who had violated the Law on Demonstrations and Meetings, would not be released. Türk made it clear that persons convicted under Article 312 TPC would be included in the new legislation.

Because of the condition that the offense had to be committed via publications some prisoners of conscience such as the former HRA chairman Akın Birdal and the lawyer Eşber Yağmurdereli were not released, because their offenses had been committed orally. Had, for instance, Eşber Yağmurdereli not spoken on a meeting, but on radio or TV he would have benefited from the new law. (<sup>[43]</sup>).

Osman Ergin, deputy chairman of İstanbul Bar Association, stated that although all offenses committed via the media had been included under the condition that similar offenses would not be committed within three years, the law could not be called an amnesty for prisoners of conscience. Only sentences for thoughts expressed in the press had been suspended. Ergin said: “Injustice starts here. If you’ve written an article and are imprisoned, your sentence is suspended, but if you are imprisoned, because you read that article in another place, your sentence is not suspended. This is the situation of Eşber Yağmurdereli. His crime is a crime of thought. In this respect the law is in contravention to the Constitution.” Osman Ergin stressed that Turkey had not corrected the fact that certain thoughts were punished as a crime. As long as Article 312 TPC and the Articles 6-8 of the Law to Fight Terrorism remained in place thought would continue to be a crime. Ergin

added that the sentences had only been suspended and argued that the situation would be the same in 3 to 5 years' time.

On 14 October the Bliss Party (FP) appealed to the Constitutional Court arguing that the new law was against the principle of equality guaranteed by the Constitution. The appeal asked to be changed the term of paragraph 1 in Article 1 setting the condition that the offense had to be committed by means of the press or oral and visual media. İsmail Kahraman, deputy chairman of the parliamentary group of the FP stated that his party wanted all prisoners of conscience to be included in such a law, which was the intention behind their application. The Constitutional Court accepted the appeal in November deciding for a review at a later date.

## **7.1. Freedom of Expression**

Like in the years before many journalists, writers, human rights defenders, representatives of political parties and NGOs were prosecuted in 1999 for the thoughts that they expressed.

### **İsmail Beşikçi**

On 15 September writer and sociologist İsmail Beşikçi was released from Bursa Special Type Prison. His latest imprisonment had started on 12 November 1993 for an article he had written on "The Meaning of Kurdish Women Joining the Guerilla". His lawyer Levent Kanat stated that 50 out of 52 cases against İsmail Beşikçi had been suspended under the Law No. 4454 on the Suspension of Trials and Sentences in Connection with Offenses Committed via the Press or Publications (also called Amnesty Bill for the Press). Levent Kanat added that 105 cases had been brought against Beşikçi since the LFT had entered into force in 1991. Out of these 105 cases 52 had resulted in convictions. Ankara SSC had suspended 10 trials and two files with Ankara Penal Court No. 2 had been closed. Levent Kanar expected that İstanbul SSC and criminal courts with cases against Beşikçi would act likewise. Two cases against Beşikçi had not been included in the decisions of suspension (one for a message he sent to the "evening of people from Tunceli" and the opening speech he held at the Free University in 1992), but since the sentences were less than the time Beşikçi spent in prison and, therefore, he had been released.

Following his release İsmail Beşikçi stated that he had been released from prison 7 times and 4 times the police had let him go. "But these were no steps to freedom. It is an insult to writers in Turkey to suspend the sentences for three years. Thoughts and the expression of thoughts remain crimes. So you have to remain silent for three years. People can use their will and not steal or commit fraud. But we are told to use our will in order not to think or not to express what we think."

### **Ahmet Kaya**

During an event organized by the Association of Journalists in Magazines Ahmet Kaya said on 10 February that he wanted a TV station to broadcast the video clip that he wanted to produce in Kurdish. Subsequently İstanbul SSC issued an arrest warrant against him on charges of supporting the PKK. Ahmet Kaya was arrested on 15 February, but released after one hour on objection of his lawyers.

In March Kaya was indicted for his speech under Article 312 TPC for "inciting the people to hatred and enmity". Another two cases against him were opened in connection with a concert he had given in Germany in 1992. During the concert flags of the PKK had been exposed. Ahmet Kaya was charged for support of the PKK and incitement to hatred and

enmity. The trials did not conclude in 1999. <sup>[44]</sup>

### **Muzaffer İlhan Erdost**

In February the Court of Cassation confirmed the sentence of 1 year's imprisonment and a fine of TL 100 million against the publisher and writer Muzaffer İlhan Erdost imposed by Ankara SSC for his book "Three times Sivas to Force Turkey to another Sevres". Ankara SSC had ruled that Article 8 LFT had been violated (separatist propaganda). The chief prosecutor at the Court of Cassation appealed against the verdict and the Panel of Chambers at the Court of Cassation took up the case. The Panel of Chambers confirmed the verdict in April. The trial against Erdost had started at Ankara SSC in 1996 and the Court had passed the verdict on 20 February 1997. The execution of the sentence was suspended according to the Amnesty Bill for the Press.

### **Abdülmelik Fırat**

The prosecutor at İstanbul SSC indicted Abdülmelik Fırat, former MP for the DYP, on 18 December 1998 for having made separatist propaganda in a speech on TV channel "Kanal 7" during the program "The heart of the word". İstanbul SSC acquitted him on 5 March.

In January the Court of Cassation quashed a prison term of 10 months, imposed on Abdülmelik Fırat in connection with a speech on the radio station "Yaşam" in 1996. İstanbul Criminal Court had convicted him for insulting the republic. In October the case was suspended according to the Amnesty Bill for the Press.

### **Abdurrahman Dilipak**

At the end of June the Court of Cassation quashed the acquittal of writer-journalist Abdurrahman Dilipak. The case at İstanbul SSC had been conducted for an interview Dilipak gave the paper "Le Figaro" and the charges related to Article 312 TPC. Allegedly Dilipak said in the interview that a war should be fought to make the sharia dominant in Turkey and Atatürk had made Turkey the ape of Europe. The acquittal came, when Dilipak said that this had not been his words and he had sent a correction to the paper. The Court of Cassation quashed the acquittal on the grounds that the investigation had not been sufficient.

On 12 March İstanbul SSC started to hear the case of Abdurrahman Dilipak, Ekrem Kızıldağ, editor-in-chief of the daily "Milli Gazete", Ahmet Taşgetiren, journalist with "Yeni Şafak" and Adem Albayrak. They were charged with inciting the people to hatred and enmity in connection with countrywide action of 11 October 1998 demanding that headscarved students be accepted at universities. The defense lawyer Şeyma Dövücü, Macide Gök, Hayriye Çiçek and Gülfidan Sönmez had appeared with headscarves. The military judge Ali Başaran ordered their removal from the court hall. During the hearing of 25 May Abdurrahman Dilipak requested the withdrawal of this judge for not being impartial. The request was rejected. The defense lawyer Şeyma Dövücü, Macide Gök, Hayriye Çiçek and Gülfidan Sönmez received a warning from İstanbul Bar Association later.

Another trial was opened in connection with the same action. The defendants this time were Abdurrahman Dilipak, Ahmet Taşgetiren and Avni Çarşancaklı, chairman of the İstanbul branch of the human rights organization Mazlum-Der. İstanbul Penal Court No. 1 started to hear the case on 29 April. Abdurrahman Dilipak stated that another court case had been opened at İstanbul SSC and, therefore, he would not defend himself in this trial. Taşgetiren and Çarşancaklı said that they had not conducted any illegal action.

Dilipak was also tried for a speech he delivered on TV channel Kanal D on 22 June. He was charged with insulting the ideal personality of Atatürk.

The court case against Abdurrahman Dilipak in connection with a speech he held during a conference in Malatya on 27 September 1998 on "Respect to Belief, Freedom of Thought" did not conclude at Malatya SSC in 1999. Dilipak was charged with inciting the people to commit crimes. The same conference resulted in another trial against Dilipak and the lawyer Rasit Alaca and Doğan Karaođlan. Malatya Criminal Court tried them under Article 159 TPC with insulting the judiciary.

Finally, Sariyer Public Prosecutor's office indicted Abdurrahman Dilipak in January in connection with a program on Kanal 7 concerning the extension of basic education to 8 years. Dilipak was charged with insulting the armed forces with the words that the minimum education of 8 years had been enforced by the Turkish Armed Forces.

### **Mehmet Kutlular**

On 18 October Ankara SSC ordered the arrest of Mehmet Kutlular, the owner of the newspaper "Yeni Asya". He had spoken after a ceremony in the Kocatepe Mosque on 10 October and had called the earthquake of 17 August a holy warning. In the speech he had also criticized the ban on headscarves and the so-called 28 February period. The arrest warrant was issued according to Article 312 TPC. After one day under arrest Mehmet Kutlular was released on objection of his lawyer. The trial did not conclude in 1999.

### **Hasan Hüseyin Ceylan**

In March the Court of Cassation confirmed the sentence of 1 year's imprisonment for the former deputy for the closed down Welfare Part (RP), Hasan Hüseyin Ceylan. He had lost his immunity, when the RP was banned. On 17 November 1998 Ankara SSC had convicted him for a speech he held in Kırıkkale during the election campaign in 1993. In his speech he allegedly incited the people to hatred and enmity. Ankara SSC had also ruled that Hasan Hüseyin Ceylan would not be eligible for the rest of his life. On 7 September Hasan Hüseyin Ceylan started to serve his prison term in Ankara-Çubuk Prison.

In a separate case Ankara Penal Court No. 19 sentenced Hasan Hüseyin Ceylan on 14 October to 15 months' imprisonment. Mr. Ceylan had been charged with insulting Atatürk. The sentence was suspended on the grounds that the defendant would not commit another crime.

### **Hasan Celal Güzel**

On 23 February the trial in connection with a speech of Hasan Celal Güzel, chairman of the Rebirth Party (YDP) that had dissolved itself, on the subject of "Where is democracy going in Turkey?" held in Kayseri on 3 September 1997 concluded at Ankara SSC. The Court convicted him under Article 312 TPC and sentenced him to 1 year's imprisonment and a fine of TL 860,000. The 8th Chamber of the Court of Cassation confirmed the sentence in July. Hasan Celal Güzel started to serve his sentence on 16 December. According to the Law on Execution of Sentences he would have to spend five months in prison.

On 12 January Ankara SSC started to hear the case of Hasan Celal Güzel and Recep İhsan Ekiyaçık charged with inciting the people to hatred and enmity in speeches they held at the Human Rights Meeting in Kayseri on 13 June 1998. On 27 January 2000 the Court convicted both defendants and sentenced them to 1 year's imprisonment and a fine of TL 160,000.

Another court case concluded at Batman Criminal Court on 11 June. Hasan Celal Güzel was sentenced to 10 months' imprisonment for having insulted the government, the armed

forces and the judiciary.

Ankara Penal Court No. 2 sentenced Hasan Celal Güzel to 15 months' imprisonment. The verdict of 3 May related to charges of having insulted State President Süleyman Demirel.

In June Bursa Criminal Court No. 1 acquitted Hasan Celal Güzel from charges of having insulted the State President and the army in a speech he had held during a conference under the title of "Coup d'etats and democracy in Turkey".

### **Hasan Mezarıcı**

Hasan Mezarıcı, former MP for the closed down RP, was charged in Trabzon under Article 159 TPC for a speech he held on a local TV station on 11 November 1997. During the hearing of 25 December Trabzon Criminal Court issued an arrest warrant against the defendant, who had not come to the hearing.

Another case at Trabzon Criminal Court concluded on 21 April. For a speech he had held in Trabzon during his time as deputy the Court sentenced him to 10 months' imprisonment for having insulted the judiciary.

In June the Court of Cassation confirmed a sentence of 10 months' imprisonment imposed on Hasan Mezarıcı by Ankara Criminal Court No. 2. The Court counted the words "I detest parliament" as an offense under Article 159 TPC. Earlier Ankara Criminal Court had sentenced Mezarıcı to 1 year's imprisonment, but the Court of Cassation had quashed that sentence.

### **Dino Frisullo**

The Italian journalist Dino Frisullo had been detained during the Newroz celebrations in Diyarbakır on 21 March 1998. Later Diyarbakır SSC convicted him under Article 312 TPC, but the Court of Cassation quashed the sentence of 1 year's imprisonment and a fine of TL 6.1 billion. The retrial started in April, but did not conclude in 1999.

### **Oral Çalışlar**

On 18 May the court case against Oral Çalışlar, journalist with the daily "Cumhuriyet" and the publisher Muzaffer Erdoğan concluded. They had been charged with separatist propaganda in the book "The Kurdish question with Öcalan and Burkan". İstanbul SSC convicted Oral Çalışlar under Article 8 of the LFT and sentenced him to 20 months' imprisonment and a fine of TL 111 million. The case against the publisher Muzaffer Erdoğan was dropped according to Law No. 4304 of 13 August 1997 that provided for suspension of cases against editor-in-chiefs and owners of publishing houses.

On 27 October 1994 Oral Çalışlar had been sentenced to 2 years' imprisonment and a fine of TL 250 million. The Court of Cassation quashed this sentence in November 1995. In the retrial the defendants were only fined, but the Court of Cassation had quashed this verdict as well.

### **Recep Tayyip Erdoğan**

Recep Tayyip Erdoğan, former Mayor of İstanbul, started his prison term of 10 months on 26 March. On 23 September 1998 the Court of Cassation had confirmed the sentence imposed under Article 312 TPC for a speech he had held in Siirt in 1997. Erdoğan stayed in Pınarhisar Prison (Kırklareli) for 120 according to the Law on Execution of Sentences. He was released on 25 July.

### **Yalçın Küçük**

Prof. Dr. Yalçın Küçük returned from France on 29 October 1998, although arrest warrants

existed against him in various court cases and because of two convictions at Ankara and İstanbul SSC. He was arrested and put in prison on 30 October 1998. These are the cases against him:

On 5 February Ankara Penal Court No. 2 sentenced him to 18 months' imprisonment for having insulted Atatürk in an article in the journal "Marksist Damar" of April-May 1994 under the title of "3 Dynamics in Kemalist Formation".

On 14 May a case against Yalçın Küçük, Haluk Gerger, Kemal Burkay, leader of the PSK (Socialist Party of Kurdistan), Mahir Sayın and Mehmet Çanakçı in connection with their appearance on Med-TV on 19 November 1995 concluded at Ankara SSC. The Court sentenced Yalçın Küçük to 16 months' imprisonment and acquitted Haluk Gerger. The files of the other defendants, whose arrest had been ordered in absentia, were separated.

In July Yalçın Küçük was charged at Ankara Criminal Court No. 2 under Article 159 TPC for an interview with Sofia Yordanida in Greece in 1998. The case was suspended in October according to the Amnesty Bill for the Press.

On 2 September Malatya SSC convicted Yalçın Küçük for a speech he had held in İskenderun in 1993. The Court found him guilty under Article 8 of the LFT and sentenced him to 18 months' imprisonment.

On 22 March Ankara SSC passed the verdict in connection with a speech Yalçın Küçük had held in Keçiören (Ankara) in 1993 and on Med-TV in 1996. The charges had been described as "promoting the actions of the PKK by making separatist propaganda". Ankara SSC convicted Yalçın Küçük under Article 169 TPC in each case and sentenced him twice to 45 months' imprisonment. In September the Court of Cassation confirmed the verdict on the speech in Keçiören. The verdict on the speech on Med-TV was suspended according to the Amnesty Bill for the Press.

### **Yılmaz Odabaşı**

On 12 March the poet Yılmaz Odabaşı started to serve his term of 18 months' imprisonment imposed on him on charges of having insulted Atatürk in his book "Dream and Life". Ankara Penal Court No. 2 had passed the verdict and the Court of Cassation had confirmed it. Yılmaz Odabaşı was put in Bursa E-type Prison. He was released from Saray Prison on 8 September according to the Amnesty Bill for the Press.

Ankara SSC had convicted him for the same book on charges of having disseminated separatist propaganda. The Court of Cassation quashed this verdict of 6 March 1997 of 18 months' imprisonment and a fine of TL 933 million in March. For the words "I am ashamed of living at the same time and in the same country with you", which Odabaşı uttered after the verdict of Ankara SSC, he was charged with having insulted the court. Ankara Penal Court No. 5 sentenced him on 14 September 1998 to 7 months' imprisonment for that. The Court of Cassation confirmed the sentence in December. On demand the execution of the sentence was suspended for three months.

### **Haluk Gerger**

On 23 March the Court of Cassation confirmed the sentence of 13 months' imprisonment against writer Haluk Gerger, imposed by İstanbul SSC under the Law to Fight Terrorism (LFT). The case had been launched for an article in the daily "Özgür Gündem" of 18 December 1993 with the title "Who is the real loser in the war?" The sentence was suspended according to the Amnesty Bill for the Press.

### **Abdullah Varlı, Reşit Koçeroğlu, Ali Şola, Mehmet Yağmur**

On 8 September Abdullah Varlı, Reşit Koçeroğlu (members of the party parliament of HADEP), Ali Şola and Mehmet Yağmur (religious men) were released from prison according to the Amnesty Bill for the Press. On 17 September 1998 Ankara SSC had convicted them under Article 312 TPC in the January 1997 edition of the official bulletin of HADEP and sentenced them to 2 years' imprisonment and fines of TL 720 million each. The Court of Cassation had confirmed the verdict on 25 April.

### **Kemal Kırlangıç**

On 10 March İzmir Penal Court No. 2 started to hear the case of Kemal Kırlangıç, lawyer in İzmir. He was charged under Article 159 TPC with having insulted the laws in his book "Suspected Laws". An earlier investigation by the prosecutor at İzmir SSC had resulted in a decision not to prosecute and the demand of confiscation had been turned down by İzmir SSC. This case was suspended according to the Amnesty Bill for the Press.

### **İlknur Birol**

On 19 April the teacher İlknur Birol was released from prison after serving her term of 1 year's imprisonment, imposed on her by İstanbul SSC on 7 October 1997. She had been charged for a speech she held during the meeting on "Peace and Democracy" held in İstanbul on 13 April 1996. The Court found her guilty of having insulted the then Minister of Justice, Mehmet Ağar, by saying that killers with blood at their hands are made Justice Ministers. İlknur Birol had been imprisoned since 24 November 1998. <sup>(145)</sup>

### **Eğitim-Sen Executives**

On 31 December 1998 Ankara SSC started to hear the case of Kemal Bal, chairman of the teachers' union Eğitim-Sen, and the former executives Erol Savumlu, Necati Akpınar, Nurşen Girgin, Müslüm Şahin, Alper Öztürk, Asuman Edalı, Cemal Ünlü and Başyürek Altun. They were charged with having disseminated separatist propaganda in the booklet on results of the Congress for a Democratic Education, held between 2 and 6 February 1998. In particular an article on education in the mother tongue was shown as evidence. On 15 March Ankara SSC acquitted all defendants.

On 10 December 1997 Ankara SSC convicted 9 executives of Eğitim-Sen for separatist propaganda on a poster on education in the mother tongue. The 9th Chamber of the Court of Cassation quashed the sentences of 16 months' imprisonment and fines of TL 3 billion. The retrial concluded on 25 May. Ankara SSC acquitted the defendants Kemal Bal, Necati Akpınar, Nurşen Girgin, Müslüm Şahin, Cemal Ünlü, Erol Savumlu, Alper Öztürk, Başyürek Altun and Asuman Edalı.

### **Ali Ürküt**

On 27 December 1998 Ankara SSC ordered the arrest of Ali Ürküt, chairman of the trade union for workers in the health and social sector (SES) based on a statement he had made on Abdullah Öcalan's move to Italy on 15 November 1998. The trial at Ankara SSC started on 3 March. Ali Ürküt was charged under Article 169 TPC. Observers were not allowed to enter the courtroom. Trade unionists, who had come to Ankara in support of Ali Ürküt, were removed from Ankara SSC. The police beat them in order to leave the area. Ufuk Yılmaz, chair of SES for Ankara and Orhan Atabey, representing SES in Bingöl, were taken into a police car and beaten up. On 21 April Ankara SSC convicted Ali Ürküt on charges of making separatist propaganda and sentenced him to 2 years' imprisonment and a fine of TL 3 million. Ürküt was released from prison pending an appeal against the verdict.

### **Doğu Ergil**

In February the prosecutor at Ankara SSC started an investigation against Prof. Dođu Ergil, chairman of the Research Foundation for Problems of Society, in connection with his report entitled "Document on Common Understanding, Democratization in Turkey and the Kurdish Question". Ergil told the HRFT that the investigation had been initiated as a kind of intimidation and had not been concluded.

### **İlyas Salman**

The political police detained the Artist İlyas Salman, who played a role in the play "Migration Birds" on stage at the State Theater in Diyarbakır. Apparently İlyas Salman had spoken at the trade union Eğitim-Sen and allegedly said: "As long as the dirty war continues Turkey will not straighten up. With a logic of having brothers kill each other you cannot get on a straight road." Salman was released the next day.

### **Medeni Ayhan**

Lawyer Medeni Ayhan, owner of the journal "Özgür Bilim" and one of the lawyers, who applied to defend the PKK leader Abdullah Öcalan, was imprisoned on 10 Mart. He was to serve two sentences in connection with the journal. Ankara SSC had sentenced him to 1 year's imprisonment for an interview in the journal according to Article 8/1 LFT and to 1 year's imprisonment for an article with the title of "Representatives that cannot evaluate and go further" according to Article 7/2 LFT. In these cases Medeni Ayhan had been fined a total of TL 550 million. In a third case Ankara SSC sentenced Medeni Ayhan to 1 year's imprisonment and a fine of TL 100 million according to Article 8/1 LFT in connection with the book "Ehmede Xani, Philosopher from Kurdistan". The 9th Chamber of the Court of Cassation confirmed this sentence. Medeni Ayhan was released on 4 September based on the Amnesty Bill for the Press.

### **Musa Okçu**

On 26 July Batman Penal Court ordered the arrest of for MP for Batman province for the closed down RP. The arrest warrant was issued in connection with a statement Musa Okçu had made to a local paper on 2 June, where he said that the soldiers had done what they could for him not to be elected. The public prosecutor interpreted this as an insult against the judiciary and the army. His lawyers objected to the order of arrest and Musa Okçu was released on 28 July.

### **Ali Rıza Yurtsever**

In April İstanbul SSC started to hear the case of Ali Rıza Yurtsever, member of HADEP's parliament. He was charged with disseminating separatist propaganda in an article that appeared in the daily "Ülkede Gündem" on 31 October 1997 under the title of "Democratic Openings for the Kurdish Reality". On 14 June İstanbul SSC sentenced him to 13 months', 10 days' imprisonment and a fine of 3.7 billion. The sentence was suspended for a period of five years

### **İhsan Çelik**

İhsan Çelik, Mayor of Patnos district (Ağrı) for HADEP, was arrested on 28 April in connection with a speech he made on the local radio station Patnos. He was accused of having made separatist propaganda. His lawyers objected to the arrest and İhsan Çelik was released on 1 May.

### **Feridun Çelik**

On 15 July Ankara SSC acquitted Feridun Çelik, Mayor of Diyarbakır in the name of HADEP from charges under Article 8 LFT and Article 169 TPC. The case had been

launched in connection with remarks Feridun Çelik made on Med-TV, participating in a program over the phone. The incriminating words were cited as “We’ve come here out of war. We are here with enthusiasm to let peace blossom and give it a voice”.

### **Mehmet Salih Yalçinkaya, Şükrü Abay**

Mehmet Salih Yalçinkaya (HADEP). Mayor in Bismil, and Şükrü Abay, former chairman of EMEP for Diyarbakır province, were charged with having disseminated separatist propaganda in a program on Med-TV on 13 February that dealt with the elections 1999. Diyarbakır SSC dropped the case according to the Amnesty Bill for the Press.

### **Feridun Yazar**

Feridun Yazar, member of HADEP’s parliament, was released from Suruç Prison on 25 May. He had served a prison term of 10 months. Ankara SSC delivered the sentence of one year’s imprisonment in connection with a speech Feridun Yazar had made on the 2nd Extraordinary Congress of HEP in 1992. Feridun Yazar had been imprisoned since 1 September 1998.

### **Fehmi Demir**

On 31 August 1998 Ankara SSC sentenced Fehmi Demir to 16 months’ imprisonment and a fine of TL 800 million on charges of separatist propaganda in the bulletin of the Party for Democracy and Peace (DBP) issued on behalf of World Peace Day on 1 September 1996. The 9th Chamber of the Court of Cassation confirmed the sentence on 10 May. The sentences imposed on Fehmi Demir during 1998 were suspended.

### **Recep Özgüner**

In November the Court of Cassation confirmed a sentence of 28 months’ imprisonment, imposed on Recep Özgüner, religion teacher in Kaynaşlı town, Düzce district (Bolu). Recep Özgüner had been convicted of having insulted Atatürk.

### **Babür Pınar**

In September the prosecutor at Ankara SSC indicted the poet Babür Pınar for the book “Love Smells like Basil” under Article 312/2 TPC. Ankara SSC suspended the case at the end of September according to the Amnesty Bill for the Press.

### **Abdullah Gündüz**

On 24 June Abdullah Gündüz, owner of the publishing house Aram was detained on charges of disseminating separatist propaganda in a book entitled “You cannot darken our Sun”. İstanbul SSC ordered his arrest on 25 June based on Article 169 TPC. Abdullah Gündüz was later released and fined.

### **Arif Erençin**

The public prosecutor in Ankara started an investigation against assistant professor Arif Erençin at the end of July in connection with his thesis on “Neoliberal Approaches and Local Administrations”. Ankara Public Prosecutor’s Office decided to forward the case to Ankara SSC since the charges of incitement to hatred an enmity fell under the jurisdiction of the state security court.

The investigation was started on complaint of Prof. Dr. Rafet Evyapan, former dean of the Economy and Administration Faculty at Zonguldak Karaelmas University. Following the complaint the contract of Arif Erençin, who was working in the research department, was not renewed.

## **Ramazan Yenidede**

Ankara SSC started to hear the case of Ramazan Yenidede, former MP for the FP in connection with a press conference he gave at the GNAT in June 1998 on the question of headscarves. He was charged under Article 312 TPC with inciting the people to hatred and enmity. The case was not concluded in 1999.

## **Arif Atalay**

Arif Atalay, former secretary of HADEP in Adana, was imprisoned on 12 November to serve the sentences of two trial totaling 22 months' imprisonment. The Court of Cassation had confirmed the sentences in July. The convictions were based on a speech on 21 March on behalf of the Newroz Feast and on 27 December 1998 during a solidarity festival. In one case Arif Atalay was sentenced under Article 312 TPC and in the other case under Article 8/1 LFT.

## **Dođan Gzel**

On 18 September Dođan Gzel, imprisoned for cartoons in the closed down newspapers "zgr Gndem" and "zgr lke" was released according to the Amnesty Bill for the Press. Dođan Gzel had been convicted in 5 of 7 cases launched under accusations of separatist propaganda and insulting official organs. He had been sentenced to a total of 50 months' imprisonment and had been in prison since 11 months.

## **Metin Narin**

İstanbul SSC tried Metin Narin, lawyer in the People's Law Office, in connection with the booklet "The Plot Continues". He was accused of having published the names of officials active in the fight against terrorism. İstanbul SSC acquitted during the first hearing on 4 August. Metin Narin declared that the book was related to the indictment of Nuh Mete Yksel, prosecutor at Ankara SSC, against his colleague Zeki Rzgar on charges of membership of an illegal organization. The book had been written in the form of summons for lawyers to attend the trial.

## **Prof. Dr. Őahika Yksel**

The dean at the medical faculty of İstanbul University issued a warning against Prof. Dr. Őahika Yksel in August in connection with a speech she held during the 6th European Traumatic Stress Congress, held in İstanbul between 5 and 10 June. The investigation into her speech was conducted under the assumption that she had shown the Turkish State as a torturer and discriminator of races and she had made propaganda for the PKK.

## **Ahmet Zeki Okuođlu**

On 22 September Ahmet Zeki Okuođlu, one of the lawyers of Abdullah calan, was detained on the basis that İstanbul SSC had issued an arrest warrant against him. He was released, when it turned out that the warrant had been lifted. After release Ahmet Zeki Okuođlu alleged that he had been tortured. Later it was stated that he was detained, because he had not testified in a court case at İstanbul SSC in connection with two articles in the journal "Serbesti" and charges under Article 312/2 TPC. The cases were dropped according to the Amnesty Bill for the Press.

## **Murat Ceylan**

In October Diyarbakır SSC started to hear the case of Murat Ceylan, chairman of Eđitim-Sen in Batman in connection with a press statement on behalf of World Peace Day on 1 September. Murat Ceylan was charged under Article 312/2 TPC. The trial did not conclude in 1999.

## **Zeynettin Unay**

On 6 October İzmir SSC passed a verdict on various executives of HADEP, who had spoken on the party's congress on 23 August 1998 and allegedly disseminated separatist propaganda. The Court sentenced Zeynettin Unay, former deputy secretary general of HADEP to 11 months' imprisonment. The other five defendants were acquitted.

## **Erol Yarar**

In October the Court of Cassation confirmed the sentence of 1 year's imprisonment and a fine of TL 860,000 against Erol Yarar, chairman of the industrialists' confederation MÜSİAD. Ankara SSC had convicted him for a speech in Kızılcahamam on 4 October 1997 finding that he had incited the people to commit a crime by showing continuous education as unreligious education. The sentence against Erol Yarar was suspended for five years.

## **Mehmet Ali Özüdođru**

The prosecutor at İzmir SSC indicted Mehmet Ali Özüdođru, Mayor for the FP in Kemalpaşa district, in November in connection with a marriage he had conducted three years ago and allegedly said that he declared the couple man and wife according to his power taken from Medine and asked the couple to live according to their belief. Mehmet Ali Özüdođru was charged under Article 312 TPC.

## **Mahmut Alınak**

The governor of Kars hindered Mahmut Alınak, former deputy for DEP, to distribute a letter to his electors calling them to participate in the "Initiative of the People in Kars". Subsequently the public prosecutor started an investigation against Mahmut Alınak on claims that he supported the PKK. The investigation was started in December and forwarded to the prosecutor at Erzurum SSC, who decided not to bring charges.

## **Mesut Deđer**

A trial was started against Mesut Deđer, member of CHP's party parliament in connection with statements he made on TV during the election campaign. The prosecutor at Diyarbakır SSC indicted him with inciting the people to hatred and enmity under Article 312 TPC. Diyarbakır SSC acquitted him in the first hearing on 21 September.

## **Zeki Bařaran**

Zeki Bařaran, former Mayor of Ađrı for the FP, was charged in connection with a speech he made in a private TV channel on 28 October 1998. On 6 September Ađrı Penal Court convicted him of insulting Atatürk and sentenced him to 5.5 years' imprisonment and a fine of TL 750,000.

## **Kirkor Ađabalođlu**

Kirkor Ađabalođlu, chairman of the Foundation of the Armenian Church in Gedikpaşa, was charged with having insulted the beings of Turks in a radio program of Umut Radyo in 1997. Beyođlu Criminal Court heard the case and suspended it according to the Amnesty Bill for the Press.

## **Muharrem Yađbasan**

The public prosecutor in Sivas indicted Muharrem Yađbasan, Mayor in Divriđi district for the CHP, on charges of having insulted the security forces in an interview that was published in the daily "Cumhuriyet" on 5 September 1995. The trial did not conclude in 1999.

## **Salih Kaya**

On 10 November Salih Kaya attended the official ceremony at the mausoleum in Ankara. He was detained, when he shouted, "Long live the Messiah Menderes". He apparently carried brochures of Said Nursi and was wounded during detention. Kaya stated that he staged the action, because of his deep love for Adnan Menderes. Reportedly Salih Kaya had been detained in İzmir in 1989 and 1996, when he tried to distribute leaflets during official state acts.

## **Naif Güneş**

Naif Güneş, former MP for the closed down DEP from Siirt, was detained, when he entered Turkey on 8 February. İstanbul SSC issued an arrest warrant on 11 February. The prosecutor at Ankara SSC charged him with disseminating separatist propaganda in speeches he had made between 1991 and 1994 and also with membership of the PKK according to Article 168/2 TPC. During the first hearing at Ankara SSC Naif Güneş said on 20 April that he had no connection to the PKK and had not done anything illegal. He had not joined the Kurdish Parliament in Exile and had returned on his own free will. The charges against Naif Güneş were dropped in 2000 relying on the Amnesty Bill for the Press

## **Cuma İlbeyli**

Cuma İlbeyli, chairman of EMEP in Şanlıurfa province, and Sadık Güleç, chairing the youth commission of EMEP, were detained on 21 March. They were charged in connection with the brochures entitled "This time the workers will win" and "Democratic Solution for the Kurdish Question", which allegedly contained separatist propaganda. The case resulted in fines on 23 June.

## **Diyarbakır Democracy Platform**

In April the representatives of organization forming the Diyarbakır Democracy Platform were charged with having made separatist propaganda in connection with a press statement the platform had made on the trial against the PKK leader Abdullah Öcalan. The prosecutor at Diyarbakır SSC criticized that the provinces in Eastern and Southeastern Anatolia had been called Kurdish province and maintained that the whole statement contained propaganda against the indivisible unity of the state. The trial against 22 defendants including Tahir Elçi, deputy chairman of Diyarbakır Bar Association, Osman Baydemir, deputy chairman of the HRA and Kenan Sidar, chairman of THAY-DER, did not conclude in 1999. Meanwhile, the trade unionists Mehmet Işıktaş (Haber Sen), Zülküf Karatekin (Construction Engineers), Sıddık Aladak (Tüm Maliye-Sen), Hasan Sosyal (BTS), Ebubekir Çelebi (Eğitim-Sen), Hüseyin Bayrak (SES), Celalettin Birtane (Enerji Yapı Yol-Sen), Murat Açar (Tüm Sosyal-Sen), Hasan Esen (machine engineers) and Ali Sarıpınar (Tarım Gıda-Sen), who had participated in the press conference, where exiled to places outside the rule of emergency (OHAL).

## **Doğu Perinçek, Ayşenur Zarakolu**

On 4 March Ankara SSC concluded the case against Doğu Perinçek, chairman of the Workers' Party (İP) and Ayşenur Zarakolu, owner of Belge Publishing House. They had been charged with disseminating separatist propaganda in speeches they delivered during the 5th Congress of the HRA in 1994. Doğu Perinçek was sentenced to 1 year's imprisonment and a fine of TL 100 million, while Ayşenur Zarakolu was acquitted. In June the Court of Cassation quashed the sentence against Doğu Perinçek. The first verdict of 4 March 1997 had been quashed in November 1997.

In another case Doğu Perinçek had been sentenced to 14 months' imprisonment, for violating Article 8/1 LFT during a panel of party leaders on TV prior to the elections in 1991. When this sentence was ratified Doğu Perinçek went to prison on 28 September 1998. He was released on 8 August according to the Law on Execution of Sentences.

**Leyla Zana, Hatip Dicle, Orhan Doğan, Selim Sadak, Nurcan Değirmenci, Arife Düzdaş, Songül Pak, Hasan Kocadağ, Ahmet Akbaş, Hıdır Çelik**

Nurcan Değirmenci, Arife Düzdaş, Songül Pak, Hasan Kocadağ, Ahmet Akbaş and Hıdır Çelik (members of the Mesopotamian Music Group), and Leyla Zana, Hatip Dicle, Orhan Doğan and Selim Sadak (deputies for DEP) and Şahabettin Özarslaner, chairing the Congress of HADEP in Ankara on 4 October, were tried at Ankara SSC on charges of supporting the PKK in their songs, messages and speeches during the congress. The trial was not concluded in 1999, but suspended in 2000 based on the Amnesty Bill for the Press.

**Siyami Erdem**

The 8th Chamber of the Court of Cassation quashed the verdict against Siyami Erdem, former chairman of the confederation KESK, that Ankara Penal Court No. 18 had imposed on him under Article 311 TPC (inciting the people to commit crimes). The charges related to a speech on 18 April 1996, where Siyami Erdem had talked about the problems of workers and declared that they would stop working, if they did not get an answer to their demands. Ankara Penal Court No. 18 had sentenced Erdem to 3 years' imprisonment.

**Sezgin Yatağan**

The trial launched against Sezgin Yatağan, a teacher at Cumhuriyet Primary School in Hafik district of Sivas, charged with insulting the army in a lecture held in 1998, ended at Sivas Criminal Court No. 1 on 7 July. Sezgin Yatağan was sentenced to 10 months in prison under Article 159 TPC.

**Ferhat Tunç, Kemal Mutlu**

The singer Ferhat Tunç and Kemal Mutlu, chairman of the Culture and Solidarity Association of People from Tunceli in İzmir, were charged with having made separatist propaganda during an event on 18 December 1997. On 4 October İzmir SSC acquitted Ferhat Tunç, but sentenced Kemal Mutlu to 10 years' imprisonment.

**Ç.S., Hasan Beliren**

Ç.S. and Hasan Beliren, chairman of HADEP for Yüreğir district, were charged under Article 312 TPC in connection with a press statement they read out in Adana on 10 August under the title of "Children Want Peace". Adana SSC acquitted both defendants after the first hearing on 29 December, because of lack of evidence.

**Ş.D., M.E., A.Ç.**

Ş.D. (15), M.E. (14) and A.Ç. (15) were tried at Van SSC on charges under Article 312 TPC, because they allegedly wrote separatist slogans on the walls of the mosque in İlica village, Muş province. Following the hearing on 2 November the children were released from Bitlis Prison, where they had stayed for 3 months.

**The booklet "No to State Security Courts"**

The public prosecutor in Ankara concluded his investigations into the booklet "No to State Security Courts", prepared by the HRA and other democratic organization, in April. He concluded that the articles in the booklet remained within the borders of criticism and

decided not to bring charges. The booklet had been prepared by the Ankara branch of the HRA, the Ankara branch of the ÇHD, the branch platform of People's Houses in Ankara, Associations of Prisoners' Relatives, the Ankara branch of Tüm Yargı-Sen, the Ankara branch of SES, the Ankara branch of Kültür-Sen, the Ankara branch of Tüm Maliye-Sen, the Ankara branch of Tüm Sosyal-Sen, the Ankara branch of Tüm İş, the Ankara branch of BTS, the chairs for Ankara province of the political parties EMEP, HADEP, ÖDP and SİP.

### ***Further Cases against Journalists and Writers***

**Defendant/s:** Halis Doğan, owner of "Özgür Bakış" and Hasan Deniz, editor-in-chief

**Incriminated Article/s:** Statement by Duran Kalkan, leading PKK member, in the edition of 6 June 1999 and a story entitled "Trials on Pages of Newspapers"

**Charges:** Article 6 LFT and Article 169 TPC

**Heard at:** İstanbul SSC

**Verdict:** On 25 November the defendants were fined TL 84.8 billion and the paper was banned from publishing for 6 days.

**Defendant/s:** Halis Doğan, owner of "Özgür Bakış" and Zeynep Tosun, editor-in-chief

**Incriminated Article/s:** News on a statement by Cemil Bayık, leading PKK member, entitled "The Majority in Turkey is for a Solution", published on 21 June

**Charges:** Article 6 LFT and Article 169 TPC

**Heard at:** İstanbul SSC

**Verdict:** On 25 November the Court fined Halis Doğan TL 56.5 billion. The sentence of 4.5 years' imprisonment imposed on Zeynep Tosun was commuted to a fine of TL 8.2 million. The paper was ordered to close for 3 days. The prosecutor had demanded acquittal arguing that publishing the call of an organization to drop arms could not be evaluated under Article 6/2 LFT prohibiting the publication of organizational declarations.

**Defendant/s:** Halis Doğan, owner of "Özgür Bakış" and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** News containing an announcement by the Presidential Council of the PKK of 2 September and statements of Cemil Bayık on 7 September

**Charges:** Article 6/2 LFT

**Heard at:** İstanbul SSC

**Verdict:** On 11 November the defendants were fined TL 5.3 billion each. The paper was ordered to close down for 6 days in one case and 3 days in the other.

**Defendant/s:** Vedat Çetin, writer in "Özgür Bakış"

**Incriminated Article/s:** His article in the closed down "Ülkede Gündem" of 10 March 1998 entitled "Women, too, have to become free"

**Charges:** Article 312/3 TPC

**Heard at:** İstanbul SSC

**Verdict:** The Court sentenced Vedat Çetin on 15 May to a sentence of 20 months' imprisonment and a fine of TL 2.5 million.

**Defendant/s:** Hasan Deniz, editor-in-chief of "Özgür Bakış" and the writer Evrim Alataş

**Incriminated Article/s:** Article of 6 May 1999 entitled "Executions are Still Being

Discussed in the 27th Year”

**Charges:** Article 312/1-last para TPC

**Heard at:** Beyoğlu Penal Court No. 2

**Verdict:** Acquittal

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Hasan Deniz, editor-in-chief

**Incriminated Article/s:** News on 31 May 1999 under the title of “Balance Sheet of ARGK for May”

**Charges:** Article 6/2 LFT

**Heard at:** İstanbul SSC

**Verdict:** Fines totaling TL 1 billion

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” Hasan Deniz, editor-in-chief and writer Nail Satılğan

**Incriminated Article/s:** Column on 5 June 1999 entitled “The Wolf’s Pot”

**Charges:** Article 8 LFT

**Heard at:** İstanbul SSC.

**Verdict:** The defendants were fined a total of TL 70 billion and the paper was ordered to close for 30 days.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış”, Zeynep Tosun, editor-in-chief and writer Doğan Özgüden

**Incriminated Article/s:** Comment of 27.06.1999 entitled “Unlimited View – Double Standard”

**Charges:** Article 8/2 LFT

**Heard at:** İstanbul SSC.

**Verdict:** Acquittal

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article of 07.07.1999 entitled “Execution is a Crime against Humanity”, Author: B.Mahir

**Charges:** Article 8 LFT

**Heard at:** İstanbul SSC.

**Verdict:** On 29 December the defendants were fined TL 2.4 billion.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış”, Cihan Çapan, editor-in-chief and the writers Serhat Ararat, Mehmet Tigris

**Incriminated Article/s:** Articles on 08.07.1999 entitled “New Phase of the Plot” and “Analysis” and an article on a statement by the Presidential Council of the PKK

**Charges:** Article 8 LFT and Article 169 TPC

**Heard at:** İstanbul SSC.

**Verdict:** The defendants were fined TL 2.9 billion and the paper was ordered to close for 6 days

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article of 18.07.1999 entitled “On the Approach to the Phase”, writer: Ali Yılmaz

**Charges:** Article 169 TPC

**Heard at:** İstanbul SSC No. 5.

**Verdict:** Cihan Çapan was fined TL 6.8 million and the paper was ordered to close for 30 days

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article on 04.08.1999 entitled “Forum: Will the Violence of War or the Peace Come True?”, writer: Ali Yılmaz

**Charges:** Article 169 TPC

**Heard at:** İstanbul SSC.

**Verdict:** Acquittal

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** News of 05.10.1999 entitled “We publish the letter Öcalan sent to the Central Committee on 5 September”

**Charges:** Article 6/2 LFT

**Heard at:** İstanbul SSC No. 5

**Verdict:** Acquittal

**Defendant/s:** Halis Keskin, owner of “Emek” and Ahmet Ergin, editor-in-chief, writer Gülsüm Cengiz

**Incriminated Article/s:** Article of 21 May 1998 entitled “This is your Heart”

**Charges:** Article 312 TPC

**Heard at:** İstanbul SSC

**Verdict:** On 21 May the Court fined Halis Keskin TL 1.27 billion. The author Gülsüm Cengiz was sentenced to 2 years’ imprisonment. The sentence was suspended.

**Defendant/s:** Diran Bakar, editor-in-chief of the paper “Agos”, published in Armenian and the writer Yervant Özuzun

**Incriminated Article/s:** Articles of 13 November 1998 entitled “A heavy milestone and Genocide of Culture” and “Ağabaloğlu on Trial”

**Charges:** Article 312/2 and 3 TPC

**Heard at:** İstanbul SSC

**Verdict:** Acquittal

**Defendant/s:** İsmet Yurtsever, owner and editor-in-chief of the journal “Dayanışma”

**Incriminated Article/s:** Some articles in edition 40

**Charges:** Article 312 TPC

**Heard at:** İstanbul SSC

**Verdict:** On 12 January the Court sentenced Yurtsever to 20 months’ imprisonment and a

fine of TL 2.5 million. The paper was ordered to close for 1 month.

**Defendant/s:** Şendoğan Yazıcı, owner and editor-in-chief of “Özgürlük Dünyası”

**Incriminated Article/s:** Article in the August 1997 edition entitled “The Direction of Development of Kurdish Town and the Workers’ Movement”

**Charges:** Article 312 TPC

**Heard at:** İstanbul SSC

**Verdict:** On 14 January the Court sentenced Yazıcı to 26 months’ imprisonment and a fine of TL 1.7 million. The paper was ordered to close for 1 month. The Court of Cassation confirmed the verdict, but it was suspended according to the Amnesty Bill for the Press.

**Defendant/s:** Andrew Finkel, writing for “Sabah”

**Incriminated Article/s:** Article entitled “Şırnak 1998”

**Charges:** Article 159 TPC

**Heard at:** Bakırköy Criminal Court No. 2

**Verdict:** The trial started on 11 June, but was suspended according to the Amnesty Bill for the Press

**Defendant/s:** R. İhsan Eliaçık, writing for the local paper “Kayseri Gündem”

**Incriminated Article/s:** Article on headscarves

**Charges:** Article 312 TPC

**Heard at:** Ankara SSC

**Verdict:** On 8 May Ankara SSC sentenced Eliaçık to 28 months’ imprisonment

**Defendant/s:** İsmet Yurtsever, owner and editor-in-chief of the journal “Sömürsüz Bir Dünya İçin Dayanışma” (Solidarity for a World without Exploitation)

**Incriminated Article/s:** Articles in edition 40 entitled “To be a trade unionist in the Kurdish provinces” and “Imperialist Aggression and Internal Displacement”

**Charges:** Article 312 TPC

**Heard at:** İstanbul SSC

**Verdict:** On 12 January the Court sentenced Yurtsever to 20 months’ imprisonment and a fine of TL 2.5 million. The paper was ordered to close for 1 month

**Defendant/s:** Naime Kaya, owner of the journal “Hedef” and Celal Dönmez, editor-in-chief (he died in a traffic accident)

**Incriminated Article/s:** Some articles in the edition of 1 February 1996

**Charges:** Article 8 LFT

**Heard at:** İstanbul SSC

**Verdict:** The Court ruled on 12 April that Naime Kaya had to pay TL 150 million; Celal Dönmez had to go to prison for 6 months and pay TL 75 million. The paper was ordered to close for 1 month. The Court of Cassation confirmed the order of closure in June.

**Defendant/s:** Nazlı Ilıcak, writing in “Yeni Şafak”

**Incriminated Article/s:** Articles of December 1998 entitled “Çevik Bir Government” and

“Çevik Bir Çankaya Government”

**Charges:** Article 159 TPC

**Heard at:** Bakırköy Criminal Court No. 2

**Verdict:** Acquittal in April

**Defendant/s:** Mustafa Benli, editor-in-chief of the journal “Alevi Halk Gerçeği”

**Charges:** Article 312 TPC

**Heard at:** İstanbul SSC

**Verdict:** On 16 February the Court sentenced Benli to 20 months’ imprisonment. The paper was ordered to close for 1 month.

**Defendant/s:** Tuncay Seyman, editor-in-chief of “Yeni Evrensel”

**Incriminated Article/s:** Articles entitled “They determine the election results”, “Mass Killing of PKK militants in Kulp” and “Soldiers’ Terror in the Villages”

**Charges:** Article 159 TPC

**Heard at:** İstanbul Criminal Court No. 2

**Verdict:** Acquittal on 14 May

**Defendant/s:** Ahmet Ergin, editor-in-chief of “Emek”, closed on 13 September 1998

**Incriminated Article/s:** Article of 23 July 1998 entitled “Republic Built on Denial”

**Charges:** Article 312 TPC

**Heard at:** İstanbul SSC

**Verdict:** On 3 March the Court sentenced Ergin to 20 months imprisonment and a fine of TL 2 million. The paper was ordered to close for 1 month.

**Defendant/s:** Ahmet Ergin, editor-in-chief of “Emek”, closed on 13 September 1998

**Incriminated Article/s:** Article on 6 July 1998 entitled “Great Oppression for the People in Mazgirt (Tunceli)”

**Charges:** Article 312 TPC

**Heard at:** İstanbul SSC

**Verdict:** On 24 March the Court sentenced Ergin to 2 years’ imprisonment and a fine of TL 3 million. The prison term was commuted to a fine and suspended.

**Defendant/s:** Ahmet Ergin, editor-in-chief of “Emek”, closed on 13 September 1998

**Incriminated Article/s:** Article of 8 August 1998 entitled “Kurdish Workers Detained at the Black Sea”

**Charges:** Article 312 TPC

**Heard at:** İstanbul SSC

**Verdict:** On 6 April the Court sentenced Ergin to 20 months’ imprisonment. The sentence was commuted to a fine. The paper was ordered to closed for 10 days

**Defendant/s:** Ahmet Ergin, editor-in-chief of “Emek”, closed on 13 September 1998, Halit Keskin, the owner

**Incriminated Article/s:** Article in edition 609 entitled “That what the balance sheet on

oppression does not tell”

**Charges:** Article 312 TPC

**Heard at:** İstanbul SSC

**Verdict:** On 25 May the Court fined Keskin TL 237 million. Ergin was sentenced to 5 months in prison and a fine of TL 118 million. The prison term was commuted to a fine. The paper was ordered to close for 10 days.

**Defendant/s:** Ahmet Ergin, editor-in-chief of “Emek”, closed on 13 September 1998

**Incriminated Article/s:** Articles on 5 December 1997 entitled “The States’s Method of Solving the Kurdish Problem has become clear” and “Kurds are not allowed to listen to music” and a reader’s letter

**Charges:** Article 312 TPC, Articles 7/2 and 8 LFT

**Heard at:** İstanbul SSC

**Verdict:** On 30 May the Court fined Keskin TL 260 million and sentenced Ergin to 6 months’ imprisonment and a fine of TL 130 million.

**Defendant/s:** Nuri Karakoyun, owner of “Azadiya Welat”, Salih Taşkesen, editor-in-chief

**Incriminated Article/s:** A photograph in edition 123

**Charges:** Article 7 LFT

**Heard at:** İstanbul SSC

**Verdict:** On 27 January the Court fined Karakoyun TL 125 million and sentenced Taşkesen to 1 year’s imprisonment and a fine of TL 3 billion. The paper was ordered to close for 10 days.

**Defendant/s:** Zeynel Engin, editor-in-chief of “Halkın Günlüğü”

**Incriminated Article/s:** Articles in edition 1. entitled “We have to insist on the implementation of the central links”, “They were remembered on the first anniversary of death” and “Let us learn from the death fast between 82 and 96”

**Charges:** Article 7 and 8 LFT

**Heard at:** İstanbul SSC

**Verdict:** In April the Court sentenced Engin to 6 months’ imprisonment and a fine of TL 540 million. The paper was ordered to close for 15 days.

**Defendant/s:** Zeynel Engin, editor-in-chief of “Halkın Günlüğü”

**Incriminated Article/s:** Some articles in the edition of 16-30 November 1997

**Charges:** Articles 7 and 8 LFT

**Heard at:** İstanbul SSC

**Verdict:** On 16 June the Court sentenced Engin to 10 months’ imprisonment and a fine of TL 2.3 million. The paper was ordered to close for one month.

**Defendant/s:** Özgür Cebe, representative of “Yeni Evrensel” in Diyarbakır

**Incriminated Article/s:** Article he published in “Emek” under the title of “In a country under tyranny of Dehak, Kawas will show up”

**Charges:** Article 312 TPC

**Heard at:** Diyarbakır SSC.

**Verdict:** The case was suspended according to the Amnesty Bill for the Press

***Cases Opened but not concluded in 1999***

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Hasan Deniz, editor-in-chief

**Incriminated Article/s:** Article on 12.05.1999 entitled “Historic Chance: the Peace Depends on the Öcalan Trial”

**Charges:** Article 6 LFT

**Heard at:** İstanbul SSC No. 1

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Hasan Deniz, editor-in-chief, writer Serhat Ararat

**Incriminated Article/s:** Column on 27.05.1999 entitled “Trial of the Century”

**Charges:** Article 8 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Hasan Deniz, editor-in-chief, writer Fikret Başkaya

**Incriminated Article/s:** Comment on 01.06.1999 entitled “Historic Case?”

**Charges:** Article 8 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Hasan Deniz, editor-in-chief of “Özgür Bakış”

**Incriminated Article/s:** Article on 04.06.1999 entitled “Problems of Change-The Trial of the Century” presenting passages of A.Öcalan’s defense at Ankara SSC

**Charges:** Article 169 TPC

**Heard at:** İstanbul SSC.

**Defendant/s:** Hasan Deniz, editor-in-chief of “Özgür Bakış”

**Incriminated Article/s:** Article on 08.06.1999 entitled “Forum-To be Che”, writer: Hüseyin Aykol

**Charges:** Article 169 TPC

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Zeynep Tosun, editor-in-chief

**Incriminated Article/s:** Articles of 09.06.1999 entitled “Beneath Fear” (author: Yüce Toprak), “To live in a country without gallows” (author: Yurda Kaya), “The mothers of martyrs and the Saturday mothers” (author: Hasan Basri Aydın)

**Charges:** Article 312/2

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Zeynep Tosun, editor-in-chief

**Incriminated Article/s:** Articles on 11.06.1999 entitled “Execution is no good for anyone” and “I protest against the media” (reader’s letter)

**Charges:** Article 6 LFT and Article 312/2 TPC

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Zeynep Tosun, editor-in-chief

**Incriminated Article/s:** Article on 16.06.1999 entitled “Portrait: Kemal İskender, how a Torturer was promoted”

**Charges:** Article 6/2 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Zeynep Tosun, editor-in-chief

**Incriminated Article/s:** Article on 17.06.1999 entitled “Waking up One Morning”, author: İrfan Cüre

**Charges:** Article 8/2 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Zeynep Tosun, editor-in-chief

**Incriminated Article/s:** Article on 20.06.1999 entitled “The True Reason for the Negative Aspects”, writer: Sevim Belli

**Charges:** Article 169 TPC

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Zeynep Tosun, editor-in-chief

**Incriminated Article/s:** Articles on 29.06.1999 entitled “Öcalan should be given the status of a party” and series of articles from the Kurdish Institute under the title of “Oppression by special forces at a time without uprising”

**Charges:** Article 169 TPC

**Heard at:** İstanbul SSC No. 5

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Zeynep Tosun, editor-in-chief

**Incriminated Article/s:** Article on 01.07.1999 entitled “Peace”

**Charges:** Article 8/2 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Zeynep Tosun, editor-in-chief

**Incriminated Article/s:** Articles of 02.07.1999 entitled “Don’t take dangerous steps”, “First step to an adventure” and “Death Order for all of us”

**Charges:** Article 6/2 LFT

**Heard at:** İstanbul SSC

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Articles of 06.07.1999 entitled “ERNK’s letter to Annan” and “The National Congress of Kurdistan: We do not recognize the death penalty”

**Charges:** Article 6/2 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article of 10.07.1999 entitled “The Solution Reality after İmralı”,

author: Ali Yılmaz

**Charges:** Article 169 TPC

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Articles on 12.07.1999 entitled “Silly as a Turkish professor” (author: A.Hazar) and “Who is on Trial?” (Author: Emek Özkan)

**Charges:** Article 312/2 TPC

**Heard at:** İstanbul SSC No. 5

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article of 20.07.1999 entitled “A witness spoke...”, author: Abdülkadir Konuk

**Charges:** Article 159 TPC

**Heard at:** Beyoğlu Criminal Court No. 2

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Articles of 22.07.1999 entitled “Murat Karayılan: The Attitude of the State is Decisive” and “Moldavia Handed him over, Cevat Soysal was delivered”

**Charges:** Article 6/2 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article of 24.07.1999 entitled “Dangers and Hopes”, author: Mehmet Tigris

**Charges:** Article 8/2 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article on 30.07.1999 entitled “PKK Awaits an Answer”

**Charges:** Article 6/2 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article of 31.07.1999 entitled “International Piracy”, author: Mehmet Tigris

**Charges:** Article 8/2 LFT

**Heard at:** İstanbul SSC No. 5

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article on 05.08.1999 entitled “The Call is an Opportunity”

**Charges:** Article 6/2 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Articles on 10.08.1999 entitled “The PKK gathers its Congress”, “Political Development is Possible” and “Öcalan on the Agenda”, author: F.Gülçimen

**Charges:** Articles 6 and 8 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article of 14.08.1999 entitled “Question of Trust”, author: Mehmet Tigris

**Charges:** Article 8/2 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Articles on 16.08.1999 entitled “Peace Will have the Peoples Win” and “Will be remembered as day zero – society was formed again on 15 August”

**Charges:** Articles 6 and 8 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Articles on 08.09.1999 entitled “The Presidential Council of the PKK: the UN shall observe the retreat” and “The Kurdish National Congress: Kurds want peace because they believe in it”

**Charges:** Article 6/2 LFT

**Heard at:** İstanbul SSC No. 5

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article of 04.10.1999 entitled “Ali Sapan, leading the first peace group that arrived on 1 October: ‘We are looking for a solution in Turkey’”

**Charges:** Article 6/2 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Articles on 11.10.1999 entitled “Presidential Council of the PKK warns Turkey of a plot” and “Osman Öcalan: Kurds must be given confidence”

**Charges:** Article 6/2 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article of 12.10.1999 entitled “Move towards Reality”

**Charges:** Article 169 TPC

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article of 15.10.1999 entitled “Practical Steps must be taken”

**Charges:** Article 6/2 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article of 16.10.1999 entitled “FORUM-It is a historic duty to let the unity and feelings of bonds live”

**Charges:** Article 169 TPC

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Articles on 18.10.1999 entitled “Censorship cannot once again cover up reality” and “Pain”, writer: Ali Haydar Kaytan

**Charges:** Article 8 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article of 20.10.1999 entitled “Approach to the group is weak”

**Charges:** Article 6 LFT and Article 312/2 TPC

**Heard at:** İstanbul SSC No. 5

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article of 21.10.1999 entitled “Hundreds of People Paid a Visit”

**Charges:** Article 169 TPC

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Articles on 02.11.1999 entitled “Turkey at a crossroad”, “Öcalan’s Call on the Youth” and “Relation between Law and Politics and the Process on İmralı”

**Charges:** Article 6/2 LFT and Article 312/2 TPC

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article on 03.11.1999 entitled “The War Winners will Lose”

**Charges:** Article 312/2 TPC

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article of 05.11.1999 entitled “The basic duty is to make the democratic togetherness healthy”

**Charges:** Article 6/2 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article of 06.11.1999 “Understanding the Phase Correctly”

**Charges:** Article 8 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article of 08.11.1999 entitled “Dynamics of Changes in this Period: PKK”

**Charges:** Article 169 TPC

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Articles on 19.11.1999 entitled “Öcalan’s letter to the OSCE” and “PKK Unfolded the Knot”

**Charges:** Article 6/2 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article on 22.11.1999 entitled “Aim and Means”

**Charges:** Article 169 TPC

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Articles on 23.11.1999 entitled “The verdict of the Court of Cassation does not serve the future of the peoples”, “News on the PDK and attack unfounded”, “Cemil Bayık, member of the presidential council of the PKK: Let us Create the Future together”, “Attempt of Provocation in the South” and “May 27 November Contribute to the Future”

**Charges:** Article 6/2 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article on 24.11.1999 entitled “The Sun from the East hit the Darkness”

**Charges:** Article 169 TPC

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Articles on 26.11.1999 entitled “Presidential Council of the PKK: Insistence on Annihilation”, “No to execution and no to imprisonment”

**Charges:** Article 6/2 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article of 27.11.1999 “PKK and the Kurds”

**Charges:** Article 169 TPC and Article 6/2 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Articles on 28.11.1999 entitled “The Kurdish language and the PKK in the 21st Century”, “Take a Role in Building Peace”, “We enter year 21 with high hopes” and “ERNK: The Attack was Sabotage”

**Charges:** Article 169 TPC and Article 6 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Articles of 29.11.1999 entitled “Each War has an end and the PKK will be reshaped”, “They returned and their villages were burnt”, “Trust your self-esteem, the basic trust is your self-esteem”

**Charges:** Articles 169 and 312/2 TPC, Article 6/2 and 8/2 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Articles on 30.11.1999 entitled “A phase of change in society” and “PKK is a convinced castle”

**Charges:** Article 169 TPC

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article of 01.12.1999 entitled “The dirty Justice of a suspicious judiciary”, author: B. Mahir

**Charges:** Article 169 TPC

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article of 02.12.1999 entitled “When Blinds show Blinds the Way”, author: Ali Yılmaz

**Charges:** Article 169 TPC

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Article of 04.12.1999 entitled “Peace will win”, author: Haydar Ergül

**Charges:** Article 169 TPC

**Heard at:** İstanbul SSC.

**Defendant/s:** Halis Doğan, owner of “Özgür Bakış” and Cihan Çapan, editor-in-chief

**Incriminated Article/s:** Articles of 06.12.1999 entitled “Insistence on annihilation is an obstacle for peace” and “Let’s get to the basics”

**Charges:** Article 169 TPC and Article 6/2 LFT

**Heard at:** İstanbul SSC.

**Defendant/s:** Volga Cıvak, editor-in-chief of “Kurtuluş”

**Incriminated Article/s:** Some articles in the November 1999 edition

**Charges:** Article 159 TPC

**Heard at:** İstanbul Criminal Court No. 2

### ***Confiscated Books and Related Trials***

#### **Information compiled on confiscation of books in 1999:**

*Nadire Mater “Mehmed’s Book – Stories from Soldiers, who fought in the Southeast”*

On 24 June Beyoğlu Penal Court No. 2 ordered the confiscation of “Mehmed’s Book – Stories from Soldiers, who fought in the Southeast” on the grounds that the army was insulted. The book consisted of narrations by 42 soldiers and their relatives compiled by Nadire Mater, representative of the organization Reporters without Borders in Turkey, and had been published by Metis Publishing House in April. The judicial procedure had been initiated by a letter General Hilmi Özkök, deputy chief of staff, had sent to the public prosecutor in Beyoğlu on 18 June.

Nadire Mater commented on the confiscation order saying, “The confiscation order and the likely court case to follow is new evidence that the heavy threat against writers, journalists and on the right of the people to express their thoughts, ideas and to be informed continues. I cannot accept any other restriction on freedom of expression than racist and war propaganda. The important aspect of the decision is that the reasoning does not aim at me not to express my impressions. ‘Mehmed’s Book’ was confiscated because of what 42 soldiers and two families of soldiers, who fought in the Southeast, told me as witnesses. Without feeling the need to get to know their thoughts, the decision also shows the intolerance against the words of those, who we send to die in the war and who speak for the first time about themselves, their lives, wars and their future. As soon as the people get to know what the ordinary people, who play the most burning role in this tragedy, what they say about their lived reality and their thoughts, the thick wall of prohibition is erected in front of us.”

The trial launched against Nadire Mater and Semih Sökmen, owner of Metis Publishing House on charges of insulting the armed forces commenced at Beyoğlu Criminal Court No. 2 on 29 September. During the hearing of 26 November the public prosecutor announced that another trial on the same charges had been initiated, because the book had been published with four editions. The second trial was combined with the first one.

Mater and Sökmen stated in their defense that the book had not been evaluated as a whole. Only small sentences and expressions had been chosen. The indictment had not listed any part of the introduction, the only part that Mater had written for herself. Nadire Mater continued: “Since 15 years politicians, members of the army, human rights defenders and international organization speak. Everybody speaks. But the young men, who do their military services in the region under a state of emergency as voluntary or involuntary subjects, have always remained silent. Who else but they can tell us what is happening? By confiscating ‘Mehmed’s Book’ it was once again announced that the young men, who are declared ‘heroes’ during their services, have no right to speak.” The trial did not conclude in 1999.

#### **Other confiscated books**

In April İstanbul Penal Court No. 2 ordered the confiscation of the book “Two Sisters” published by Dodo Publishing House on the grounds that it was against the general moral.

In June İstanbul Penal Court No. 3 confiscated the book entitled “Nick Name: Hezbollah,

The Story of Turkey's Hezbollah (Kod Adı: Hizbullah, Türkiye Hizbullahının Öyküsü)" written by journalist-writer Faik Bulut and journalist Mehmet Faraç, on the grounds that "the republic and security forces were insulted."

İstanbul SSC ordered the confiscation of the book "Alevism in Dersim (Tunceli)", written by Munzur Çem and published by Peri Publishing House on the grounds that the contents were provocative and expressions such as Kurds and Kurdistan amounted to separatist propaganda. The book tells about the lives of Kurds in Tunceli province, who face pressure and torture, because of their beliefs.

In October İstanbul Penal Court No. 4 ordered the confiscation of the book "Complexion in Hiding", written by Mehmet Ergüven and published by Sel Publishing House on the grounds that it injured the moral feelings of the people and exploited sexual wishes.

In October the book "Cry of Portnoy", written by Philip Roth and published in translation by Ayrıntı Publishing House was confiscated. In 1960 Roth had been awarded the National Book Prize, in 1987 and 1991 he won the prize of the book critics and in 1998 he won the Pulitzer Prize.

The Association of Solidarity and Help for Human Rights of Prisoners' Families (TİYAD) announced that their Ankara offices and the office of Etki Publishing House were raided on 17 November. The police confiscated the book published by TİYAD in connection with the killing of 10 prisoners in Ankara Closed Prison on 26 September. The police also took other publications and equipment with them.

In November the book "Memoirs of a member of the secret service", written by former staff member of MİT, Yılmaz Tekin and published by Ümit Publishing House, was confiscated on the grounds that it disclosed state secrets. The decision was taken on demand of MİT and the Ministry of Justice.

During the 17th Fair of Religious Books organized by the Piety Foundation of Turkey an embargo was applied on sale of books of Abdurrahman Dilipak, Ali Bulaç, Yaşar Kaplan and İhsan Süreyya Sırma. Reportedly some books were confiscated on orders of Ankara SSC. One of them was the book with speeches of Şevki Yılmaz. It was confiscated on the grounds that it violated Article 312 TPC. The same reason was shown for two books of Ahmet Akgül entitled "Message and Method for Soldiers of the Cause" and "The Islamic Cause and Just System". Prior to the exhibition the Piety Foundation had asked publishing houses to sign contracts promising that they would not display any publications containing propaganda for certain organizations or reactionary (religious) or separatist propaganda.

The governor in İzmir banned the leaflet of İzmir War Resisters' Association criticizing the NATO attack on Yugoslavia. The decision was taken in May on the grounds that some expressions belittled the Turkish State and would have a negative effect on Turkey's foreign policy. The legal basis of the decision was Article 11c of the Law No. 5442 on Administration of Provinces.

On 21 October İzmir Criminal Court No. 2 continued to hear the case in connection with the book "Nonviolent actions in a culture of violence and the example of Turkey" published by İzmir War Resisters' Association in 1998. The defendants in this case were Deniz Yücel, Ferda Ülker and Coşkun Üsterci. The case was suspended according to the Amnesty Bill for the Press.

The court case against Bilgesu Erenus, writer of the book "A scenario Dersim 38, A Play Fikret" and the publisher Hüseyin Çevirgen, on trial under Article 312 TPC, was also suspended according to the Amnesty Bill for the Press.

The case of Ahmet Önal, owner of Peri Publishing House, related to the confiscated book “The resistance of Ağrı in Documents, Witnesses and by those, who lived it” was at the Court of Cassation, but before the Court decided on the fine of TL 2.9 billion the case was suspended according to the Amnesty Bill for the Press. Ahmet Önal had been convicted under Article 8 LFT. The case related to the book “Two-sided Life in Dersin-Civarik” published by Peri Publishing House, was also suspended according to the Amnesty Bill for the Press.

Writer Faik Bulut and publisher Mustafa Demir, who were put on trial at İstanbul Penal Court No. 2 on the accusations that “Mustafa Kemal Atatürk and Fetullah Gülen (the leader of a religious group called Fetullahçılar) were belittled” in Bulut’s book “Kim Bu Fetullah Gülen; Dünü-Bugünü-Hedefi (Who is This Fetullah Gülen: Past-Present and Target), were acquitted in the hearing held on 28 April. İstanbul Penal Court No. 2 lifted the confiscation decision for the book in question.

#### *Forbidden Plays, Music Cassettes and Other Activities*

In May, both the governor’s office in Adana and İçel (Mersin) banned the staging of “Sermola, the Republic of the Lunatics” to be performed by the theatre group of MKM. The decision was based on Article 8 LFT. In April 1998 the same play had been staged in these provinces without any restrictions.

In June the police in İzmir prevented the staging of the play “Antigone” to be performed by Günes Theatre Company.

In Mart the Play “Migrant Bird” performed by Ankara Birlik Theatre was banned in Turhal district (Tokat) and Bingöl. The governor in Turhal argued that he could not guarantee for security.

In Kozan district (Adana) the play “I close my eyes and do my duty”, written by Haldun Taner and staged by the theatre group “Birikim” was banned. Kozan Prosecutor’s office argued that the play might influence the national feelings and social culture negatively and added that it contained slang expressions. The play should have been staged on 30 November.

In January the administration of the Anadolu University in Eskişehir banned the performance of a play by Bertolt Brecht, which the graduate students wanted to perform as their thesis. Prof. Dr. Ayhan Sezer, Deputy Rector of Mersin University prohibited the activities of the folklore group arguing that the group had performed in Diyarbakır and surrounding and used Kurdish during their performances.

In July İstanbul Police HQ prevented the performance of the play “Rich Kitchen” to be enacted by the Theatre Academy.

In February the Directorate for National Education in Keçiören district (Ankara) decided on censoring some parts that various schools were preparing for the Theatre Festival organized by the Directorate for National Education in Ankara province. The report prepared by a commission on 10 February asked specific schools to change highlighted texts in the plays they were about to perform. The plays in question were: “Residence of Fehmi Pasha” (Aktepe Lyceum), “A Bucket of Laughter” (Anatolian Lyceum Fehmi Kemal Mumcu), “Close my Eyes and Do my Duty” (Martyr Mehmet Altanlar Primary School), “Rotten Apple” (to be performed by Özel Bilgi Etlik Lyceum and the primary schools in Çizmeci and Kalaba).

In March the governor’s office in Ordu banned the sale, playing and possession of certain music cassettes within the province. The artists concerned were: Group Kızılırmak (1

cassette), Ali Asker (1 cassette), Group Yorum (2 cassettes), Ferhat Tunç (4 cassettes), Ahmet Kaya-Selda Bağcan (1 cassette), Ahmet Kaya (24 cassettes).

The Ministry of Culture banned the album “Heviya Te” by the singer Şivan Perwer. The department for copyright had given permission before, but it was withdrawn in September. The company was informed that the decision was taken, because the songs contained separatist propaganda. Following the decision the company Ses Plak was raided on 14 September. The police confiscated documents they found in the office and detained the owner Hasan Güler. He was released after testifying.

On 18 September the governor’s office in Van banned certain Kurdish music cassettes from being played, distributed, sold or rented. The musicians and the related cassettes were: Koma Amed (Agir ü Mirov), Şivan Perwer (Ya Star, Dünden Bığüne, Ferze), Azad Perwer (Navam Girane), Xezal û Delal (Gulan Ajdane), Koma Azad (Şemal), Zozanu Welat (Neçîrvan), Şehrîban (Botan Konseri), Xelil Xemgîn (all cassettes), Birindar (all cassettes), Şehmuz Kaya (all cassettes), Konsera Botan, Nizamettin Ariç (special edition), Beser Gönül Şahin (Neden Ağlıyorsun, Berivane), Dilana Kurdi (all cassettes), Bırader (Militano, Mamosta), Koma Denge Azadi (Hevi), Koma Şirvan (Grup Şirvan), Zozan (special edition Bant) and Koma Çiya (Rozerin).

The governor’s office in Batman instructed radio station in the province not to play the music of a large number of artists. The decision of October listed the following artists: Zülfü Livaneli (all cassettes), Şivan Perwer (all cassettes), Ali Avaz, Timurtaş Uçar (religious man, cassette with prayers), Abdullah Büyük, Nurtaç Düzgit, İsmail Polat, Adnan Ververen, Mehmet Şah, Beşir Kaya, Şeyhmus Kaya, Rahmi Saltuk, Ali Poyrazoğlu.

On 13 October the governor’s office in Bingöl prohibited the possession, copying, distribution and publishing of 23 cassettes from 2 singers and 4 music groups. On 15 November the governor’s office in Elazığ followed the example. The banned artists were: Group Yorum (6 albums), Ferhat Tunç (7 albums), Agira Jiyan (1 album), Group Munzur (1 album), Grup Kızılırmak (4 albums), Ahmet Kaya (4 albums).

The General Directorate for Copyright and Cinema in the Ministry of Culture banned the short film “Ax” (Earth) prepared by the Film Unit of the MKM in September on the grounds that it contained elements that incited to a crime and were in contravention to the foreign policy. Earlier MKM had approached the Ministry of Culture and a commission had ruled that the film might be shown, if certain scenes with boots of soldiers were removed. This was not accepted by the MKM and the control council in the Ministry of Culture presented the same objection.

In June the Ministry of Culture banned the film about torture “Where the Roses End” by İsmail Güneş according to Article 9 of the Law on Control of Film, Video and Music Products, because of the large number of torture scenes.

The governor’s office in Bergama banned the documentary on the struggle of the villagers of Bergama against the Eurogold Company in December on the grounds that the film contained passages in contravention to the Law on Demonstrations and Meetings.

In August the gendarmerie hindered the Group Mimoza to give a concert in Firtına Valley near Çamlıhemşin district (Rize) where a hydro-electrical power station should be build with the permission of Trabzon Regional Administrative Court. On 1 August environmentalists were hindered to put up a banner saying “Hands Off Firtına Valley”.

The governor’s office in İstanbul banned a concert to be given by Ferhat Tunç on 11 March on the grounds that incidents might occur.

The governor's office in Tunceli banned that 1st Munzur Culture and Nature Festival to be held in Tunceli between 6 and 8 August, organized by Tunceli Culture and Solidarity Association and the municipality relying on Article 11 of the Law No. 2395 on the State of Emergency.

On 15 April Ankara SSC started to hear the case of the theatre group "İzmir Fetih Stage" for the third time. Earlier the Court had sentenced the author and player in the piece called "An Enemy of Right", Mehmet Vahi Yazar, to 24 years' imprisonment for insulting the armed forces. Four players had been sentenced to 16 years' imprisonment, but the Court of Cassation had twice quashed the verdict. The demands of the defendants for release were rejected. The verdict was announced on 13 May. Ankara SSC sentenced Mehmet Vahi Yazar to 11 years' imprisonment under Article 312 TPC. The players Osman Yavuz, Nazmi Kar, Fuat Başarılı and Zekeriya Özen were sentenced to 5.5 years' imprisonment. The defendants were released pending appeal of the verdict.

### *Campaign "Freedom of Thought"*

The campaign "Freedom of Thought" started in 1995, when the first book with articles of people imprisoned or on trial for expressing their opinion, was published. The campaign continued in 1999 with further books and booklets. By signing these books as publishers many journalists, authors, artists and scientists pointedly shared the "criminal act" and filed official complaints against themselves with the public prosecutors. The following booklets were issued in 1999:

#### *"Freedom of Thought - 31"*

The booklet "Freedom of Thought - 31" contained the article of Şefik Beyaz, former chairman of the Kurdish Institute that had resulted in 1 year's imprisonment for him. On 8 January the booklet was distributed in front of İstanbul Court Hall. Afterwards Ahmet Önal, Ahmet Remzi Taşçı, Hasan Kaya, Hüseyin Sağrıç, Şanar Yurdatapan and Tori (M. Kemal Işık), who had signed the booklet as publishers filed official complaints against themselves.

#### *"Freedom of Thought - 32"*

On 13 January the booklet "Freedom of Thought - 32" was distributed in front of İstanbul Courthouse. It contained the speech the teacher İknur Birol had held during the "Peace and Democracy Meeting" in İstanbul on 13 April 1996. Kadıköy Criminal Court No. 2 had sentenced her to 1 year's imprisonment for that speech. Among the publishers of the booklets were officials from various trade unions including KESK, Eğitim-Sen, Enerji Yapı Yol-Sen, Tüm Sosyal-Sen, Maden-Sen, Tüm Banka-Sen, Genel Sanayi-Sen, SES, Eğitim-Sen and Enerji Yapı Yol-Sen.

#### *"Freedom of Thought - 33"*

Ali Kemal İncesu and Şanar Yurdatapan published this booklet with the incriminated passages of the book "Resistance of Ağrı". The original book had been published by Peri Publishing House and İstanbul SSC had sentenced the owner Ahmet Önal to 6 months' and 18 days' imprisonment and fined him TL 2.9 billion according to Article 8 LFT (separatist propaganda).

#### *"Freedom of Thought - 34"*

This booklet contained the incriminated passages from the book "Freedom Breaking from the Mountains". The writer of the book Abdülkadir Konuk was living abroad, but the publisher Ayşenur Zarakolu (Belge Publishing House) was sentenced to 5 months'

imprisonment. Şanar Yurdatapan held a press conference in front of İstanbul Courthouse before he went to file an official complaint against himself as the publisher of the booklet.

“Freedom of Thought - 35”

Şanar Yurdatapan also published the booklet “Freedom of Thought - 35”, which contained the incriminated passages from an article lawyer Medeni Ayhan published in the journal “Özgür Bilim” on 3 February 1994 under the title of “Representatives that cannot evaluate and go further”. For this article and an interview in the journal Ankara SSC had sentenced Medeni Ayhan under Articles 7 and 8 LFT to 2 years’ imprisonment and a fine of TL 550 million.

“Freedom of Thought - 36”

The booklet “Freedom of Thought - 36” contained passages from a speech Akın Birdal, chairman of the HRA, had held during the Peace Festival organized by the United Socialist Party in Mersin on 6 September 1995. Adana SSC had convicted Akın Birdal under Article 312 TPC and sentenced him to 1 year’s imprisonment.

“Freedom of Thought - 37”

Şanar Yurdatapan published the booklet “Freedom of Thought - 37” on 4 June. The booklet contained an article of journalist Gülsüm Cengiz Akyüz, for which he and Ahmet Ergin, editor-in-chief of the daily “Emek” had been sentenced. Yurdatapan distributed the booklet in front of İstanbul Courthouse and filed an official complaint against himself.

“Freedom of Thought - 38”

Şanar Yurdatapan and Nevzat Onaran, chairman of the İstanbul branch of the ÇGD, published this booklet containing the declaration of CO Osman Murat Ülke on his reasons not to conduct his military service. The Military Court of the Chief of Staff had sentenced Ülke to 6 months’ imprisonment for the declaration of 1 September 1995. Yurdatapan and Onaran distributed the booklet in front of İstanbul Courthouse on 23 July and went to the prosecutor at İstanbul SSC to file official complaints against themselves.

The case against Şanar Yurdatapan in connection with this booklet started at İstanbul Military Court of Army 1 on 10 November. Şanar Yurdatapan was charged with alienating the people from military service. He did not testify on the grounds that military courts should not hear the cases of civilians. The case against Nevzat Onaran started at the Military Court of the Command for the Northern Sea Region on 12 November. Both cases did not conclude in 1999.

“Freedom of Thought - 39”

The booklet “Freedom of Thought - 39” contained an article from the weekly “Yeniçeşme” of 6 May 1995. İzmir SSC had sentenced the journalist Aydın Korkmaz for this article to 13 months’ imprisonment according to Article 312 TPC.

“Freedom of Thought - 40”

The Court of Cassation quashed the verdict against Şanar Yurdatapan, Ercan Kanar, former chairman of the İstanbul branch and Münir Ceylan, former chairman of the trade union Petrol-İş, on 18 February. İstanbul Criminal Court No. 4 had tried them in connection with their official complaint against the Chief of Staff in connection with the so-called Güçlükonak case. <sup>(46)</sup> The retrial was conducted on 21 September.

Şanar Yurdatapan made a statement prior to the hearing stating that the Court of Cassation had quashed the sentence, because the offence had not become public.

Therefore, they had published the official complaint in "Freedom of Thought - 40". The defendants distributed the booklet to journalists. At the end of the hearing İstanbul Criminal Court No. 4 acquitted the defendants.

Another court case was opened against Şanar Yurdatapan for his statement on BBC on 13 December 1998 stating that soldiers conducted the Güçlükonak massacre. The public prosecutor in İstanbul indicted him under Article 159 TPC. The case was to be heard at İstanbul Criminal Court No. 2.

"Freedom of Thought - 41"

The booklet "Freedom of Thought - 41" contained an article, for which Abdurrahman Dilipak from the daily "Akit" was tried at Bakırköy Criminal Court. On 22 October the publishers Şanar Yurdatapan, Eren Keskin, chairman of the HRA in İstanbul and Ferzende Kaya, journalist with the paper "Selam" distributed the booklet in front of İstanbul SSC and later went to the prosecutor to file official complaints against themselves.

"Freedom of Thought - 42"

The booklet "Freedom of Thought - 42" contained speeches and articles for which Recep Tayyip Erdoğan, former Mayor of İstanbul, the writer Erdoğan Aydın, the lawyer Eşber Yağmurdereli and CO Osman Murat Ülke had been convicted. On 17 November the publishers Şanar Yurdatapan, Hasan Kaya, chairman of the Kurdish Institute, Hasan Celal Güzel, former chairman of the YDP, Abdülmelik Fırat, ex-MP for the DYP, Prof. Dr. Ali Nesin, journalist Cevat Özkaya, journalist Abdurrahman Dilipak and artist Mehmet Suavi Saygan distributed the booklet in front of İstanbul SSC and subsequently filed official complaints against themselves with the prosecutor.

"Freedom of Thought - 43"

The booklet "Freedom of Thought - 43" contained a speech of Hasan Celal Güzel. Ankara SSC had sentenced him for this speech to 1 year's imprisonment on 23 February. Ahmet Remzi Taşçı, Ali Eriş and Şanar Yurdatapan signed the book as publishers. They distributed the booklet in front of İstanbul SSC on 23 December and filed official complaints against themselves with the prosecutor.

*Trials against earlier booklets*

"Freedom of Thought - 2"

The case against Can Dünder, Mahmut Tali Öngören, Varlık Özmenek, Temel Demirer, Fikret Başkaya, Haluk Gerger, Mehmet Veysi Ülgen, İsmail Hakkı Tombul, Yusuf Özden, Cengiz Faydalı, Erşat Akyaldızlı, Tayfun İşçi, Mustafa Kadioğlu and Mahmut Alınak, who had published "Freedom of Thought - 2" containing speeches by lawyer Eşber Yağmurdereli and trade unionist Mahmut Konuk that had resulted in their conviction was dropped according to the Amnesty Bill for the Press.

"Freedom of Thought - 3"

The same applied to the court case at Ankara SSC in connection with the booklet "Freedom of Thought - 3". This booklet contained an article by writer-journalist Haluk Gerger entitled "Agenda and PKK" that had resulted in his conviction. The trade unionists Bahattin Murat Demir, Hüseyin Demirton, Veli Büyükşahin, Refia Akcan, Adem Bulat, Günay Kubilay and the journalist Sungur Savran had signed the booklet as publishers. Ankara SSC dropped the charges of propaganda for an illegal organization in connection with the Amnesty Bill for the Press.

"Freedom of Thought - 9"

On 9 March the Military Court of the General Staff concluded the case against journalist Koray Düzgören and musician Nilüfer Akbal. They had published the booklet “Freedom of Thought – 9” containing a press statement by CO Osman Murat Ülke, for which the Military Court of the General Staff had sentenced him to 6 months’ imprisonment. The Court sentenced Düzgören and Akbal to 2 months’ imprisonment according to Article 155 TPC (alienating people from military service). The Military Court of Cassation confirmed the verdict on 5 May. The sentences were suspended according to the Amnesty Bill for the Press.

“Freedom of Thought - 16”

On 29 December 1998 the Military Court of the Chief of Staff started to hear the case of Şanar Yurdatapan. He had published an article for which Saruhan Oluç, deputy chairperson of the ÖDP, had been sentenced to 2 months’ imprisonment. The article was published in the journal “İşçi ve Politika” under the title “Join the Army” and the Military Court of the Chief of Staff had convicted Oluç under Article 155 TPC. Saruhan Oluç had been imprisoned between 28 May and 22 June. During the hearing of 29 December Şanar Yurdatapan used his right to remain silent in protest at a military court hearing the case of a civilian. On 9 February the Court sentenced Yurdatapan to 2 months’ imprisonment. The sentence was suspended according to the Amnesty Bill for the Press.

### **Conscientious Objection (CO)**

On 10 March Eskişehir Military Court sentenced CO Osman Murat Ülke, former chairman of İzmir War Resisters’ Association, to 10 months’ imprisonment for disobeying orders. The Court ordered his release since the time he spent in prison met the sentence. This time, the Court did not order the defendant to go straight to his unit in Bilecik, as it had done in earlier cases against Ülke. Ülke was released from the military prison and went to İzmir.

## **7.2. Freedom of Communication**

Like in the years before the freedom of communication was restricted in Turkey in 1999, not only by law, but also by arbitrary practices. Offices of the media were raided; journalists were detained and attacked, not only during demonstrations and meetings, but also in court halls.

Papers and journals such as „Özgür Bakış“ and „Yeni Evrensel“ or radio station such as „Radyo Umut“ and „Özgür Radyo“ that did not comply with the official view and reported in contrast to the State politics remained under pressure.

### **7.2.1. The Metin Göktepe Case**

The trial against the murderers of Metin Göktepe (journalist with “Evrensel”) continued in 1999. Police officers had beaten Metin Göktepe to death on 8 January 1996 after he was detained during the funeral of Rıza Boybaş and Orhan Özen, who had been killed in Ümraniye Special Type Prison. <sup>(147)</sup>

The case was heard at Afyon Criminal Court. Following the hearing of 11 December 1998 the Court released the police officers Şuayip Mutluer, Saffet Hızarcı, Fedai Korkmaz, Metin Küşat and Seydi Battal Köse, but banned them from going abroad. After the decision police officers shouted “Down with communist dogs”. A crowd of some 500 observers waiting outside the court hall protested the decision. Police officers hindered the Göktepe to conduct a protest march by beating them.

Prior to the hearing of 29 January the police prevented observers to march toward the

court hall using their truncheons. Journalists were not allowed to enter the courtroom with their cameras. Intervening lawyers asked the court to remove an armed police officers from the courtroom. Defense lawyer Ahmet Ülger argued that armed police officers had the right to attend hearings. When the intervening lawyers asked for the identity of the plain-clothes police officer he secretly left during a short break. The Court implemented the arrest warrant issued in absentia against Murat Polat (he had been detained in Bitlis on 9 December). During a press conference after the hearing a group of MHP adherents made the sign of the gray wolf and threatened to kill more "Metin"s. Reportedly the police did not intervene with the MHP adherents and did not allow journalist to take pictures. Hikmet Bilgin and Mehmet Çoban, board members of EMEP in Afyon, were detained.

The Court announced a verdict on 6 May and sentenced the police officers Murat Polat, Şuayip Mutluer, Saffet Hızarcı, Fedai Korkmaz and Metin Küşat to 12 years' imprisonment according to Article 452 TPC (killing by exceeding intention). These sentences were increased by one half considering the way of conduct and the bad intention (Article 251 TPC). The sentences of 18 years' imprisonment were then reduced according to Articles 462 TPC (real assailant unknown) and 59 TPC (good conduct) to 7 years, 6 months' imprisonment. The Court sentenced Seydi Battal Köse to 7 years' imprisonment. The defendants Burhan Koç, İlhan Sarioglu, Selçuk Bayraktaroğlu, Tuncay Uzun and Fikret Kayacan were acquitted because of lack of evidence. The Court also lifted the arrest warrant against Murat Polat.

The reasoned verdict was announced on 16 June. It stated that Metin Göktepe had died because of the beatings of 5 police officers, who had not acted with the intention to kill.

"The defendant Köse did not hinder the action of the officers, who had only started their profession and had no experience. It cannot be expected that police officers act against the orders by their superiors. Therefore, it has to be accepted that the other defendants acted in accordance with the orders of their superiors. Köse was informed several times that Göktepe was in bad health, but although a health center was right opposite the hall, he was not taken there. Saying 'who shall I deal with' Köse remained indifferent and caused the death of Göktepe. Our Court reached the opinion that he encouraged the police officers to beat Göktepe, which led to his death. There is no absolute certainty that the defendants acted with the intention to kill, being under the psychology of mass incidents. The large number of blows to vital areas does on their own not show the intention to kill. The defendants and the victims had no personal problems. Since it could not be proven that the defendants hit the victim at random and in particular to vital parts of his body it was concluded that the defendants did not act with intention."

Formulating his opinion on the appeal the chief prosecutor at the Court of Cassation stated in October that Köse should be acquitted, because he had warned the others not to beat the person. The prosecutor asked for confirmation of the sentences for Murat Polat, Şuayip Mutluer, Saffet Hızarcı, Fedai Korkmaz and Metin Küşat and the acquittals of Burhan Koç, İlhan Sarioglu, Selçuk Bayraktaroğlu, Tuncay Uzun and Fikret Kayacan.

The 1st Chamber of the Court of Cassation held a hearing on 25 November. During this hearing Seydi Battal Köse alleged that the chiefs at İstanbul Police HQ had chosen him in order not be tried themselves. Lawyer Ali İhsan Kal alleged that the testimony of Köse had been taken under force (torture). On 20 January 2000 the Court of Cassation announced its verdict. It quashed the verdict against Seydi Battal Köse, but confirmed the sentences of 7.5 years' imprisonment for Murat Polat, Şuayip Mutluer, Saffet Hızarcı, Fedai Korkmaz and Metin Küşat stating, "...The detainees of 8 January 1996 including Metin Göktepe were taken to the sport hall in Eyüp. The defendant Şuayip Mutluer saw some unidentified

police officers beat Göktepe and himself kicked at him. Saffet Hızarcı, Metin Küşat, Fedai Korkmaz and Murat Polat participated in the beatings, but it could not be determined whose action caused the death of the victim. The defendants committed the offense together and caused the death as stated in the autopsy report...” The Court also confirmed the acquittals of Burhan Koç, İlhan Sarioğlu, Selçuk Bayraktaroğlu, Tuncay Uzun and Fikret Kayacan.

The sentence against Seydi Battal Köse was quashed on the grounds that he had no intention to participate in the crime, but he had shown an attitude in contravention to his official duty and should be tried for misconduct of duty.

On 5 November Afyon Criminal Court acquitted 37 police officers, who had been charged with ill-treating 54 people, who had been detained together with Metin Göktepe.

### ***The Compensation Case***

In September the Supreme Administrative Court rejected the demand of the Ministry of Interior to stop the compensation claim launched by the mother and siblings of Metin Göktepe from being implemented. The mother Fadime Göktepe and the siblings Gülsüm Göktepe, Derviş Göktepe, İhsan Göktepe, Paşa Göktepe, İbrahim Göktepe, Meryem Göktepe and Aziz Göktepe had opened the case at İstanbul Administrative Court No. 2 asking for compensation of TL 500 million for the mother and TL 27 billion for the siblings, because of a heavy mistake in services. İstanbul Administrative Court No. 2 ruled that the mother was to be paid TL 1.4 billion and the whole family another TL 8.5 billion as compensation. The Supreme Administrative Court ruled that the amount of compensation could not exceed the original demand and ordered a cut of the compensation for the mother of TL 900 million, which had to be paid together with the legal interest.

### ***Cases in Connection with Commemoration Metin Göktepe***

On 8 December Bakırköy Penal Court No. 1 started to hear the case of Metin Göktepe’s mother Fadime Göktepe, his elderly brother İbrahim Göktepe, EMEP chairman Levent Tüzel, lawyer Kamil Tekin Sürek and Fatih Polat, editor-in-chief of “Evrensel”. They were charged with staging an unauthorized demonstration, when on 8 January they had commemorated Metin Göktepe at his grave.

On 24 December Ankara Criminal Court No. 4 started to hear the case against EMEP chairman Levent Tüzel in connection to a speech he had held in Ankara on 9 January on behalf of Metin Göktepe’s death. Levent Tüzel was acquitted.

## **7.2.2. Pressure on the Media and Journalists**

### ***Özgür Bakış***

The daily “Özgür Bakış” was first published on 18 April. The paper was confronted with the first obstacle in Diyarbakır on 20 April. At Pirinçlik Gendarmerie Station, where the delivery of the dailies “Emek” and “Ülkede Gündem” had been stopped repeatedly the lorries were stopped and the soldiers confiscated all editions of “Özgür Bakış”. There was no confiscation order for the paper of that day and on 12am interventions to have the paper distributed were successful.

On 7 May the OHAL Governor banned “Özgür Bakış” from entering and distribution in the provinces Diyarbakır, Hakkari, Siirt, Şırnak, Tunceli and Van, where the state of emergency (OHAL) was in force. The governor justified the decision with Article 11/e of the OHAL Law. <sup>[48]</sup> The OHAL Governor did not meet with representatives of “Özgür Bakış” to discuss this decision. On 13 May Filiz Duman, deputy manager of “Özgür Bakış” held a press

conference in the premises of the Association of Journalists in the Southeast. She pointed to the fact that the paper had been confiscated before the official decision and the driver of the lorry that had been stopped at Pirinçlik Gendarmerie Station had been threatened. She added: "We asked for an appointment with official on the ban of a paper, against which no confiscation order has been issued so far, but did not get a positive answer." Filiz Duman also stated that the papers "Azadiya Welat" and "Evrensel" were banned in the region.

In August lawyer Özcan Kılıç appealed to the European Court of Human Rights (ECHR) asking for an interim order against the ban of the paper in the region. He alleged that the ban had been issued in violation of Article 9 and 10 of the European Human Rights Convention (EHRC) defining the freedom of expression and the freedom of getting information. He argued that Article 11/e of the OHAL Law was no judicial verdict, but an administrative measure without the possibility to have it reviewed at a judiciary institution. Özcan Kılıç pointed to the fact that the decision had no specified time limit and it was up to the discretion of the OHAL governor to lift or change the decision.

On 4 June İstanbul SSC ordered the arrest of Hasan Deniz, editor-in-chief of Özgür Bakış in connection with an article in the edition of 3 June entitled "The Presidential Council of the PKK supported Öcalan" The case against Hasan Deniz and Halis Doğan, charged with supporting an armed gang started at İstanbul SSC on 11 August. Hasan Deniz was released. The verdict was announced on 29 December. Halis Doğan was fined TL 188 million and Hasan Deniz was sentenced to 45 months' imprisonment and a fine of TL 8.2 million. The paper was ordered to close for 7 days.

Emin Duman, distributor of Özgür Bakış in Ceyhan (Adana) disclosed that police officers threatened him with death in May. He filed an official complaint with the public prosecutor in Ceyhan.

On 31 May Naif Kılıç was detained in front of the paper's office in Diyarbakır. Later the police raided his home.

Mehmet Başkaleli, distributor of the paper in İstanbul alleged that he was detained on 8 June and beaten at Küçükköy Police Station. He added that he was detained again on 12 June and beaten again. The police had taken away TL 8 million money and 80 copies of the paper. A commissioner had told him that he had to bring the money of the sold papers to him. The same had been done by a distributor called E., who had given him TL 25 million. Mehmet Başkaleli added that he was released after being beaten for some time.

Vedat Dallı, distributor of Özgür Bakış in Karadeniz quarter of İstanbul said that he was detained on 9 June and taken to Gaziosmanpaşa Police Station. From here he was taken to the political police at İstanbul Police HQ and beaten.

On 7 June Van Police HQ complained to the public prosecutor that the papers of "Özgür Bakış" were on display on the billboard of the municipality stating that this was a violation of the OHAL Law. In November, the public prosecutor decided against prosecution.

On 17 June Alaattin Akbaş, distributor of Özgür Bakış in Ankara, was detained on the Fire Brigade Square. He was held at Ankara Police HQ and released on 18 June. After release he stated that he was beaten and insulted and the police had asked him to leave Ankara.

Hüseyin Aykol, one of the paper's editors, was detained at İstanbul Airport on 18 June. One copy of the paper against which a confiscation order existed and one book of him were confiscated and he was released after 15 hours.

Following a suicidal attack in Adana on 5 July the reporter Ayşe Tusun, who had gone to the scene, was detained and alleged that she was tortured in detention. After release on 7

July she said: "I went to the scene in order to report on the incident. The police officer from the press department claimed that my press card was fake and had me detained. During the interrogation they tried to make me responsible for the act. They threatened 'if you don't talk we may lose you in the chaos. If you don't say what you know, we'll play with all things valuable for you'. They made me listen to loud music and beat me up. The police officers said 'how can we no that you are a virgin. We'll take you to hospital and have a test done'. They accused the paper of presented fake news and alleged that I was a member of the PKK, since I worked for that paper."

On 7 July Hüseyin Gündüz, reporter for Özgür Bakış in Batman, was picked up as "suspicious person". He was taken to Şehit Keskin Kaplankıran Police Station and later released.

On 10 July the police raided the house of Kazım Mumyak, distributing the paper in Adana. Following the search of his house in İncirlik town he was detained, taken to İncirlik Police Station and allegedly threatened with death.

Orhan Akın, distributing "Özgür Bakış" in İzmir and S.K., distributing the journal "Jiyana Rewşen" published by the MKM, were detained in Yamanlar quarter on 11 July. They were taken to Karşıyaka Police Station and alleged that to have been put under psychological torture.

On 13 July E.G. (14) distributing Özgür Bakış in Adana, was allegedly beaten by police officers. He said that two police officers had forced him into a car, beaten him and threatened him not to distribute the paper any more. He had been thrown out of the running car.

R.T. (15) distributing the paper in Batman, alleged that he was detained on 18 July, beaten for two hours and threatened. The police officers had forced him into a car in front of the hospital at 5pm. They had blindfolded him and taken him to an empty space near the Batman River. Here the police officers had beaten him and threatened to kill him, if he continued to distribute the paper. He had been dropped in front of the hospital, still being blindfolded.

On 19 July plain-clothes police officers raided the offices of Özgür Bakış in Batman twice. They said that the edition of 18 July had been distributed although an order of confiscation existed against it. The police detained the staff members Narin Adsan, Salih Erol, Kemal Şahin, Hüseyin Gündüz, Selim İmret, Filiz Yürek, Reşat Tunç and the visitor Melek Behmandoğu. The detainees were taken to the security department and alleged that they had to stand with their hands against the wall for six hours. Narin Adsan and Filiz Yürek had been stripped naked and searched by female officers, who insulted them.

On 25 July plain-clothes police officers detained Engin Türk, while distributing the paper in Narlıdere quarter (İzmir). They alleged that he was selling copies that had been banned. Engin Türk alleged that he had been beaten at the police station, the police officers had cursed at him and he had been asked to become a police informer.

On 15 August members of a special team detained Rıdvan Başkan, while he was distributing the paper on Turgut Özal Boulevard in Batman. Reportedly they took him behind the hospital and beat him up. On the same day another distributor, Hamdullah Tanrıku, was threatened by police officers in the same place not to sell the paper.

Ömer Sezgin, distributing the paper in Güngören quarter of İstanbul, who was detained on 21 August, alleged that he was tortured in detention. He had been taken to Tozkoparan Police Station and the police had threatened him with death.

On 31 August a group of some 15 civilian dressed police officers raided the offices of Özgür Bakış in Taksim (İstanbul) and detained the distributor Şoreş Yürük.

On 10 November the lorry carrying the copies of the papers to Batman was stopped in Midyat district (Mardin). The staff members of the “Birleşik Basın” distribution company, Bahattin Umman, Etem Gündüz, Veysi Tola and one with the first name of Kemal were detained, allegedly threatened not to take the paper to Batman and released in the evening hours.

On 11 November Azad Altun, journalist with Azadiya Welat and the Özgür Bakış reporters İrfan Uçar, Bayram Balcı, Hatice Ödemiş and Arzu Demir were detained, while they followed the closure session of the OECD meeting in İstanbul. When they left the final review session in Çırağan Palace police officers stopped them and took them to Beşiktaş Police HQ. The police officers alleged that leaflet in the Kurdish question had been distributed during the session and wanted the detainees to sign a note saying that “well-known suspects were detained, while distributing leaflets in Çırağan Palace”. The journalists did not sign the note and were later taken to İstanbul Police HQ.

On 20 November two plain-clothes detectives made an ID check on Selim İmret, staff member of the paper in Batman, when he had gone to Midyat to get the copies of the paper. The police officers from the police headquarters in the district had threatened not to come there again. Selim İmret had told the police that there was no confiscation order, but the officers had said that they knew what kind of a paper “Özgür Bakış” was. Even if it was not banned officially for them it was a forbidden publication. İmret was released after threats.

On 26 December police officers detained Ahmet Aktaş, while he was selling the paper in Topkapı (İstanbul) on the grounds that he had no permission for the sale of the paper.

### *Ülkede Gündem*

During a raid on the HADEP offices in Siirt on 5 January the Batman reporter of the daily “Ülkede Gündem”, Salih Erol, was detained under beatings. He said later that he was taken to an empty passage on Cumhuriyet Road, beaten and threatened not to work for the newspaper or HADEP.

Diyarbakır Penal Court No. 3 tried İsmet Bakaç, representative of Ülkede Gündem for Diyarbakır on charges of having violated the OHAL Law by bringing the paper to Diyarbakır on 22 February 1998, although the entry to the OHAL region had been banned.

On 5 January police officers detained Yusuf Öntaş, news director in the Adana office of the paper and Şerafettin Aslan near Sabancı Culture Center. They said later that they had been kept at Adana Police HQ for three hours and had been insulted.

The court case against Laleş Perçin and Metin Yüzer, reporters with Ülkede Gündem concluded at İstanbul SSC in January. They had been charged under Article 312 TPC in connection with an article about the killing of Hamdi Salgın (19) and Gülistan Özdemir (15) during a house raid in Fatih quarter (İstanbul) on 11 February 1998. İstanbul SSC sentenced them to 20 months' imprisonment. The sentences were suspended.

On 27 January İstanbul SSC started to hear the case of Ragıp Zarakolu in connection with an article he had published in Ülkede Gündem on 25 June 1998 under the title of “The Free Daughter of Ararat”. During the hearing Zarakolu stated that he had written the article, but the quote of the prosecutor did not belong to him. The case was suspended according to the Amnesty Bill for the Press.

On 27 May Malatya SSC concluded the trial against Ayşe Oyman, Ali Kemal Sel and Eylem Kaplan, staff members of *Ülkede Gündem*, who had been detained during raids on the offices of the paper and their houses on 20 November 1998. The Court sentenced the defendants to 45 months' imprisonment, but ordered their release pending appeal.

### *Özgür Gündem*

Following the ratification of the sentence of 45 months' imprisonment, imposed by İstanbul SSC on Ali Rıza Halis, administrative director of the daily "*Özgür Gündem*" that had been closed down on 20 April 1994, he was detained on 9 September and imprisoned on 10 September. The case against Ali Rıza Halis and Gurbetelli Ersöz, editing director of the paper had been conducted on charges of supporting an armed gang.

On 16 June 1998 Ragıp Duran went to prison in order to serve his sentence of 10 months' imprisonment in connection with his article in *Özgür Gündem* of 12 April 1994 entitled "Apo 91 – Öcalan 94". He was released from Saray Prison on 27 January.

*Özgür Gündem* was first published on 31 May 1992. Until its closure in April 1994 six of their reporters were killed, two "disappeared" and one was seriously injured. 124 reporters and 60 distributors were detained and 24 reporters and 1 distributor were subsequently arrested. 32 distributors, 11 owners of kiosks and 5 reporters were threatened by the police. The paper was confiscated 36 times.

### *Yeni Evrensel*

The OHAL governor banned the daily "*Yeni Evrensel*" from entering the OHAL provinces Diyarbakır, Siirt, Şırnak, Van, Tunceli and Hakkari on 4 January simply stating, "It is forbidden to bring the daily newspaper *Yeni Evrensel* produced in İstanbul to the provinces under a state of emergency according to Article 11/e of the Law No. 2935 on the Emergency Legislation providing authority of the regional governor to ban the printing, copying and distribution of printed material in the region or to ask for special permission in conjunction with Article 1 of the Decree No. 430 with the force of law."

It was reported that the ban was not only implemented in the provinces under a state of emergency but also in the provinces of Şanlıurfa, Malatya, Elazığ, Muş, Kilis, Bingöl, Mardin, Kahramanmaraş, Batman, Adıyaman and Gaziantep. Officials from the distribution company YAYSAT stated that soldiers and police officers stopped their lorries at the border of these provinces and confiscated the copies of "*Yeni Evrensel*".

On 11 January police officers detained Aslı Tanır, Gönül Ulusoy and Serap Kılıç, who were selling *Yeni Evrensel* in Eskişehir.

On 24 January police officers detained *Özgür Cebe*, representative of *Yeni Evrensel* in Diyarbakır on the grounds that he had made false accusations and insulted Diyarbakır Governor Nafiz Kayalı in an article on that day. *Özgür Cebe* was released in the evening hours and said that he had been threatened in detention.

Reporter Tacim Coşgun and Talat Doğanoglu, cameraman from HADEP, who were following the election campaign of HADEP, were detained at the entry to Diyarbakır on 12 April. They were reportedly beaten at the moment of detention, but released at 9pm.

Deniz Doğan, Serpil Seher İlgün and Şengül Karadağ, who were in Diyarbakır to cover the Newroz celebrations, were detained on 21 March. They were released around midnight and deported from Diyarbakır based on an order of the OHAL governor. Reportedly the journalists were also interrogated in Elazığ and Tunceli.

On 28 April the police in İzmir raided the offices of *Yeni Evrensel* and *Evrensel Culture*

Center. In the offices of the newspaper the police officers controlled the computers and confiscated a large number of copies alleging that these copies had been banned.

On 9 September officers in a civilian car stopped the reporter Arif Toprak in Bağlarbaşı quarter of Şanlıurfa and allegedly threatened him.

On 3 December three people including the Yeni Evrensel reporter Yılmaz Toğan were detained in İstanbul. Birol Bozkurt, Şeriban Dursun and Yılmaz Toğan were beaten up, insulted and threatened with death. The detainees were later released, but Yılmaz Toğan did not get his press card back.

#### *The journal Kurtuluş*

On 8 January police officers raided the office of the journal “Kurtuluş” in Mersin and seized edition 10, although there was no order for confiscation.

During a raid of the offices of Kurtuluş in Hopa (Artvin) on 11 February the journal’s representative Pınar Ateş, the reporter Şenol Köroğlu and Sadık Yardımcı and Özcan Beyaz were detained and later arrested. The journal announced that the four people were tortured in detention.

On 28 April Zeytinburnu Penal Court concluded the case against staff members İzzet Mamati, Selim Ersoy and Aydın Coşkun. The Court convicted them for possession and sale of banned publication and disobedience of official order and fined them TL 906,000.

On 31 March four people including the “Kurtuluş” reporter Aynur Siz were arrested in Tokat on the grounds of being members of the Revolutionary People’s Liberation Party/Front (DHKP/C).

The case against 3 police officers charged in connection with the killing of İrfan Ağdaş, distributor of “Kurtuluş” in İstanbul-Alibeyköy on 13 May 1996 continued at Eyüp Criminal Court No. 2 (for details see the chapter on the Right to Life).

#### *The journal Azadiya Welat*

Staff members of the Kurdish journal “Azadiya Welat” met in the offices of HADEP in Kadıköy-İstanbul on 17 January. The police raided the office and detained administrative director Seyit Karabaş and 10 distributors.

The Adana office of the paper was raided on 12 January. Police officers seized edition 152 on the grounds that an order of confiscation existed. The police also seized a calendar of the MKM, other journals they found in the office and reportedly destroyed the pictures on the wall.

Davut Özalp, İzmir representative of Azadiya Welat, Emin Bayer, HADEP chairman for Konak district, board member Abdurrahman Kılıç, Duran Boztepe, deputy chairman of Göç-Der and the HADEP member Mahmut Sancak were detained in Kadifekale quarter (İzmir) on 26 January.

On 16 March Faruk Yüksel, staff member of the office in Adana, was detained together with a person by the first name of Sultan.

Ekrem Hazar, representative of the journal in Mersin, and Ferhat Kandal were detained during raids on their houses on 26 March. The office of the paper in Mersin was raided, too, and here Velat Yaman was detained. He was allegedly tortured over 7 days.

On 15 April İstanbul SSC concluded one case against M. Salih Taşkesen, editor-in-chief of Azadiya Welat. The Court found him guilty of having incited the people to hatred and enmity in a press statement and sentenced him to 1 year’s imprisonment and a fine of TL

1.5 million. The prison term was commuted to a fine. The press statement related to a protest against the ban of the paper in the OHAL region. The press conference had been held in the premises of the HRA in İstanbul.

On 6 June the police in İskenderun detained staff member Mehmet Çağan. He was held for two hours and beaten up. The copies of the paper he carried were seized.

On 25 June Tahir Oğuz, staff member of Azadiya Welat, was detained in Adana. He stated after release that the copies in his possession had been seized. "First they beat in the middle of the road. Then they took me to the police station. For two hours the chief and all police officers there beat me". On 30 June Oğuz was kidnapped by plain-clothes police officers. He alleged that they took him to an empty space at the Seyhan River, threatened him with death and threw him into the river.

Serpil Kaymaz, one of the paper's distributors, alleged that she was detained in Gaziantep on 11 July together with Maşallah Uçar and Ali Çankaya. She said that she had been beaten and threatened not to distribute the paper any more. She filed an official complaint against the police officers.

Metin Bulut, representative of the paper in Adana, and the staff members Sultan Oğuz, Özhan Sincar and Faruk Yüksel were detained at Adana Airport on 16 July. They were released after some time. The offices of the paper in Adana were raided on 20 July.

The distributor Serpil Kaymaz and Mehmet Akbaş were detained in Şahinbey district (Antep) on 21 July. They stated that they had been released after heavy beatings.

Emel Aslan, representing the paper in Mardin, alleged that plain-clothes police officers kidnapped her on 21 July. They accused her of making propaganda for the PKK and threaten people, who did not want to buy the paper. The police officers had urged her to become an informer.

On 15 September Diyarbakır SSC acquitted Murat Değer, representative of Azadiya Welat in Batman, from charges of membership of an armed gang according to Article 168/2 TPC because of lacking evidence.

The İzmir representative Davut Özalp was acquitted on charges of disseminating separatist propaganda in a speech he made on Med-TV. On 11 October İzmir Penal Court No. 2 sentenced him and staff member Songül Sever to 3 months' imprisonment and a fine of TL 15 million. The prison term was commuted to a fine, now totaling TL 105 million for each of the defendants. They had been tried for the possession of illegal publications.

Metin Bulut, representative in Adana, Fetih Akyol and Nihat Akkuyu were detained on 17 October. They were arrested in İskenderun on 22 October.

### *The journal Özgür Halk*

Mehmet Ali Aslan, distributor of Özgür Halk and Emin Yıldız, member of the youth commission of HADEP in Aydın were detained in İncirliova district (Aydın) on 3 August. They were taken to court on 7 August and arrested on charges of membership of an armed gang.

The offices of the journal in İzmir were raided on 28 April. The police detained the İzmir representative İshak Benek. He was remanded on 29 April.

On 16 May Rıdvan Beyaz and Erol Yıldırım were detained in Adana, when they sold the journal during a wedding.

On 18 June the police raided the offices of the journal in Mersin and detained staff

member Hüseyin Çetin. He was remanded on 21 June and put in Mersin Prison.

Salih Karadağ, staff member of the journal in Adana was detained in Birecik district (Urfa) on 4 June. On 21 July he was detained in Adana and alleged that he was threatened in a forest (for details see the chapter on torture).

The offices of the journal in Adana were raided on 25 August. The police confiscated the archives on the grounds that it contained forbidden copies and detained the visitor Yılmaz Yakut.

### *The Newspaper Selam*

On 18 December 1998 İstanbul SSC concluded the case against the journalist Nureddin Şirin, writing in "Selam". The Court convicted him on charges of incited the people to enmity in an article of 15 June 1997 entitled "We have to stand by the Oppressed, even if they are Atheists" and sentenced him to 20 months' imprisonment according to Article 312/2 TPC. <sup>(49)</sup>

İstanbul SSC remanded Erhan Güngör, editor-in-chief of the paper, on 6 October. He had been called to testify in connection with articles about General Yalçın Işimer's talks about M. Akif Ersoy and was remanded according to Article 312 TPC. He was released in the evening, after his lawyers objected to the arrest warrant.

İstanbul SSC ordered the confiscation of the January edition of the paper because of the articles entitled "Headscarves are our Honor", "Once a Fire is Lit it won't go out" and "Great Anger at the Major".

On 4 February Malatya SSC concluded the case against Hüda Kaya charged under Article 312 TPC for an article she wrote in the paper. The Court sentenced her to 20 months' imprisonment.

### *The daily Akıt*

In February the Court of Cassation quashed the acquittal of Yaşar Kaplan, writing for the daily "Akıt", who had been tried at Ankara SSC. He was tried in connection with a speech he made in Altınpark (Ankara) on behalf of the Commemoration of Martyrs on 23 February 1997. On 1 October 1998 Ankara SSC acquitted him of charges under Article 312 TPC. The retrial did not conclude in 1999.

In June the public prosecutor in Ankara indicted Ali İhsan Kocahasanlı, writing for Akıt and Murat Balıbey, editor-in-chief for having insulted the president and 3 judges at the 8th Chamber of the Court of Cassation. The prosecutor asked for a sentence of between 6 months and 3 years' imprisonment according to Article 268 TPC.

On 5 November the columnist Hasan Karakaya and Hasan Hüseyin Maden, member of the editing board of Akıt were detained in connection with the testimony of Kasım Gençyılmaz, imprisoned on charges of having ordered the killing of the usurer Veli Sözdiner. Gençyılmaz stated that he had met a person called "Hasan" in the Tarabya Hotel in 1997. He had been accompanied by 2 Iranian agents and had offered him \$2 million for killing the then President of the Constitutional Court, Yekta Güngör Özden. Mehmet Özmen. Editing director of "Akıt" protested the detention stating that both people were accredited journalists and their imprisonment was a blow against the freedom of the press. Hasan Karakaya was remanded after Gençyılmaz identified him. On 10 November he was taken to Ankara SSC. The Court ordered his release to be tried without arrest. The court case against Hasan Karakaya did not conclude in 1999.

On 28 October the police raided the offices of "Akıt" and detained Mustafa Karahasanlı,

editing director of Akıt, and Ali İhsan Karahasanođlu, legal consultant of “Akıt” on the grounds that the paper had shown Ahmet Taner Kışlalı (<sup>[50]</sup>) a target for terrorist organizations. They were released after two hours. In November the prosecutor at İstanbul SSC indicted both men under Article 6 LFT. In an article entitled “Damned Clever Tyrant” the photograph of Ahmet Taner Kışlalı had been marked with an x. The daily Cumhuriyet had filed an official complaint against “Akıt”.

### *The journal Alinteri*

On 26 March İstanbul SSC stopped the publication of the journal “Alinteri” indefinitely. On 11 February plain-clothes police officer hindered Özgür Yalçın, working in the Ankara office of Alinteri and the distributor Vedat Aydođdu to distribute the paper in Ankara. The paper announced that on the same day the reporter Gözde Mollaibrahimođlu was hindered to distribute the paper in the building of a trade union. Police officers had forced her into an elevator, assaulted and beat her and they had stubbed out cigarettes on her body.

Gözde Mollaibrahimođlu, Ünal Akyürek and a person by the first name of Malik were reportedly detained on 28 February. On 27 March the staff member Sıddık Çelik, Serpil Güneş, Sakine Yalçın, Yücel Filizler and Ali Filizler, staff member of Yapı Sanatevi, were detained.

### *The journal Alinterimiz*

The journal “Alinterimiz” started publication in April. On 12 April the police raided the offices in Adana and detained the visitor Ali Arslan.

The editor-in-chief Makbule Türk went to testify at İstanbul SSC on 28 July. She was remanded on charges of supporting an armed gang. Reportedly 15 court cases were opened against her on the same charges in 1999.

The offices of the paper in Adana were raided on 25. May. The police seized some editions and posters. On 8 June soldiers detained Lale Türüç, representing the paper in Adana and Nihal Gül in front of Ceyhan Prison.

The offices in Mersin were raided in 4 August. Reportedly the police threatened and beat one reporter, who was present. The offices in Adana were raided on 24 Eylül. The police beat Adana representative Lale Türüç.

The offices in Gaziantep were raided on 9 November. The police detained the reporter Servet Özdemir. He was remanded on 14 November and put in Gaziantep Prison. Later he was transferred to Ceyhan Prison. After three months he was released. The trial on charges under Article 169 TOC did not conclude in 1999.

### ***Pressure on Local Papers and Radio Stations***

On 18 January the paper “Fırat'ta Yaşam” (Life at the Euphrates) started publication in Gaziantep. In 1999 nineteen editions of the paper were confiscated. 12 court cases launched against Garip Zeytin, editor-in-chief of the paper, on charges of having violated Article 312 TPC, ended in acquittal. 7 cases were opened against the successor, Halil Şahin. They did not concluded in 1999.

On 22 August the offices of the paper were raided and 4 staff members and 1 visitor were detained. The detainees were questioned until the evening hours and released without appearing in front of a prosecutor or a judge.

On 4 October the police came to the offices of the paper again and beat the report Sinan Şahin. Şahin filed an official complaint.

The court case against Erhan Palabıyık, owner of the paper "*Demokrat Baykan*" published in Baykan district (Siirt), was dropped according to the Amnesty Bill for the Press. Palabıyık allegedly had insulted the security forces in an article of the paper.

The Court of Cassation confirmed the sentence of 18 months' imprisonment that İzmir SSC had imposed in Aydın Korkmaz, the owner and editor-in-chief of the paper "*Yeniçeşme*" published in Çeşme district (İzmir). İzmir SSC passed the sentenced under Article 312 TPC for an article Korkmaz had written for 1 May (Labor Day) 1997. Aydın Korkmaz was imprisoned on 27 August, but released after 10 days, because the sentence was suspended according to the Amnesty for the Press.

The General Directorate for Press-Publication and Information asked Ersen Korkmaz, editor-in-chief of the local paper "*Demokrat İskenderun*" to give back her yellow press card because the paper did not appear in a normed shape. Ersen Korkmaz objected and the demand was revised.

In June the public prosecutor on Hatay started an investigation against three local paper, "*Hatay*", "*Özyurt*" and "*Anayurt*" on the suspicion that they shared an offense by publishing a joined declaration of HADEP, ÖDP and EMEP. The political parties had issued a statement on 6 May in commemoration of Deniz Gezmiş and his friends and the papers had printed it.

On 28 April Siirt Governor Osman Acar closed down the local paper "*Güney*" for an indefinite period of time. The decision was taken according to the OHAL Law and on the grounds that the paper had belittled official institutions.

#### *Radio and TV stations*

In Şanlıurfa 5 staff members of the radio station Medya FM' were charged with inciting people based on religious differences. They were acquitted because of lack of evidence. In another case, the same charges against the moderator Ali Sağır were dropped.

Diyarbakır SSC tried Erol Koçyiğit, news director of Metro TV, because he had broadcasted an announcement by prisoners' relatives. On 19 November Diyarbakır SSC sentenced him to 6 months' imprisonment and a fine of TL 2.7 billion. The prison term was suspended for 5 years. The Court also ordered the TV station not to broadcast for 5 days. Subsequently police officers came on 4 December and sealed the offices of Metro TV. A similar case was conducted against Adnan Bilgiç, news director of Kanal 21. He received the same sentence, but his station was ordered to close for 7 days.

On 3 June the Court of Cassation confirmed the sentence of 20 months' imprisonment Diyarbakır SSC had imposed on Vedat Bakır, news director of Radio Karacadağ, broadcasting in Urfa. He had been convicted of disseminating separatist propaganda in a speech he gave on Med TV.

On 23 February the police in İstanbul raided the radio stations Özgür Radyo, Radyo Umut and Yön FM and detained Şehriban Vural, Nazmiye Güzel, Nezihe Güzel and Elif Çamyar during the raid on Radyo Umut.

In February the prosecutor at Ankara SSC had Cengiz Orhan, broadcasting manager of Umut Radyo remanded under Article 312/2 TPC. The charges related to a program on an action of headscarved students in Malatya. The action been called an honorable resistance that should be an example for all people in Turkey.

In October İzmir Criminal Court No. 2 started to hear the case against Ecem Üvez, speaker at the local radio station "*Demokrat Radyo*" and the responsible director Recep

Ergül on charges of having belittled the Republic. Recep Ergül sent a declaration to the court stating that the incriminated text was a statement by the Saturday Mothers, which they had published unchanged. The hearing was adjourned and the radio station was asked to send the cassette of the program for a closer inspection.

#### *Other Incidents*

The newspaper "Yeni Ortam" published for Küçükçekmece and Avcılar quarters in İstanbul was attacked by unknown assailants on 9 January. The owner and editor-in-chief of the paper, Oya Erbaş, stated that the furniture could not be used anymore and added that the paper received threats since they started publication.

The journal "Politikada Atılım" in İskenderun was raided on 5 February. The police detained Mikail Vayıç.

On 21 February John Hemming from Reuters News Agency was held at Diyarbakır Airport for a short time. He was not allowed to enter the town. Police officers reportedly told him that journalists were not allowed to enter the region under a state of emergency. On the same day Arne Lapidus and Soeren Haakanlind from Goeteborgs Posten were not allowed into Diyarbakır and sent back to İstanbul. On 17 February Christof Heisen and Mustafa Yılmaz, who wanted to interview Kurds living in İstanbul for the German TV station ZDF, were detained, but released after some hours.

On 16 March the police detained Celal Aslandoğan, editor-in-chief of the journal "Özgür Gelecek" in his office stating that he had to testify in connection with article in edition 139. İstanbul SSC ordered his arrest.

İlhan Kaya from the daily Zaman and Alper Turgut from the daily Cumhuriyet were beaten by police officers, when they tried to cover a students' demonstration in commemoration of the 16 March Massacre at İstanbul University. İlhan Kaya had to be taken to hospital.

Yıldırım Doğan and Nurbay Irmak, reporters for the journal "Kızıl Bayrak" were detained in Zonguldak on 17 March. They were remanded the same day. Nurbay Irmak was released on 17 June. Yıldırım Doğan was released on 30 December. He was seriously injured during the operation in Ankara Closed Prison on 26 September. Yıldırım Doğan was charged under Article 169 TPC, but the court case did not conclude in 1999.

On 18 March the police raided the offices of the journal "Özgür Gelecek" in the center of İstanbul and in Kartal. During the raids the police detained Kamil Taş, Muharrem Yiğitsoy, Betül Kılıçaslan, Ufuk Balcık and Ali Kemal Kahraman and confiscated the archives. On 28 April the central office of the journal was raided again. This time the police detained Hamza Balcı, Mehmet Soylu and Betül Kılıçaslan. The journalists later alleged to have been tortured during 4 days of detention.

In March the police also raided the offices of "Atılım" in İstanbul Aksaray and Kartal and reportedly detained staff members and visitors.

During the first week of March the offices of the paper Azadiya Welat, Kurtuluş, Kızıl Bayrak and Halkın Günlüğü in İzmir were raided.

On 4 April vehicles of HADEP toured İstanbul-Zeytinburnu in connection with the campaign for the 18 April elections. Police stopped the cars on the ground that victory signs had been made. At the same time a group of MHP adherents attacked the cars with stones and sticks. The convoy of HADEP could leave, but the police stopped them again in the region of Yedikule and detained 4 people. Selçuk Koç, Leyla İlhan and Mesut Er, who wanted to cover the incident for the daily "Star", were beaten by the police. Reportedly Selçuk Koç

had a broken leg and the cameras of the journalists were destroyed.

On 9 April the police raided the house of Neriman Tufan, editor-in-chief of the journal "Devrimci Çözüm". Since they could not find Neriman Tufan the police officers detained her brother Mahmut Tufan and Levent Tufan. The police conducted another raid on the next day.

Erdal Güner and Binali Güner, working for the journal "Halkın Günlüğü" in İzmir were detained during raids on their home on 29 April.

In April the police raided the offices of "Politikada Atılım" in Kayseri and detained two staff members. On 11 May the police raided the office of the journal in İstanbul-Gazi quarter. During the raid Derya Algın, Arif Köse and one visitor were detained. They later alleged to have been tortured during five days of detention.

On 4 May the police detained Medet Dilek, editor-in-chief of the journal "Güneş Ülkesi", issued by Ankara Anatolian Culture Cooperation.

During a raid on the offices of "Atılım" on 15 May the police detained one staff member and two visitors.

Adana SSC remanded Fatma Sesli, working for "Kızıl Bayrak" on 24 May. She had been detained during a raid on her house. Reportedly Fatma Sesli had to serve a prison term of 3 months and was put in Kürkçüler Prison.

Nuray Yazar, editor-in chief of the journal "Proleter Halkın Birliği" was arrested on 25 June, in order to serve a sentence of 13 months' imprisonment. The sentence was later suspended according to the Amnesty Bill for the Press.

İstanbul Penal Court No. 12 continued to hear the case of the police officers Zeki Eşiyok, Zafer Dursun and Fırat Arıkan. They were charged in connection with an incident in İstanbul-Çağaloğlu on 15 July 1996. Journalists had covered an action by prisoners' relatives related to the death fasts. The journalists took refuge in the premises of the Journalists' Association of Turkey. Several police officers entered the building and beat the journalists up. The three defendants were the one, who had been identified. The trial on charges of misconduct of duty did not conclude in 1999.

On 14 June the police raided the offices of the journal "Partizan" in İstanbul and detained Nuran Başkan, editor-in-chief and the staff members Kemal Tohumlu and Servet Çıracıoğlu.

The bodyguards of State President Süleyman Demirel beat journalists, when they tried to cover his visit to İstanbul Municipality on 21 June. Kemal Diyarbekir from "Hürriyet" was beaten and his press card was taken away. Ertuğrul Kindem, who was waiting in a car outside, working for Show TV was also beaten for "security reasons".

The company "Başat Agency", where the technical work for the journal "Politikada Atılım" was done, was raided on 22 June. During the raid the police detained Mustafa Süke, former editor-in-chief, Ali İhsan Topçu and Meral Koca. On 17 July the police detained Ayhan Deliduman, distributor of "Politikada Atılım" and the staff member Derya Algın.

On 21 July Sabah reporter Güngör Karakuş, Hürriyet reporter Osman Tan, Akşam reporter Barış Kara, Türkiye reporter Mustafa Kurtaran and Star reporter Şentürk Duman went to Bahçelievler Police Station to get information on a traffic accident. They later alleged that they were beaten and their cameras were broken and filed an official complaint with the public prosecutor in Bahçelievler.

The journal "Devrimci Çözüm" interrupted publication for one month on 2 September, since

the order for closure imposed for an article in the October 1997 had been confirmed by the Court of Cassation on 29 July.

During the raid of the office of the journal "Mücadele Birliđi" in İkitelli (İstanbul) on 6 August the police detained the staff members Serdar Serbüent Sürücü, Beyhan Yüce and the visitor Erdem Özgöl.

Sinan Şimşek was detained in Ümraniye-İstanbul on 30 August, when he distributed a special edition of the journal "Dayanışma" concerning the earthquake.

Ahmet Ergin, editor-in-chief of "Emek" was detained on 15 October during a raid on his home at 0.30am. Reportedly he had an earlier conviction and was taken to Büyükbakkalköy Police Station. When it turned out that the sentence had been suspended according to the Amnesty Bill for the Press Fatih public prosecutor's office ordered his release.

On 14 August Ahmet Çakar, MHP member, responsible for administration in the GNAT, tried to remove Star reporter Nuray Başaran, who had appeared in a miniskirt. During the discussion MHP deputy Armağan Yılmaz threatened journalists with the words, "I shall tear out your tongues".

Soner Arkanoglu, working for the TV channel BRT, resigned after his source for the information on Bursa Governor Orhan Taşanlar, who had furnished fake documents for a drug dealer, was revealed. News director Gürkan Zengin also resigned. Following the news story Taşanlar had put the owner of the TV station, Kamuran Çörtürk, under pressure to reveal the name of the source and Arkanoglu had been forced to present the name of his informer.

On 12 October the owner and editor-in-chief of the journal "Hepileri" that had stopped publication, Hüseyin Çevirgen, was detained because of an arrest warrant on charges of separatist propaganda. He was released on 13 October, because of the Amnesty Bill for the Press.

During a raid on the office of "Atılım" in İzmir on 3 November the police detained the staff member Ferhat Akçay.

On 20 December the police in İstanbul raided a cafe and detained E TV reporter Hüseyin Taş, the journalist Variş Yarkardaş and Vedat Uçar.

On 23 December Gülistan Kader, owner of the journal "Mücadele Birliđi" was detained in front of Ümraniye Prison.

Mehmet Eren and Aydođan İnal, reporters of the journal "Hevi" were detained in Diyarbakır on 15 June, when they followed a journey organized by the DBP. They were held at Diyarbakır Police HQ for 3 days and alleged to have been tortured in detention.

Amberin Zaman went to Kızıltepe district (Mardin) to make an interview with the Mayor Cihan Sincar for the Washington Post and the radio channel Voice of America. She was detained on 28 June on the grounds that she had no permission to come to Kızıltepe. Zaman could not meet Mrs. Sincar because she was out of town. When Amberin Zaman left the building of the municipality she was detained together with the taxi driver. Her mobile phone and her notebook were confiscated immediately. Zaman said: "They treated me like a criminal, as if I was a member of the PKK: I asked them to call the US Embassy and the Prime Ministry, but they didn't. I was taken into a separate room and a female police officer stripped until my underwear. I protested, but she said that she could repeat the search 10 or even 100 times. They said that I had no permission to come to Kızıltepe

and I replied that Mardin was not part of the region under a state of emergency. They said that I had come via Diyarbakır, which belonged to the OHAL and I should have applied for permission.”

On 11 November the police searched the offices of the journal “Özgür Gelecek”. During the raid the reporters Celal Aslandoğan, Arife Çimen and Kamil Taş were detained. On 2 December the offices in Ankara were searched and the archives and cassettes for news were confiscated.

Prior to the OSCE meeting in İstanbul in November many offices of socialist journals and culture centers were raided and many staff members were detained. On 10 November the Culture Center Let 100 Flowers Blossom and the Seed Culture Center were raided. On 11 November The office of the journal Bağımsız Vatan was raided and the police detained 8 staff members. On the same day the offices of the papers Politikada Atılım, Dayanışma, Özgürleşen Yurtsever Gençlik, Pîne, Devrimci Gençlik, Mücadele Birliği, Kızıl Bayrak, Hedef, Halkın Günlüğü, Selam, Haksöz and İdil Culture Center and the Platform for Democratic Struggle were raided.

### **7.2.3. Imprisoned Journalists**

According to the findings of the HRFT at least 18 journalists were arrested in 1999. Their names and the papers they worked for are:

Hasan Deniz, Özgür Bakış, editor-in-chief,  
Ali Rıza Halis, Özgür Gündem, administrative director,  
Pınar Ateş, Kurtuluş  
Şenol Köroğlu, Kurtuluş  
Aynur Siz, Kurtuluş  
Metin Bulut, Azadiya Welat  
Mehmet Ali Aslan, Özgür Halk  
İshak Benek, Özgür Halk-İzmir  
Hüseyin Çetin, Özgür Halk  
Erhan Güngör, Selam  
Makbule Türk, Alinterimiz, editor-in-chief  
Celal Aslandoğan, Özgür Gelecek, editor-in-chief  
Yıldırım Doğan, Kızıl Bayrak  
Nurbay Irmak, Kızıl Bayrak  
Fatma Sesli, Kızıl Bayrak  
Nuray Yazar, Proleter Halkın Birliği  
Hüseyin Çevirgen, Hepileri, owner and editor-in-chief

In its 1999 the Press Council stated that 12 journalists had been imprisoned. The following journalists were included: Asiye Güzel Zeybek, Ayten Öztürk, Banu Güdenoğlu, Burhan Gardaş, Bülent Sümbül, İbrahim Çiçek, İsmail Beşikçi, Lütfiye Uluk, Muharrem Karademir, Ragıp Duran, Sadık Çelik and Veysel Dağdaş.

The Committee for the Protection of Journalists (CPJ) stated that at least 17 journalist had been in prison at the end of 1999. At the end of the previous year the number had been 27.

#### **7.2.4. Confiscated Publications and Punishment**

According to an announcement by the Ministry of the Interior <sup>(151)</sup> the courts in Turkey ordered 1,627 orders to confiscate publications. Most orders were given because of separatist propaganda or propaganda for an illegal organization. In verdicts against the press the total of days that the papers were ordered to stop publication was 863.

#### **7.2.5. The High Council for Radio and TV**

The High Council for Radio and TV (RTÜK) made 115 decisions to stop radio and TV stations from broadcasting for a total of 2,871 days in 1999. It issued 98 warnings during the year. The "Law on Establishment and Broadcast of Radios and Televisions" (called RTÜK like the High Council for Radio and Television) numbered 3984 entered into force on 13 April 1994. It includes clauses that restrict freedom of expression, communication and getting information. For instance, Paragraph (a) of Article 4 of the RTÜK Law sanctions broadcasting in violation of the principle of "not allowing broadcast contrary to the existence and independence of the Republic of Turkey and the indivisible integrity of the State with its country and nation, paragraph (b) sanctions broadcasting in contrast to "national and moral values of the society, paragraph (c) "the principle democratic rules and personal rights mentioned in the general principles section of the Constitution, paragraph (d) "general ethics, social peace and Turkish family structure, paragraph (e) "freedom of expression, principle of pluralism in communication and broadcast", paragraph (f) "principle of never discriminate people for their race, sex, social class or religious beliefs" and paragraph (g) "not allowing broadcast that could incite people to violence, terror and ethnic discrimination and create feelings of hatred in society".

Among the bans on broadcast issued in 1999 a total of 30 were directed against programs "leading the society to violence, terror or ethnic discrimination and develop feelings of disgust in society". On these grounds broadcasting of radio and TV stations was banned for a total of 1,953 days. 13 warnings were issued in the same grounds. 29 bans on broadcasting for a total of 125 days were issued on the grounds that the broadcasting had "belittled or wrongly accused people or institutions beyond the borders of criticism". In 3 cases the justification was "broadcast contrary to the existence and independence of the Republic of Turkey and the indivisible integrity of the State with its country and nation". The 3 bans totaled 90 days.

#### **Necessity of a security document**

An amendment to the Statute for Licenses of Cable Broadcasting of the High Council for Radio and TV was promulgated in the Official Gazette. It introduced the necessity of a national security document that the owner and board members of radio and TV station had to obtain from the Prime Ministry. <sup>(152)</sup>

Şevki Göğüsger, deputy chairman of RTÜK, stated that radio and TV stations carried out a public task and, therefore, the requirements were only natural.

"Owners and board members are asked to obtain a national security document from the Prime Ministry. One may ask why such a document is asked from private companies. Well the airspace belonging to the State begins 3 to 5 meters above the ground. In this context the right of a State is used and public service is carried out. It is only natural that people,

who offer such a service, are liable to an investigation of the State. What would you say, if someone with reactionary (fundamentalist) purposes or a PKK member found a radio or TV station? The security document will prevent dangerous people from founding TV stations”.

The İstanbul branch of the HRA criticized the regulation as the latest example on how the official politics restricted the freedom of thought and stated that these provisions were in contravention to universal legal principles.

#### *Kanal 21*

On 24 November RTÜK banned the broadcasting of the TV channel “Kanal 21” broadcasting in Diyarbakır for one year on the grounds that the program “led the society to violence, terror or ethnic discrimination and developed feelings of disgust in society”. Officials from the TV channel stated that the ban had been issued for playing a Kurdish song of Şivan Perwer and added that the officers at Diyarbakır Police HQ had made a wrong translation of the words.

The lawyer of Kanal 21 appealed to Ankara Administrative Court No. 7 and in December the Court stopped the implementation of the ban. It took RTÜK one and a half month to act on the Court’s decision.

#### *Radyo Umut*

RTÜK banned the broadcasting of “Radyo Umut”, broadcasting in İstanbul and surrounding, for one year on the same provision, because an announcement of the central committee of an organization had been read out in the main news on 21 February. The ban was enacted on 1 April.

#### *Özgür Radyo*

During the meeting of 18 March RTÜK decided to ban the broadcasting of “Özgür Radyo, broadcasting in İstanbul for one year on the grounds that a program “led the society to violence, terror or ethnic discrimination and developed feelings of disgust in society”. The evaluation was directed at comments İstanbul Chief of Police, Hasan Özdemir, had made on the events that developed after Abdullah Öcalan had been brought to Turkey. Özgür Radyo had quoted the statement during the news on 19 February.

Manager Filiz Aslan criticized that the same reports appeared in the press with images, but none of the papers had been charged for that.

#### *Radyo Foreks*

RTÜK banned the broadcasting of the regional radio station “Radyo Foreks” because it presented the news by directly switching in to the Turkish program of the BBC. The ban was issued for 30 days starting on 30 October. In a statement of 1 November RTÜK stated:

“On 26 May 1999 Radyo Foreks broadcasting in İstanbul presented live news from the Turkish service of the BBC at 6pm. The news included an item on the political identity of a terrorist organization. Because a violation of Paragraph (a) of Article 4 of the RTÜK Law with the number 394 on broadcast contrary to the existence and independence of the Republic of Turkey and the indivisible integrity of the State with its country and nation, the broadcasting shall be banned for 30 days. Earlier RTÜK had issued warnings against the station because of programs on 16 and 17 February 1999 that presented news of the Turkish service of the BBC including a statement by the ERNK representative. Since the radio station Radyo Foreks insisted on broadcasting the announcements and activities of

the terror organization the broadcasting had to be banned for 30 days.”

Since 1994 Radyo Foreks used the news of the Turkish service of the BBC. The news on 26 May included an item on a meeting of Kurds in the Netherlands and the news on 16 and 17 February included comments of the ERNK spokesperson Mizgin Şen on the apprehension of Abdullah Öcalan and the ensuing events.

## 8. The Freedom to Assembly

The harsh attitude of the uniformed forces against actions for more democracy such as demonstrations and meetings did not change in 1999. In particular actions in the region under a state of emergency (OHAL) and the neighboring provinces were banned before they were conducted.

Thousands of trade unionists, members of associations of the civil society and students were put on trial for having violated the Law No. 2911 on Meetings and Demonstrations. Even students, who protested against the fact that the lessons did not take place, were put on trial. The public prosecutor in Gaziosmanpaşa, for instance, indicted the pupils from Atatürk Primary School, Y.T. (14), S.K. (13), G.Ü. (13), D.D. (12), E.I. (12) and G.K. (13) charging them with having violated the Law No. 2911.

On 6 October 1998 they had protested against the fact that some lessons did not take place. The first hearing of the 6 children was conducted at İstanbul Children's Court No. 1. The pupils said that some lessons were cancelled, because there were no teachers. They had decided to make a demonstration so that more teachers would be employed at school. The police had detained them and the deputy director had chosen them among the demonstrators. The case did not conclude in 2000.

### a) World Women's Day

The demonstrations in İzmir, Kocaeli and İstanbul on 8 March World Women's Day resulted in incidents. The police used force to disperse the crowd and detained many people. In İzmir the police intervened when female HADEP members wanted to demonstrate in Kadifekale quarter. They detained 241 HADEP members including the chairman for İzmir province, Ali Yavuz.

In Kocaeli the police detained 18 people during a demonstration organized by KESK in 6 March. On 7 March the detainees were taken to court and the police intervened in the crowd that had assembled in front of the court hall. The police detained 180 people including the trade unionists Bedriye Yıldızeli, Nihat Değer and Çetin Güzel (EMEP) and Dursun Sevim (ÖDP).

The governor of Balıkesir did not allow activities for 8 March.

On 5 March the police in Zonguldak detained the trade unionists Aliye Uzunovalı, Yavuz Aydın, Metin Özçelik, Mustafa Bacı (all from Eğitim-Sen), Necdet Özsaygı and Şükran Sümer (HRA), Aliye Erdaş and Nazlı Bahadır (SES), while they were distributing leaflets on World Women's Day. They were taken to court on 6 March and remanded on charges that the leaflets contained separatist propaganda.

On 8 March the police blocked the entrance to the offices of the political parties ÖDP, SİP, EMEL and HADEP in Kadıköy (İstanbul) and detained 26 people including the candidates for the general elections, Can Hasanoglu (ÖDP) and Aysel İçil (SİP). The police intervened in a demonstration held in Şirinevler (İstanbul) and detained some 100 women, mostly members of HADEP.

On 10 May İstanbul SSC started to hear the case of 14 students, 3 of them under arrest, charged with supporting the PKK under Article 169 TPC. They had been detained on 8 March, when they put up posters on World Women's Day in the canteen of the Literature Faculty at İstanbul University. The students Evin Kum, Öznur Bulmuş and Ebru Sungun were released.

The governor in Diyarbakır started an investigation against 71 teachers, who had carried banners saying, „A free woman is one that leads a free life“ on 8 March World Women's Day. The teachers testified on 25 June. Saying that the 8th of March was a universal day and in order to express themselves the day was being celebrated all over the world.

Medeni Alpkaya, from the board of the teachers' union Eğitim-Sen in Diyarbakır, said: „Although actions were held at all schools on that day only teachers from the Fatih Lyceum (27) and Anatolian Technical and Professional Lyceum (13) and from Birlik Lyceum (31) were subjected to an investigation. Many court cases have been opened against hundreds of our members. Most have resulted in acquittal or decisions not to prosecute and although most administrative investigations resulted in dropping the charges the administration is continuing its repressive

policy.“

## **b) Newroz Feast**

1999 witnessed an increase in the attempt to turn the Newroz (Nevruz) Feast into an official celebration. The Ministry of the Interior prepared a detailed plan on how to conduct the Nevruz celebrations and in particular soldiers in the OHAL region made efforts to implement this plan.

The Ministry of Interior ordered that buses and shops in the city centers should be decorated with symbols of Nevruz and books, brochures, posters, cards and calendars on the event should be widely distributed. The circular asked that scientists familiar with the subject should hold conferences between 18 and 21 March. Local radio and TV stations should broadcast speeches on the subject. Between 1 and 21 March articles should be sent to the newspapers. During activities on the day the colors yellow, red and green should be used and it should be stressed that these were Turkish colors. Parliamentarians, journalists, TV teams and representatives of other international organizations, likely to come to the East and Southeast of Turkey to follow the celebrations should be informed in order to prevent biased reporting after their return. It was announced in advance that the Press Office would distribute news that the Nevruz celebrations in the South and Southeast passed in tranquility and peace.

On the other hand the pressure on political parties, trade unions and democratic organizations increased during the time before Newroz, just like in the years before.

On 18 March the police intervened, when students tried to celebrate Newroz on the campus of the Aegean University in İzmir. Among the detained 59 students Serdar Sarıtaş, Sinan Aras, Cennet Serçe and former Ülkede Gündem reporter Nihat Çelik were remanded on 19 March.

On 18 March the police stormed the Newroz celebration in a special course of students in Diyarbakır and detained 36 people including the director İbrahim Oğuz and the teacher Burhanettin Varolgüneş.

The governor in Ankara banned the meeting of the TMMOB Chamber of Machine Engineers organized for the 20th of March under the title of „Student Members' Council 99“ because it was scheduled close to Newroz.

In İstanbul the police raided many culture centers, associations and offices of HADEP for the province and district on 18 and 19 March. During the raid the police detained 7 people in the HADEP office for the province and 250 people in the districts' offices. During the raids on the MKM, the journals „Azadiya Welat“, „Özgür Gelecek“, Nazım Culture House, İdil Culture Center, Tohum Culture Center, Culture Center „Let 100 Flowers Blossom“, Evrensel Culture Center and the center for junior lawyers with İstanbul Bar Association many people were detained including Cevriye Aydın Eftelioğlu, Arzu Dağlaroğlu, Hüseyin Zülfikar (all EMEP), and the Evrensel reporter Muzaffer Özkurt.

On demand of İstanbul Chief of Police, Hasan Özdemir, 2000 police officers were sent from the surrounding provinces and 500 from Ankara to deal with the Newroz demonstrations in İstanbul.

The Hürriyet reporter Nurettin Kurt, who had come to Kızıltepe (Mardin) in order to cover the Newroz celebrations, was taken out of his hotel and sent back to Mardin. At Mardin Police HQ the officers interrogated him on the purpose of his trip. He was deported on the grounds that he had entered Kızıltepe without permission.

In many provinces and districts of the OHAL region only official celebrations were allowed.

The HRA issued a report on detentions during Newroz celebrations stating that 8,174 people had been detained. The numbers of detentions in the provinces were:

İstanbul: 2,459, Diyarbakır: 4,000, Adıyaman: 130, Malatya: 6, Şanlıurfa: 200, Siirt: 29, Gaziantep: 500, Batman: 200, Muş: 10, Ankara: 250, Van: 100, Balıkesir: 30, Tokat: 10, Adana: 100, İzmir: 100, Mersin: 50.

The General Directorate for Security presented the following figures on detention during Newroz celebrations: İstanbul 1,695, Diyarbakır 300, Şanlıurfa 120, Van 113, Gaziantep 61, İçel 54, Konya 47, Ankara 39, Tekirdağ 31, Adana 8, Kırşehir 6. For the detentions in İstanbul the police declared that 133 persons had been detained during general controls, 409 during raids on offices of trade unions, associations and organizations and the remaining persons had been detained during

celebrations of Newroz. Shortly afterwards 400 of them had been released.

In Adana 10 journalists from Germany, one of them being of Turkish origin, who had to come to observe the Newroz celebrations, were detained on 21 March on charges of making propaganda for the PKK. The prosecutor declared himself not responsible and the journalists were deported after appearing at Adana SSC on 22 March.

Eren Keskin, chairwoman of the HRA in İstanbul declared that during 24 separate celebrations of Newroz in İstanbul a total of 195 persons had been wounded by beatings and 11 persons had been wounded by shots. She added that many places had been raided before Newroz and on 21 March another 8 institutions had been raided. Despite applications none of the celebrations the governor had not permitted any celebrations.

Cemal Kılıklı, chairman of HADEP in Tuzla district, alleged that the 54 people, members of HADEP and the trade union Deri-İş had been tortured in detention at Tuzla Gendarmerie Station. Ten of them had received reports certifying torture.

The 8th Chamber of the Court of Cassation quashed the verdict of Diyarbakır SSC No. 3 against the Italian journalist Frisullo Damiano Giovanni. Diyarbakır SSC No. 3 had sentenced him to one year's imprisonment after his participation in the Newroz celebration 1998. The Court of Cassation ruled that he should not be charged with having made propaganda for the PKK, but with having incited the people to hatred and enmity according to Article 312 TPC, which would require a higher sentence than the offence of propaganda. The retrial started on 27 April, but did not conclude in 1999.

### **c) 1 May International Labor Day**

On 21 April the police in Ankara detained the EMEP members Yakup Aslandoğan, Mehmet Bircan, Ali Karataş, Zeynel Kuzucu, Emre Güzelcan, Seval İnceoğlu, Koray Demir and Serdar Altınsoy, when they were putting up posters for 1 May. On 24 April the police in Ankara detained the EMEP members Emre Doğan, Devrim Kabasakal, Ömer Özcanlı, Meral Ökçün, Murat Arman, Şirin Doğan and Rüstem Kahraman during a similar action. After release the detainees alleged to have been tortured. Şirin Doğan, chairwoman of the EMEP in Yenimahalle quarter, filed an official complaint against the police officers on 4 May.

Following an order of confiscation for the 1 May posters of the People's Houses (Halkevleri) by İstanbul-Beyoğlu Judicial Court the police in Turkey raided all People's Houses in Turkey on 26 April. On 28 April the police in İzmir raided the offices of the journals „Özgür Gelecek“, „Özgür Halk“, „Azadiya Welat“, Arts Center „Mart-Ekin“, the paper „Halkın Günlüğü“, Evrensel Culture Center, MKM, the daily „Evrensel“ and the paper „Atılım“. During the raid on the MKM Beyaz Emektar and Ozan Cezmi Yalçinkaya were detained. İshak Benek was detained in the offices of „Özgür Halk“. Reportedly a total of 60 people were detained in İzmir prior to 1 May. Later 40 people were released. The remaining 20 people were taken to İzmir SSC on charges of activities for the DHKP/C.

On 27 April the distributors for a special edition of the journal „Kızıl Bayrak“ Dilşat Koyuncu, Dinçer Mendillioğlu, Özdal Akyaşar, Hüseyin Bozdağ and Cevat Aksu were detained in İstanbul. On the same day the police in İstanbul detained 7 people, who put up posters for SİP in Kadıköy, Karaköy, Kartal and Mustafakemal quarters of İstanbul.

The Nationalist Action Party (MHP) took an interesting decision. In order to avoid incidents as the ones in 1998 (see the 1998 report of the HRFT) MHP decided to keep their offices closed on 1 May.

In Ankara, İstanbul and İzmir the 1st of May was celebrated by meetings organized by the trade union confederations DİSK and KESK. The confederation Türk-İş did not participate, but some of its member unions did. The confederation Hak-İş preferred to conduct an indoor-meeting with the participation of chairpersons from their member unions.

In İstanbul the demonstrators marched to Taksim Square led by officials from the trade unions. They left a black wreath at the monument on Taksim Square and moved towards Kazancı Yokuşu, where they left flowers in commemoration of the 34 workers, who had been killed there on 1 May 1997. Another demonstration was held on the Abide-i Hürriyet Square in Şişli. Some masked men

with long-rifled guns watched the demonstration from bridges and buildings and a helicopter controlled the demonstration from the air. At various points the police conducted body searches. The police estimated that 20,000 people participated in this demonstration.

It was observed that illegal left-wing groups such as MLKP, TİKKO and TİKB preferred to participate under banners of legal parties or banners of legal journals. The General Directorate for Security declared that 266 were detained in İstanbul. A total of 8,250 police officers had been on duty at the meeting place, as well as 250 gendarmerie soldiers. The total of civil servants on duty was reported to be 25,314.

No permission was given for 1 May demonstrations in Diyarbakır. Among the people, who gathered in Dağkapı quarter the trade unionists Hüseyin Bayrak (SES), Hasan Soysal, Hanifi Işık (HRA representative), Cemal Koçer (HADEP), Muhsin Uyanık, Yaşar Türk, Vahdettin Kılıç, Abdurrahman Zorlu, Mahmut Aktaniş, Fuat Kumrul, Medeni Alpkaya, Hafit Balen, Gülay Bora, Ayhan Kaplan, Mehmet Bakır, Ayşe Avcı and Songül Aytekin were detained.

In Adıyaman the police dispersed the demonstrators under beatings. 20 persons were injured and 47 persons were detained. Çetin Taş (broken ribs), Mustafa Altın and Saim Altın had to be taken to hospital.

In Barbaros quarter of Adana the police dispersed the crowd by shooting into the air. Several people were detained and interrogated by the political police. Among them 7 were taken to court on 5 May. The court ordered the release of 3 of them, while Bayram Özer, Besim Öztaş, Yılmaz Bahadır and Zülküf Özdamar were remanded.

Mehmet Mutlu, Ahmet Turan and Mustafa Pektaş, who had been detained on Taksim Square during the 1 May demonstrations, were remanded on 5 May.

#### **d) Actions by KESK**

The meeting organized by the confederation of trade unions in the public sector (KESK) held in Ankara in 13 February in protest at the pressure and exiling of civil servants passed without any incident. The four students, who had been detained prior to the meeting on accusations of carrying a banner, were released after a short time.

On 16 June KESK organized a number of actions against the government's plans to increase the wages of civil servants by a very small margin. In Mersin, Diyarbakır and Antep the police dispersed the demonstrators using force. In Mersin the police stopped the march. The demonstrators protested by a sit-in. The police detained 20 people under beatings including Siyami Erdem, chairman of KESK. The detainees were released in the evening. In Gaziantep the demonstrators gathered in front of the Atatürk Monument. The police intervened and detained some 100 people including the trade unionists Turgut Darıca, Hanifi Bozgan, Hanifi Kocaaslan, Ömer Yılmaz, Şaban Pala, Mehdi Resul Doğan and Rıdvan Özer (HADEP). In Diyarbakır the police dispersed a crowd of 400 demonstrators using force.

During another round of protests at the small increase of wages the governors in Diyarbakır, Urfa and Batman did not allow any actions planned for 26 June. Finally the OHAL governor banned any protest actions against the budget for the year 2000 in the OHAL area and neighboring provinces. The decision of the OHAL Governor's Office dated 8 November 1999 and numbered 2013 was sent to all provincial and district governors stating that any kind of gathering, meeting and demonstration of trade unions against the small increase in wages was forbidden in the region under a state of emergency and neighboring provinces.

İstanbul Governor's Office sent warnings to the district governors and some official institutions listing the kind of actions KESK was planning for December and asked for intelligence information, the necessary measures against illegal activities and the implementation of ministerial decree 8.02.0.PEG.0.12.383.28199 of 10 December 1999 to make sure that the civil servants would not leave work.

The meetings planned by KESK for 20 November in protest at the Budget 2000 were not allowed in Diyarbakır, Muş, Tunceli, Kayseri and Muğla.

Another round of action against the small increase in wages of 15% was conducted on 23 December. In most places the demonstrations passed without any serious incident. In Mersin,

however, the civil servants were dispersed under force. The police dispersed a crowd in front of the state hospital under beatings and detained some 100 protesters. The teachers Seher Altun and Necdet Yıldırım were among the detainees. Allegedly police dogs bit some teachers. During the demonstrations in Kayseri the civil servants Tahsin Yılmaz and Melek Sima Alp were detained.

During demonstrations organized by the trade union of workers in the social and health sector (SES) in protest at the small increase of wages the police in Diyarbakır intervened on 15 January and detained some 20 trade unionists including Münevver Can, Muhsin Uyanık, Süleyman Akın, Raife Alkış, Celal Yoldaş, Ayten Tekeş, Yıldız Ok, Ayşe Avcı, Hürmet Tantekin, Deniz Çetin, Lokman Üren, Murta Yoldaş, Kadri Gülmez, Abidin Elçi, Baki Kazmacı, Veysi Ayüs and two persons by the first names of Emine and Mehmet.

In Mersin several representatives of trade unions wanted to announce a press statement and distribute leaflets on 14 July with the aim that the government withdrew the draft bill on social security. The police detained 17 out of 50 protesters including the trade unionists Ali Rıza Özer, Yılmaz Bozkurt and Hüseyin Aral. They were released without appearing in front of a prosecutor.

The Democracy Platform in İskenderun wanted to stage the same protest on 16 August. The police attacked the protesters and detained 5 people.

On 4 December Tekin Araç, chairman of the Ankara branch of the trade union Tüm Bel-Sen, held a press conference stating that 5 members of his union had been sacked because they had distributed leaflets without asking for permission and had termed the administration of the company EGO as „terrorists and repressive“.

On 11 January Kadıköy Penal Court No. 4 acquitted 6 trade unionists including Alaaddin Dinçer from the teachers' union Eğitim-Sen from charges of having staged an illegal demonstration in İstanbul-Kadıköy on 24 November 1998 (Teachers' Day).

#### **Further Court Cases**

On 15 January Elazığ Criminal Court No. 2 started to hear the case of Resul Alınak and Mehmet Çakan, chairman and secretary of the trade union Eğitim-Sen in Elazığ in connection with the „Union and Solidarity Night“ organized by the trade union on 7 December 1998. The charges were related to the fact that Kurdish songs had been sung during the event.

The prosecutor at Ankara SSC started an investigation against the board members of Eğitim-Sen on the assumption that the text sent to the branches in order to be read out during „Teachers' Day“ contained separatist propaganda. The investigation resulted in a decision not to prosecute anyone.

On 15 March Ankara SSC passed the verdict on Kemal Bal, chairman of Eğitim-Sen and the members of the executive committee in connection with a booklet on the results of the „Democratic Education Council“ held between 2 and 6 February 1998. The charges related to the passage on „Right to Education in the Mother Tongue“, which allegedly contained separatist propaganda. Ankara SSC acquitted the defendants Kemal Bal, Erol Savumlu, Necati Akpınar, Nurşen Girgin, Müslüm Şahin, Alper Öztürk, Asuman Edalı, Cemal Ünlü and Başıyürek Altun and lifted the order of confiscation for the booklet.

In a separate trial Ankara SSC had convicted executives of Eğitim-Sen in connection with the poster on the right to education in the mother tongue. On 10 December 1997 Ankara SSC had sentenced the defendants to 16 months' imprisonment and fines of TL 3 billion each. The 9th Chamber of the Court of Cassation quashed the verdict criticizing the fact that the verdict had been established without looking at the content of the posters and that the fines had been imposed without regarding legal changes. The retrial at Ankara SSC concluded in May. Ankara SSC acquitted the defendants.

In April Filiz Yıldırım, chairwoman of the Sivas branch of Eğitim-Sen, was acquitted from charges relating to a press conference on 3 November 1998, where she had spoken as the representative of KESK Sivas branches' platform on the anniversary of the Susurluk accident.

The teacher and trade unionist İknur Birol was released from prison on 19 April. She had been imprisoned since 24 November 1998, serving a sentence of 1 year's imprisonment imposed on her by İstanbul SSC for the words „They make bloody killers Minister of Justice“ during the Meeting on Freedom and Democracy in İstanbul on 13 April 1996.

In January Muş Penal Court concluded the trial against Zülküf Yıldırım, Enerji Yapı-Yol Sen, Sedat Ataman, SES, Necmettin Arslan, Tüm Yargı-Sen, Veysel Nahir, Haber-Sen and Mehmet İpek from the trade union Eğitim-Sen. They were convicted of having violated the Law on Meetings and Demonstrations by holding a press conference on 14 March 1998. Muş Penal Court sentenced them to 15 months' imprisonment and a fine of TL 1 million. The sentences were later suspended.

At the beginning of February Kayseri Penal Court acquitted the chairpersons of the branches of KESK in line with the decision of the Court of Cassation. On 17 October 1995 the trade unions affiliated with KESK had conducted a demonstration. Kayseri Penal Court had sentenced the chairpersons to 18 months' imprisonment. The Court of Cassation had quashed the decision stating that it was the democratic right of trade unions to conduct demonstrations.

The General Directorate for Roads launched a case demanding compensation from 81 civil servants at the gates to the Bosphorus Bridge, because they had conducted a slow work action on 6 March 1998 in protest at the Law on Trade Unions for Civil Servants.

On 19 May Antalya Penal Court No. 2 concluded the case against Kadir Zeybek, Eğitim-Sen, Harun Sarıkay, Tarım Gıda-Sen, Türker Özdemir, Haber-Sen, and Ali Keleş, Enerji-Yapı-Yol. They had been tried for holding a press conference on 6 February in connection with the savings fund and the practices against civil servants in the OHAL region. The charges were based on having violated the Law in Demonstrations and Meetings.

On 7 June Urfa Penal Court No. 2 concluded the case against Süleyman Sili, Tarım Gıda-Sen, Kadri Gönüllü, SES, Şeyhmus Çakırtaş, Eğitim-Sen and Mehmet Ateş, Enerji-Yapı-Yol. They were on trial for having organized a campaign to collect signatures for the release of imprisoned trade unionists. Süleyman Sili, Kadri Gönüllü and Şeyhmus Çakırtaş had been arrested during a hunger strike in protest at the pressure on HADEP in 8 December 1998. They had remained in prison until 4 March. The signatures were collected asking for the withdrawal of the sentences and payment of wages during the time of imprisonment. Urfa Penal Court No. 2 acquitted the organizers of the signature campaign.

On 1 June 45 people including the trade unionists Cahit Aras and Kevser Özkan, on trial on charges of having violated the Law in Demonstrations and Meetings on 11 June 1998, were acquitted.

The governor in Diyarbakır punished 60 civil servants by cutting their wages by 1/15 for their participation in the „Meeting on Economic and Democratic Rights“ organized by KESK on 13 February.

On 9 June Eskişehir Penal Court No. 2 acquitted trade unionists and politicians, who had been on trial for demanding the basic education free of charge in a press conference they held in front of the National Directorate for Education in Eskişehir on 6 June 1997. This was a retrial on charges of having violated the Law on Demonstrations and Meetings. In the first round Eskişehir Penal Court No. 2 had sentenced the defendants Şükür Öztürk, Eğitim-Sen, Mevlüt Fındık, SES, Kenan Ög, Tüm Maliye-Sen, Metin Tezerer, Şeker-İş, Ahmet Yıldız, EMEP and Hamza Abay, HADEP, to 15 months' imprisonment but the Court of Cassation had quashed the verdict.

On 23 December Ankara Penal Court No. 12 acquitted Siyami Erdem, chairman of KESK and 6 board members from charges of having conducted an illegal demonstration by staging a demonstration in Ankara at a time, when the GNAT reviewed the draft bill on trade unions of people working the public sector.

### **e) Other Actions and Court Cases**

“The Pen Gang ”

On 22 December the 9th Chamber of the Court of Cassation confirmed the sentences of students, who had put up a banner against the fees of students in parliament and who had been convicted as members of an illegal organization. The Court also confirmed the acquittal of 3 students.

The trial had concluded at Ankara SSC on 9 November 1998. The Court had sentenced

Ahmet Aşkın Doğan, Bülent Karakaş, Özgür Tüfekçi, Metin Murat Kalyoncugil and Ulaş Doğu Atlı to 8 years' and 10 months' imprisonment and a fine of TL 916 million. Elif Kahyaoğlu, Deniz Kartal and Mahmut Yılmaz had been sentenced to 30 months' imprisonment and the same fine, while Nurdan Bayşahan had been sentenced to 10 months' imprisonment and half the fine. The Court had acquitted Mustafa Coşar, Menderes Tutuş and İlker Durmuş.

On 29 February 1996 the students had opened a banner against the university fees in parliament. The first trial at Ankara SSC on charges of an illegal action and membership of an illegal organization concluded on 6 December 1996. The sentences of the students totaled 96 years' imprisonment. On 18 March 1998 the Court of Cassation had quashed the sentence.

When the Court of Cassation confirmed the second verdict students held a protest demonstration in Ankara on 22 December. In connection with an earlier demonstration on 17 December 1997 the students İbrahim Güllü and Murat Akyıldız had been tried at Ankara SSC. On 14 April Ankara SSC sentenced İbrahim Güllü to 10 years', 10 months' imprisonment and Murat Akyıldız to 30 months' imprisonment. The Court of Cassation confirmed these sentences on 30 December.

Ankara Penal Court No. 13 continued to hear the case of 44 students charged in connection with a demonstration held on 18 March 1998. The case did not conclude in 1999.

### **Protests against Clinton**

On 15 November the police in Ankara prevented a demonstration against the visit of US President Bill Clinton to Turkey. A group of some 200 people including members of the HRA, ÖDP, EMEP, SİP, the 68'ers Foundation, and trade unions from KESK had gathered in Güvenpark (Kızılay). The police used panzers and truncheons to disperse the crowd and detained 116 people including Lütfi Demirkapı, chairman of the Ankara branch of the HRA.

113 of the detainees were taken to the public prosecutor on 16 November. The prosecutor charged with staging an illegal demonstration. Ankara Penal Court No. 24 started to hear the case on the same day and ordered the release of the defendants to be tried without arrest.

The defendants were acquitted after the hearing held on 10 December.

In Bursa members of several organizations wanted to hold a press conference on 15 November. The governor banned the press conference with reference to the earthquake. In Ceyhan district (Adana) the EMEP members Hüseyin Muhacir and Halil Yağcı were detained on 15 November, when they tried to put up posters against the IMF and Clinton (boss of the NATO). Eskişehir Penal Court No. 2 banned these posters. Based on this decision police officers in İzmir and Adana went to the offices of EMEP and seized the posters. The offices of EMEP in Elazığ were raided on 16 November on the grounds that these posters were found there.

On 18 November the police in İstanbul used force to disperse three different demonstrations and detained 85 people. In İstiklal Alley members of SİP staged a demonstration and met with harsh treatment by the police, who detained many of them. Some 100 members of ÖDP had gathered at the landing stage in Kadıköy. The police hindered them to stage a protest and detained many demonstrators including Recep Yılbaşı, Filiz Koçali, Meriç Eyüpoğlu and Hasan San. On the Barbaros Boulevard in

Beşiktaş some 30 students had gathered. The police detained 20 of them.

The organizing committee for the festival "Peace and Brotherhood" held in Adana on 5 September 1996 in connection with World Peace Day was tried at Adana SSC. On 16 February the Court sentenced Gülabi Köseoğlu, Hasan Çakmak (Eğitim-Sen), Mehmet Dağdoğan (EMEP), Arif Atalay, Mustafa Karabulut ((HADEP) Hasan Sönmez (ÖDP) and İbrahim Yakut (Petrol-İş) to one year's imprisonment and a fine of TL 4.2 billion.

On 17 May 1996 representatives of various organizations and students had organized a press conference on the occasion of forwarding the results if the First Alternative Education Council to the Ministry for National Education. 130 people were tried at Ankara Penal Court No. 10 and 53 of them were sentenced to 18 months' imprisonment. The names of the convicts in the verdict of 5 November were given as:

Naciye Erkol (HRA), Müjdat Albak, Sultan Çoban, Evren Onur, Mahir Tümkaya, Ayhan Yamalı, Musa Ulusoylu, Star Keser, Hacı Çoban (Tüm Yargı-Sen), Okan Çelik, İsmail Erkan, Asiye Tuna Arıgüç, Mehmet Karaaslan, Abidin Dilek, Tekin Doğan, Songül Akkaya, Hasan Erşahin, Yılmaz Korkmaz, Evrim Dünder, Nurten Güler, Tarık Özbek, Macit Şahinbaş, Mehmet Çetin, Kubilay Bozkurt, Cemal Arat, Emre Gürkan, Hasan Polat, İsa Atabay, Eylem Taşdemir, Eylem Aksu, Ziya Şahinbaş, Cüneyt Sezer, İlke Işık, Nesrin Ökçe, Cengiz Coşkun, Devrim Çoban, Dersim Devrim Yeşiltepe, Mustafa Aygün, Hikmet Erbilgin, Aslan Kılıç, Sevil Aracı, Ersan Ersoy, Servet Davut, Hanife Şahin, Ahmet Açı, Filiz Çelebi, Aynur Gülmez, Songül Dilek, Burç Özdenmez, Tülay Albak, Haldun Açıksözlü, Ali Naki Gündoğdu and Mustafa Hayta.

The sentences of Eylem Taşgın, Çiğdemal Yıldırım, Halil Yıldız, Dönsel Umacı, Cengiz Gümüş, Elif Bali and Sevda Uğurlu were commuted to fines, since they were minors on the date of the "offence".

Activities for 1 September World Peace Day were cancelled because of the earthquake on 17 August. The police in İstanbul prevented EMEP from holding a press conference and detained Cevriye Aydın, chairwoman for the province and the executive members Seyit Aslan and Düzgün Buluç.

On 6 November protests were staged at various universities on the anniversary of the foundation of the Council for Higher Education (YÖK). On the campus of İstanbul University the police detained 20 students. In the afternoon Muslim students gathered at the same place and the police detained 6 students. The total number of detentions in İstanbul was reported to be 147. The prosecutor released 85 of them. The governor in İstanbul banned a demonstration to be held on Abide-I Hürriyet Square in Şişli. Students organized a protest against this in front of the book fair in Beyoğlu. The police detained many of them and Alaattin Dinçer, executive of Eğitim-Sen, under beatings. Reportedly the police used pepper gas in the buses and beat the detainees, who were released the next day.

In Diyarbakır the police prevented a press statement to be held on 10 December Human Rights Day. The press conference should have been held in Dağkapı Square. The police stopped those, who tried to enter the square. Some 200 people, who had entered the square, were dispersed under beatings. Some people staged a sit-in in front of the police barricade. The police beat Mehmet Eren, reporter for the journal "Roja Teze" and seized the camera of Evrensel reporter Cahit Ercan. During an attempt to hold a protest march the police bear Ali Ürküt, chairman of HADEP for the province.

On 11 December environmentalist wanted to protest the government's attitude on nuclear power stations in Beyoğlu. The police intervened and detained 24 people.



## 9. The Freedom of Association

It was expected that Turkey would take some steps towards democratization during the phase of entering the European Union, but the obstacles in front of the freedom of association were not removed in 1999. Following the abduction and transfer of PKK leader Abdullah Öcalan to Turkey much pressure was put on oppositional political parties, in particular HADEP. The pressure on trade unions and organization of civil society also increased.

### a) Political Parties

On 26 February the Constitutional Court ordered the closure of the Democratic Mass Party (DKP) on the grounds that the program included passages against the indivisible unity of the State. On 29 January the chief prosecutor at the Court of Cassation filed a case with the Constitutional Court asking for the closure of HADEP and on 7 May he asked for the closure of the Virtue Party (FP).

#### The Democratic Mass Party (DKP)

The Constitutional Court's decision of 26 February to close the DKP was based on Article 78 of the Law on Political Parties prescribing activities against the indivisible unity of the State with its country and nation in paragraph (a) and providing that political parties may not be founded on characteristics of regions or race. The Court did not count the speeches of Şerafettin Elçi, chairman of the DKP, among the reasons for closure and, therefore, no ban was issued on his political activities.

Following the order of closure Şerafettin Elçi said: "The existence of Kurds in Turkey is a historic and sociological fact. You cannot remove this fact through legal provisions and prohibitions. We shall appeal to the ECHR in a very short time. We are only waiting for the reasoned verdict. We shall seek our right in Europe."

On 10 September Hacı Ali Özhan, acting lawyer for the DKP, stated that he had send an application to the ECHR. The argument was that the Constitutional Court was formed by appointments of the State President, who was elected by the political parties and who had a political identity. Therefore, the verdict of the Constitutional Court was a political decision. The Court could not act just, independent and impartial. In Turkey the freedom of association was being violated and, if Turkey should not make the necessary changes to the Constitution, the Law on Political Parties and the other relevant laws Turkey's membership to the Council of Europe should be suspended.

In November the ECHR declared the application admissible.

#### The People's Democracy Party (HADEP)

After the PKK leader Abdullah Öcalan left Syria, during his stay in Italy and finally after his abduction in Kenya and transfer to Turkey the pressure on members and executives of HADEP increased dramatically. On 29 January the chief prosecutor at the Court of Cassation approached the Constitutional Court with the demand to close HADEP and not allow the party to participate in the 18 April elections. Many HADEP executives, who had been detained and/or arrested in 1998 after actions such as hunger strikes with the demand that Abdullah Öcalan be granted refugee status in Italy, were put on trial. The trials were part of the measures the Ministry of Interior had recommended in 1998 after Öcalan's arrival in Italy (for details see the 1998 report of the HRFT). Throughout the year thousands of HADEP members were detained and tortured.

## The Case of Closure

In the application to the Constitutional Court the chief prosecutor at the Court of Cassation, Vural Savaş, argued that HADEP had become the center of actions against the indivisible unity of the State with its country and nation, as defined in Article 68 of the Constitution. He claimed that HADEP had an organizational link to the PKK. Just like the parties HEP and DEP, which had been closed before, HADEP was under the control of the PKK and conducted actions according to the orders of the central committee of the PKK. The congresses of HADEP had become spaces for demonstrations in favor of the PKK and Abdullah Öcalan. During seminars organized by the youth, women's or workers' wing of the party in districts and provinces the participants were confronted with views that amounted to enmity against the constitutional order and the unitarian structure of the State. The offices of HADEP in the districts and provinces tried to organize the citizens of Kurdish origin around the PKK, find a basis for the PKK and send militants to the organization. This could be called an action of recruitment.

Osman Özçelik, deputy chairman of HADEP commented on the application and said that earlier requests for such a case filed in connection with the so-called "flag and calendar cases" had been turned down by the chief prosecutor on the grounds that sufficient evidence for the closure of the party did not exist. Özçelik argued that it was obvious that this application was a political step, because the chief prosecutor had launched the case without any further evidence.

In an official reply HADEP asked the Constitutional Court to turn down the request, because Turkey was on the verge of an election. The application of 3 February stated that Article 100 of the Law on Political Parties provided that cases of closure of a political party should not be opened during times of elections, even if the Council of Ministers or another political party asked for it. The Constitutional Court rejected this demand on 15 February arguing that the case of closure had been filed according to the law and customs. At the same time the Court asked HADEP to prepare the defense until 4 April.

In an additional application the chief prosecutor at the Court of Cassation asked the Constitutional Court on 25 February to ban HADEP from the elections in April. The prosecutor presented the views of jurists from various universities stating that the Constitutional Court had the power to close a political party and, accordingly to prohibit the participation in elections according to Article 68 and 69 of the Constitution and Article 98 to 108 of the Law on Political Parties. "In order to prevent an unwanted situation, the authority to pass the final verdict includes the authority to take preventive measures, if the public interest demands it," was one of the arguments. Other arguments included:

"PKK militants started to threaten citizens living in villages and hamlets in Southeastern Anatolia that if they do not vote for HADEP they would burn down the villages and kill all of them. We have received serious hints that the speeches of HADEP on radio and TV will contain separatist propaganda and be an incitement of the people to commit crimes. Therefore, we demand an interim order, may it be called 'stop of implementation' or otherwise, to prevent HADEP from participating in the election on 18.04.1999."

Yusuf Alataş, lawyer for HADEP, asked the court on the question of an interim order. He argued that the participation of HADEP in the elections had been known at the time the case of closure had been filed and called the timing and the case itself an attempt to justify opinions that developed under political intention and fears. On 8 March the Constitutional Court rejected unanimously the demand to ban HADEP from the election.

On 5 April HADEP presented the main defense to the Constitutional Court. The appeal

rejected the claim of illegal activities and called the demand of closure an order of the State. All “evidence” put forward in the request was more than suspicious. Political views that did not conform to the official ideology were the true reason for the demand of closure and statements of defendants in other trials, which had been extracted under torture, were shown as evidence.

The chief prosecutor at the Court of Cassation rejected on 9 April with a second attempt to ask the Constitutional Court to ban HADEP from participating in the elections. The Constitutional Court rejected the demand on 14 April arguing that the actual case on closure was under way.

On 6 May the Constitutional Court held its first session on this case. The Court decided to ask for the indictment of the prosecutor at Ankara SSC and the testimony of executives of HADEP on trial at Ankara SSC. HADEP was given an extra time until 24 June to prepare a separate defense.

On 24 June the HADEP lawyers Yusuf Alataş and Nuri Özmen presented the defense to the Constitutional Court. They argued that the case based on indictments of prosecutor that had been prepared using evidence gathered in illegal ways. The lawyers criticized the chief prosecutor at the Court of Cassation for having asked twice for an interim order, which was an indication that he did not act on judicial but political grounds.

The case of “organizational links to the PKK”

On 28 December 1998 the prosecutor at Ankara SSC indicted 47 executives of HADEP including chairman Murat Bozlak, deputy chairman Bahattin Günel, SG Ahmet Turan Demir and Kemal Bülbül, chairman for Ankara province. The indictment claimed that the hunger strikes in support of the PKK leader Abdullah Öcalan amounted to support for an illegal organization and maintained that the statements of Murat Bozlak showed parallelism to statements of Abdullah Öcalan. The prosecutor asked to convict the defendants according to Article 169 TPC.

On 8 February Ankara SSC started to hear the case. Defense lawyer Yusuf Alataş stated that the gun, found in the house of one of the executives was shown as evidence against all defendants and added that, if the offices of any political party in the OHAL region may it be ANAP, DSP or DYP would show that all of them possessed arms. After the hearing Veli Büyükşahi, secretary for social and foreign relations in the trade union SES, was released.

During the hearing of 3 March the Court accused the defendants that pro-PKK slogans had been shouted during the last congress and in some of HADEP’s offices flags of the PKK had been found. Murat Bozlak replied by saying that the chair of the congress had repeatedly reminded the 50,000 participants of the congress to stick to the slogans, which the party had agreed on.

Kemal Bülbül stated that no PKK flags had been found in the offices of HADEP in Ankara. Yusuf Alataş stated that the State had decided to prevent HADEP from functioning and, therefore, HADEP was shown in the media as a criminal organization. After the hearing the defendants Mesut Çetiner, Mesut Akgül, Sevgi Ünal and Alper Gebeloğlu were released.

No orders for release were issued on 24 March. MHP followers attacked observers from HADEP outside the courtroom.

During the hearing of 26 April the defendants stated that there had been no decision on conducting hunger strikes. Again the Court did not order further releases.

Mehmet Satan was released after the hearing of 25 May.

After the hearing of 12 July the Court ordered the release of Murat Bozlak, Bahattin Güner, Hüseyin Yılmaz, Mayor of Ağrı, Ahmet Turan Demir, Emine Mısır, Kemal Bülbül, Mehmet Emin Aras, Sultan İzra, Rezzan Sümbül, Hüsamettin Avşar, Safiye Akalın, Dursun Turan, İlhan Aydın, Cevdet Malgaz, Ahmet Aydın and Ali Akgül.

#### The “Flag Case”

Following HADEP’s Second Ordinary Congress on 23 June 1996 a court case was opened, because the Turkish flag had been taken down in the Atatürk Sportshall. The Court of Cassation quashed the first verdict of Ankara SSC. The retrial at Ankara SSC started on 1 June. The defendants Cihan Sincar, Cabbar Leygara and Abdullah Akın asked the court to lift the ban on leaving the country. The Court rejected their demand.

Among the defendants Hasan Celalettin Ezmen remained in pre-trial detention, but the trial did not conclude in 1999.

The first trial had ended on 4 June 1997. The defendants Faysal Akcan (who took down the flag) had been sentenced to 22.5 years’ imprisonment (this sentence was confirmed by the Court of Cassation). Murat Bozlak and Hikmet Fidan (chair of the congress) had been sentenced to 6 years’ imprisonment, while another 28 executives had been sentenced to 4.5 years’ imprisonment for supporting an illegal organization. The defendants Meliha Özcan, Ömer Doyuran, Reşit Pinç, Ali Akgül, Şahhanım Kanat, Abdurrahim Bilen, Sırrı Sakık and Yaşar Özcan had been acquitted.

#### The „Calendar Case“

The trial opened against 56 executives of HADEP on 16 March 1998 in connection with the calendar for 1998, which allegedly contained a map of Kurdistan, continued on 28 July. Ankara SSC decided to call the defendants İhsan Durukan, Erdem Ünal and Ahmet Yücedağ once again to testify.

During the hearing of 11 October Güven Özata, member of the party’s parliament, testified. He said that he had no information on the calendar and books found in the headquarters of HADEP. He argued that the educational work of the party was legal. The defendant Abdullah Varlı asked to lift the ban against travels abroad. The Court rejected this demand and prolonged the arrest warrants against İhsan Durukan, Ahmet Yücedağ and Erdem Ünal. The case did not conclude in 1999.

In this trial the prosecutor asked for sentences of 22.5 years’ imprisonment for Murat Bozlak, Hamit Geylani, Ali Rıza Yurtsever and Mehmet Satan as members of the political wing of the PKK. Other defendants including executives of HADEP in Ankara were charged under Article 169 TPC for supporting the PKK.

Some of the trial against members and executives of HADEP that concluded in 1999 are the following:

On 21 July the Court of Cassation confirmed the sentence of 1 year’s imprisonment imposed by Ankara SSC on the chairman Murat Bozlak, the deputy chairpersons Osman Özçelik and Bahattin Günel and the members of the party’s parliament, Musa Kulu and Ahmet Cihan. After the decision all defendants resigned from their posts.

Ankara SSC Prosecution Office had launched the trial in question in connection with a press statement made by the Democracy Party (DEP), which was closed by the Constitutional Court, on 1 September 1994 on the occasion of the World Peace Day. Twenty-one executive members of the DEP had been prosecuted in the trial. The other defendants who had been sentenced in the trial that ended on 17 November 1998 were

the following: Yaşar Kaya (DEP President), Ibrahim Aksoy, Ismail Arslan, Sara Akan, Kemal Okutan, Ali Beyköylü, Kemal Bilget, Abdülcabbar Gezici, Nesim Kiliç, Refik Karakoç, Nevzat Özbay, Reşit Deli, Alişan Mercan, Ömer Kurt, Abdullah Saygin and Hasan Basri Aydın.

In 1999 the Court of Cassation also confirmed the sentence of 2 years' imprisonment imposed by Ankara SSC on Salih Altun, member of the party's parliament in connection with an article he published in the January 1997 edition of the party's bulletin under the title of "Report". Altun surrendered to the public prosecutor in Batman in 10 June and was put in Batman Prison. He was released on 10 September in connection with the Amnesty Bill for the Press.

On 12 February Iğdır Penal Court concluded the trial against Mehmet Nuri Çiftçi, chairman of HADEP in Diyarbakır province and Murat Akkuş, board member. They were tried for having sold the calendar of the MKM for the year 1998 and the Court sentenced them to 3 months' imprisonment and a fine of TL 380,000. The prison term was commuted to a fine.

On 25 April the Court of Cassation reviewed the sentences against Abdullah Varlı, member of the party's parliament, and the religious men Mehmet Yağmur, İsmet Kılıçaslan, Kazım Yakmaz, Kerem Soylu, Nuri Gürkay, Reşit Irgat, Reşit Koçeroğlu, Ali Şola and Fevzi Demir imposed by Ankara SSC in connection with the January 1997 edition of the party's bulletin that had included an open letter to "everybody, who calls himself a human being". Ankara SSC had sentenced the defendants to 2 years' imprisonment and a fine of TL 750 million. The Court of Cassation confirmed all sentences except the one for Fevzi Demir.

On 12 May İzmir SSC concluded the trial against executives of HADEP in Çiğli district, who had been arrested after an action demanding refugee status for Abdullah Öcalan in Italy. The Court sentenced Suzan Erdoğan, Erdem Kılıç, Fikret Güçer, Feyyaz Yılmaz, Abdullah Yılmaz, Yetkin Alkan, Emircan Aktaş, Fatma Erik, Halime Köprütaş and Zeytin Kiyak to 45 months' imprisonment, but ordered their release pending appeal.

On 6 May Malatya SSC concluded the case against executives of HADEP in Adıyaman province. They were tried for having conducted a hunger strike in November 1998. The 19 defendants had not been remanded and did not participate in the hearing. The Court sentenced the defendants including the executives Bedir Çetin, Muhammet Emin Toprak, Hüseyin Duran and İsmail Minkara to 45 months' imprisonment for having supported the PKK.

On 15 June İzmir SSC acquitted executives and members of HADEP from Ortaklar town in Söke district, İzmir from charges brought in connection with actions in the days, when Abdullah Öcalan was transferred to Turkey. The remanded defendants Murat Özdemir, Bayram Şen, Ekrem Başkurt, Maruf Aşık and Ömer Baran were released from Aydın E-type Prison, but later alleged that soldiers had beaten them in the course of their release.

Two separate court cases had been opened at İzmir SSC against Ali Yavuz, chairman for the province. In July the Court decided for acquittal in both cases launched under Articles 169 and 312 TPC.

On 15 July Ankara SSC acquitted Feridun Çelik, Mayor of Diyarbakır, from charges brought under Article 169 in connection with a speech he had made on Med TV, when he was the chairman of HADEP for Diyarbakır province. The indictment had criticized the words "we came here from the war to make peace blossom and speak with great enthusiasm".

On 9 July İzmir Penal Court No. 13 acquitted Birol Duruk, chairman of HADEP for Konak

district and the board member Davut Özalp. They had been charged for having put up posters for the 18 April election outside the party's office. The Court ruled that political parties were entitled to make propaganda and put up posters during times of elections.

In July the Court of Cassation confirmed the sentence of 1 year's imprisonment imposed by Adana SSC on Arif Atalay, former board member of HADEP, in connection with a speech he had held during the Newroz celebrations in 1998. Atalay started to serve the sentence on 12 November.

On 17 August Adana SSC concluded the case against executives and members of HADEP charged with supporting the PKK. The Court sentenced Fatma Buldu and Hayrettin Tan to 45 months' imprisonment, but acquitted Methan Altun, Ali Ekici, İbrahim Çallı and Erdal Çençin.

On 6 October İzmir SSC concluded a case in connection with speeches during the congress of HADEP in İzmir on 23 August 1998. The Court sentenced former deputy secretary general Zeynettin Unay to 11 months' imprisonment for having made separatist propaganda. The other 5 executives were acquitted.

On 13 October Malatya SSC concluded the case against 27 members and executives of HADEP in Elazığ province, including the chairman for the province, Hilmi Elçi and the chairman for the central district, Necmettin Bilin, in connection with actions they had conducted when Abdullah Öcalan was in Italy. The Court sentenced 22 defendants to 45 months' imprisonment under Article 169 TPC for supporting the PKK. The other 5 defendants were sentenced to 30 months' imprisonment, since they were minor at the time.

On 2 December İzmir SSC concluded another case in connection with activities of HADEP members and executives during the time, when Abdullah Öcalan was in Italy. The Court sentenced Niyazi İletmiş, chairman for Narlıdere district, and the board members Reyhan Çomak, Düzgün Demirçelik and Elif Tokay to 10 months imprisonment and a fine of TL 666 million under Article 8/1 LFT. Vedat Demir, at the time a minor, was sentenced to 30 months' imprisonment. The remaining 27 HADEP members were acquitted.

The lawyer Muharrem Erbey filed a case with the demand of compensation, because he had been detained as board member of HADEP in Diyarbakır on 19 March and held for four days at Diyarbakır Police HQ. He demanded TL 1.5 billion for wrongful detention and TL 5 billion for having been ill-treated in detention. In December Diyarbakır Criminal Court No. 3 awarded him TL 6.3 million for wrongful detention and TL 25 million immaterial compensation (ill-treatment).

On 29 December Adana SSC acquitted the pupil Ç.S. and Hasan Beliren, chairman of HADEP for Yüreğir district from charges brought under Article 312 TPC in connection with a press statement on 10 August under the title "the children want peace".

Other kinds of pressure

On 2 January Veli Haydar Güleç, deputy chairman of HADEP for İstanbul province, held a press conference alleging that Coşkun Alagöz, Chief of Bağcılar district Police, prevented the party's activities in Bağcılar district. He stated that the offices of HADEP in the district had been raided frequently since 19 November 1998 and a total of 500 members and executives had been detained.

On 10 January MHP adherents attacked the offices of HADEP in Kuşadası district (İzmir). They broke the windows of the premises, but fled, when the police arrived. HADEP filed an official complaint against the attackers.

At the beginning of January the police in Bandırma, Balıkesir, Edremit, Ayvalık, Şanlıurfa and Suruç raided the offices of HADEP in connection with a calendar prepared by MKM. During these raids archive material and copies of the calendar were seized.

The governor's office in İstanbul prevented the gathering organized for 21 January by HADEP in Zeytinburnu district under the motto "Let's Meeting in Peace, Solidarity and Freedom".

On 26 January the police in İzmir detained M. Emin Bayer, chairman of HADEP for Konak district, the board members Abdurrahman Kılıç and Davut Özalp and the deputy chairman of Göç-Der, Duran Boztepe, when they went to Kadifekale (İzmir) on behalf of the party.

On 27 January the police in İstanbul raided several houses in Samandıra town, Kartal district and detained 20 people, mostly members and executives of HADEP. Fourteen of them were released later and alleged that they were threatened not to go to HADEP any more. İstanbul SSC issued arrest warrants against Mustafa Kılıç, Galip Öztürk, Taner Öztürk, Adem Öztürk and Arafat Mert.

Salih Altun, member of the party's parliament, was detained on 28 January, when he wanted to go from Bitlis to Muş on behalf of the party.

On 30 January unidentified men kidnapped Fuat Özdemir, board member of HADEP in Eyüp district, in İstanbul-Alibeyköy. He was set free on 1 February. During a press conference on 4 February he alleged that he had been tortured (see chapter on torture).

On 31 January the police in İstanbul detained HADEP members, who had gather in the offices of HADEP in Ümraniye district to protest against the case of closure filed with the Constitutional Court.

On 10 February Aşık Kılıç, chairman of the youth commission in Nusaybin district (Mardin) was detained in front of the party's office.

The HADEP members Kazım, Hikmet and İhsan Özerk were detained during a raid on their house on 12 February. They alleged to have been tortured (see chapter on torture).

On 13 February the police in Ankara raided many houses and students' hostels and detained some 20 members and executives of HADEP without an apparent reason.

Once the PKK leader Abdullah Öcalan had been taken to Turkey on 16 February the pressure on HADEP and detentions of members and executives increased drastically.

On 17 February the police in Diyarbakır detained 34 members and executives of HADEP during raids of offices and houses. Feridun Çelik, chairman for the province, Selim Kurbanoğlu, deputy chairman, Abdullah Akın and the lawyers Mansur Reşitoğlu and Mahmut Vefa were among the detainees.

On 21 February the offices of HADEP in Birecik district (Urfa) were searched under the pretext of a Kurdish calendar for 1999. The police detained Yusuf Erdoğan, chairman for the province and the employee Yusuf Yağmur.

The next day the offices of HADEP in Urfa province were raided. The police detained 20 people including M. Selim Özpolat, SG of HADEP, Celalettin Erkmén, chairman for the province and the treasurer Mehmet Ural.

On 23 February 8 people were detained in İskenderun including HADEP chairman Kasım Kısa on allegations of having staged illegal demonstrations in Esentepe and Yıldırımtepe quarter. They were remanded the next day.

Kazım Tokmak, chairman of the youth commission of HADEP in Tarsus district (Mersin),

and the HADEP members Efrail Kızılyamaç, Mehmet Tataş, Serdar Beyazıt, Mahmut Yobaş and Ömer Bulur were detained on 8 March World Women's Day. They were remanded on 13 March.

On 11 March 3 HADEP members were detained in Adapazarı on allegations of having put up a banner at a footbridge.

In mid-March the police in Ankara conducted operations against HADEP in Sincan district and detained the executives and members Akif Özaruk, Dürdane Güngör, Murat İzra, Ercan Yıldırım, Metin Kemal, Ayfer Koçak, Filiz Sunay, Dilek Gürses, Mehmet Apaydın, Fevzi Minas and two students with the first names of Ferhat and Serhat.

Again in March soldiers raided Bedirhan town in Kozluk district (Batman), because leaflets on repentance, which the OHAL Regional Governor had printed, had allegedly been removed. The soldiers detained the HADEP members Salih Aksoy, Bedrettin Aksoy, Nurettin Adın, Mehmet Adın, M. Şirin Erol, Yılmaz Aşkanat, Şirin Arı and Yusuf Turan.

On 20 March the police in Batman detained some 25 people on accusations of having shouted slogans during the arrival of candidates of HADEP for the general election.

Among 26 HADEP members, who had been detained in Şanlıurfa-Suruç on 4 April the chairman for the district Mehmet Kayahan and the board members Bekir Koştu, Nakşi Dizgör, Ziya Kaplan, Mehmet Şahin, Mehmet Solmaz and Ekrem Bilgiç were remanded on 14 April.

On 13 April the HADEP members Haluk Duran, Sabahattin Sıvacı, Necdet Çiftçi, Maruf Engin and Ömer Kurt were detained in Van-Başkale after an election meeting. They were remanded on the grounds to have set a vehicle of the municipality in Hakkari on fire.

On 7 April members of a special team beat Fevzi Ateş and another 3 HADEP members, who were traveling in a convoy after a meeting in Erzurum-Hınıs. Hınıs Health Center issued reports for the victims certifying 5 days' inability to work. In the evening hours the police raided the offices of HADEP in Erzurum and detained the candidate Cevahir Bayındır. He was released the next day, but detained again.

On 8 April Aslan Yüce, candidate of the HADEP for Kars, was detained while traveling in the election vehicle. Allegedly the High Election Council had banned the cassettes he used.

İbrahim Yağlı, chairman of HADEP in Muğla province, was detained on 18 April, because the election cassettes allegedly contained separatist propaganda. He was remanded on 22 April.

Nazım Çomak, SG of HADEP for İzmir province, declared in April that the police prevented a meeting organized by HADEP for Konak district. Only executives members and their relatives had been allowed into the hall and attempts to reverse the decision had been fruitless,

On 21 April soldiers detained Fesih Demir, member of parliament in Çarıklı town (Diyarbakır). The soldiers took him outside town, interrogated him and later set him free. Demir filed an official complaint with the public prosecutor on allegations of torture.

On 17 April the public prosecutor in Baykan district (Siirt) started an investigation against Mehmet Emeç, chairman of HADEP for the district and his wife Zümre Emeç because they were said to keep a HADEP flag at home.

On 27 April Mehmet Gündüz, candidate for the post of mayor in Antalya, was remanded on charges of supporting the PKK.

Abdullah İzgi, board member of HADEP in Seyhan district (Adana), was detained on 30 April, when he returned from a visit to Ceyhan Special Type Prison and soldiers controlled the IDs of the travelers.

İhsan Çelik, Mayor of Patnos in Ağrı province, was detained on 30 April. Allegedly he had disseminated separatist propaganda in a program on the local radio station on 21 April. On 1 May Erzurum SSC ordered his arrest, but he was released on objection of his lawyer.

On 29 April the gendarmerie conducted raids in Yakapınar town (Adana) and detained Şerif Yılmaz (member of the town's parliament), Salih Yılmaz, Mehmet Aslan and İrfan Çakıl.

Kemal Okutan, chairman of HADEP for Ankara province, who had been detained during a house raid, was released on 6 May.

On 21 May the police raided the offices of HADEP in Bingöl and detained the chairman Niyazi Azak. The same day HADEP member Zeki Kılıç was detained during the control of his car and Yılmaz Artan was detained during a raid on his house.

On 26 May the police in Batman raided several houses and detained the members of the town's parliament for HADEP Aklime Yürek and Hatice Bağatır.

On 29 May several women gathered in the offices of HADEP in Şehitkamil district (Antep). When they left the police detained Fatma Kurt, Adile Kurt, Filiz Kurt, Emine Kurt, Yeter Çiçek, Hacer Işık, Sıdıka Deniz, Fatma Vargül, Kevser Güvenç, Kudret Yılmaz, İkrâm Kılıç, Remziye Kılıç, Saadet Kılıç, Hale Kılıç and a woman by the first name of Zeliha.

The police in İstanbul prevented a meeting planned by the HADEP organization in Bağcılar district for 13 June in order to evaluate the election results.

On 11 June the police raided the house of HADEP member Turan Volkan in Maltepe-İstanbul on the pretext that he was wanted as a supporter of the PKK. The police detained his daughter.

During the night of 1 July soldiers raided various houses in Yenimahalle quarter of Şemdinli district (Hakkari). They detained 67 people including Şemsettin Uysal, former chairman of HADEP for the district, Ahmet Geylani and Sait Kaya. 17 of the detainees were released the next day.

On 29 July the High Election Council removed Zeynel Bağır, Mayor from HADEP in Lice district (Diyarbakır) from office. The Council ruled that he had been involved in a case of bodily harm on 20 November 1989 and a court had ruled that he should be banned from public service. Zeynel Bağır confirmed that a trial on the incident of bodily harm had been conducted, but the court had not banned him from public service.

During a raid on the offices of HADEP in Maltepe (İstanbul) on the pretext that illegal publications were in the office the police detained 18 people including the board members Sayin Aği and Hayriye Algülerhan. They appeared at Kartal prosecutor's office on 30 June and were released.

Mehmet Benzer, board member of HADEP in Küçükdikili town (Adana), declared that 9 members of JİTEM kidnapped and tortured him on 9 July.

The police in İstanbul prevented a commemoration meeting for Vedat Aydın to be held by HADEP in Kartal district on 11 July. The police detained 6 HADEP members including İshak Tepe, member of the party's parliament and his wife Zübeyde Tepe.

In Ankara Murat Bozlak and Safiye Akalın, who had been released by Ankara SSC on 12

July, were detained the same day.

Hüseyin Yılmaz, who had been elected Mayor of Ağrı, although he was imprisoned at the time, started his office after release on 21 July. He said: "My imprisonment was based on completely anti-democratic means. On 18 April I was in prison, but the people chose me. This is the answer of the people to the attack on their own values."

On 21 July soldiers raided Altınsu village in Şemdinli district (Hakkari) and detained Sıddık Tekin, board member of HADEP in Şemdinli. After his release Van State Hospital issued a report certifying 31 days' inability to work.

Reyhan Çomak, member of the central women's commission was detained on 26 July, when she was traveling in a bus from Turgutlu district to İzmir. She was interrogated in a police car and later said: "After I had entered the car they started to threaten me saying that one day I might be shot in the head. They wanted to know why I opposed the death penalty and accused me of sending militants to the mountains."

Nihat Altun, member of the youth commission of HADEP in Menemen district (İzmir) was detained during a house raid on 26 July. During the night the police searched his house again, taking him with them. The police waited in the house until 1.30am and then left taking Altun with them.

On 29 July the police raided the offices of HADEP in Çorlu district (Tekirdağ) and detained the chairman for the district, Mehaf Savaş and the treasurer Ahmet Demir. On 5 August Kasım Zengin, chairman of the youth commission, was detained.

The police in Bağcılar quarter (İstanbul) raided houses of HADEP members on 10 August and detained Metin Topçuoğulları, his wife Hicran Topçuoğulları, Enver Karabey and his son Mazhar Karabey.

In August the police in Aydın raided several houses according to a list of 60 people. Most people on the list reportedly were members of HADEP. Some of them complained that the police made heavy accusation and insults during the raids.

Mahmut Becerikli, chairman of HADEP in Osmaniye province, was detained on 17 August. Looking for him the police first raided the offices of the party and then his house. The police also detained Mahmut Becerikli's wife Zeynep Becerikli. After his release on 19 August Mahmut Becerikli stated that he had been detained on allegations of persuading someone not to do his military service.

On 20 August soldiers raided several villages in Digor district of Kars province. They detained more than 50 people including Şevket Baykız, headman of Mevrek village, Cemal Bölgi, headman of Hasancan village, Zorba Başkutlu, board member of HADEP in Digor, Kemal Bölgi and Kemal Baykız.

A press release of HADEP of 20 August related the detention of Celil İmret, board members in Batman, Hasan Vural, board member on Dört Yol district (Hatay) in Ankara-Polatlı, and Hilmi Elçi, chairman of HADEP in Elazığ province and the board member Hıdır Kılıçtepe.

On 19 August the police in Güroymak district (Bitlis) raided many houses and detained 18 people including HADEP executives Cahit Göktaş and Abdurrahim Ata and the members M. Baki Bingöl, Nesim Göktaş, Cahit Özkan, Veli Taşkın, Cahit Yüksel, Cuda Yüksel, Cesim Göktaş, Zahir Mete and Nafiz Pekiüksel.

On 22 August the police in Antalya detained Erdal Yıldırım, board member for the central district, Hüseyin Aktaş and Duzali Kaya on the beach in Konyaaltı. Kaya and Aktaş were

later released, but Yıldırım was remanded and put in Antalya E-type Prison.

On 4 September the police in Van raided the offices of HADEP for the province, the central and Kurtalan district on orders of the prosecutor at Van SSC. They searched the premises for about one hour and seized various documents. The executives Salih Acar, Fettah Elmas, Rüknettin Hakan and Alaattin Kalçık were detained, but released in the evening.

In the evening of 20 September Abdullah Aydemir, member of the party's parliament and executive Emin İldan were detained in Ceyhan.

Veysel Turhan, member of the party's parliament, was detained in Siirt on 21 September, when he left the office of HADEP.

In İğdır Resul Yıldız, working in the municipality for HADEP, was detained the same day. He was released in the evening hours.

Ahmet Candemir, treasurer of HADEP in Batman, his brother Süleyman Candemir and Raziye İnatçı were detained on 20 September, but released on 21 September.

On 23 September the police in İzmir raided a house in Güzeltepe quarter and detained the HADEP members Veli, Zeytin and Nebahat Kıyak. In Diyarbakır HADEP member of the provincial parliament Davut Adah was detained on the same day.

On 4 October Remziye Berk, board member of HADEP in Diyarbakır, was called to testify at Mermer Police Station. She was sent to Saraykapı Gendarmerie Station and detained there.

The offices of HADEP in Derik were raided on 16 October. The police seized signatures "Freedom of Thought and No to the Death Penalty", several books and journals and detained Mesut Çelik, chairman for the district. He was released in the evening hours.

The governor's office in İstanbul banned the festival for friendship and peace, which HADEP wanted to conduct on 15 October. Some 100 members of HADEP, who did not know of the ban and had come to Abdi İpekçi Sporthall, were detained.

On 18 October the police in İzmir raided various houses of HADEP members and detained Abdulvahap Bal, Mahmut Suncak, Sabri Suncak, Cemalettin Arık, Fırat Akbay, İhsan Ayaz, Mehmet Özer and a person with the first name of Maşallah.

Allegedly acting on a tip-off the police in Adana raided the municipality in Küçükdikili in Seyhan district on 21 October and detained the Mayor Mehmet Yaşık and 5 employees. When the detainees were presented to the prosecutor the police maintained that they found banned publications and a Turkish flag that had been ripped into pieces in the room of the mayor. The prosecutor forwarded the detainees to the state security court on 22 October. Testifying to the prosecutor at Adana SSC Mehmet Yaşık said that the flag the police officers found in his cupboard had not been torn apart. Soldiers from the gendarmerie had taken the flag to another room stating that they wanted to take some notes and they had ripped the flag into pieces.

On 31 October the house of Mehmet Şerif Çatak, member of the party's parliament in Muş, was raided. Çatak alleged that his house in Varto district was raided in order to prevent him from participating in the election to the administrative council of the province to be held on 1 November, because the authorities feared that HADEP might gain the majority.

For people from HADEP were elected to the administrative council in Muş and on 2 November MHP adherents attacked members of HADEP. A fight with stones and sticks broke out and, as a result, the HADEP members Bahattin Bingöl, Mirza Güneş and Şahin Kotan were injured. After treatment in hospital they were detained. Fahrettin Aslan, who

had been elected to the council, was detained the same day.

On 2 November gendarmerie soldiers detained Vakkas Dalkılıç, deputy chairman of HADEP in Antep province.

On 2 November Mehdi Aslan, member of the party's parliament, was detained in Bursa. He was remanded on the grounds of an arrest warrant in absentia.

Sabri Adıbelli, board member of HADEP in Karşıyaka district (İzmir) declared that plain clothes detectives had come to his house on 14 November and threatened him. This had been the latest of three raids on his house during one week. On 11 November he had been detained and asked for names of people he did not know. The raid on 14 November had been conducted in connection with the detention of his cousin Emin Adıbelli.

On information by repentant PKK militant Niyazi Dolan the gendarmerie detained Hamza Omak and Halim Alıcı, board members of HADEP in Bingöl on 16 November. In Sudurdağ village in Karlıova district the soldiers detained Acar Zorbozan and Hasan Kaya on 17 November. Reportedly Hamza Ömak had to be treated in hospital because of torture during detention. The detainees were remanded on 22 November.

On 22 November the police in İstanbul detained Hünkar Demirel, board member of HADEP in Büyükçekmece, and Şifa Aktürk in İstanbul-Esenyurt.

On the anniversary of the death of Metin Yurtsever, who had been detained during a hunger strike in the offices of HADEP in Kocaeli on 20 November 1998 and who died in detention, some people gathered in Çınarlı village, Derince district. The gendarmerie detained 15 of them.

On 20 November soldiers detained Özcan Şit, board member of HADEP in Ardahan province and his brother Mikail Şit in their home village Düşeli.

Hünkar Demirel, secretary of HADEP in İstanbul-Büyükçekmece and Sefa Aktürk were detained on 22 November.

On 25 November the police in Siirt raided several houses of HADEP members and executives and detained Ali Timurtaş, Abdurrahman Taşçı, Muhyettin Timurtaş, Abdurrahman Timurtaş, Halil Selçuk, Hasan Selçuk, Abdullah Selçuk, A. Bari Selçuk, İbrahim Öner, Şükrü Öner, Abdullah Öner and Ahmet Erzen. They were interrogated at Siirt Police HQ for three days. On 29 November the police raided the offices of HADEP in Siirt and demolished the furniture. The officers conducted an ID check and seized a file with press statements and 55 petitions of villagers, who wanted to return to their villages.

On 5 December five people attacked M. Haluk Dağ, executives of HADEP in Bağcılar (İstanbul) and Abdurrahman Karataş, while they were putting up posters in Güneşli quarter for the congress of HADEP in İstanbul. Haluk Dağ was slightly injured, but Abdurrahman Karataş had to be taken to hospital.

On 9 December the police in İstanbul detained Hikmet Yıldız, Rıdvan Kaya, Hükmü Cirmi and Raif Boldağ, while they were putting up posters of HADEP in Büyükdere. The police raided their houses in the night, but released them afterwards.

On 15 December the police in Urfa raided the offices of HADEP and detained 11 people. Urfa Police HQ made a statement alleging that they found a package with some 70 illegal publications.

HADEP members, who had been detained in Mardin in December during a visit of State President Süleyman Demirel, alleged that they were tortured in detention. Gülistan Durç, member of the women's commission in the province stated that she filed an official

complaint and was sent to Mardin State Hospital. She was given a medical report certifying her inability to work for 7 days, because of fractures of her arm and traces of blows on her body. Gülistan Durç added that the officers at Yenişehir Police Station tortured them.

On 20 December Eyüp Karageçi, deputy chairman of HADEP, was detained, when he went to Adana Police HQ in order to extend his passport.

On 20 December the police in Ağrı raided the offices of HADEP, confiscated some publications and detained Naif İşçimen, chairman for the province and Ahmet Kaya, chairman for the central district. Reportedly the house of Naif İşçimen had been searched the day before. He had been detained, but released after a short time.

### **Killed HADEP members**

Mehmet Latifeci, Yahya Latifeci

On 8 September Antakya Criminal Court concluded the trial in connection with the killing of Mehmet Latifeci, chairman of HADEP in Samandağ district (Hatay) and his father Yahya Latifeci on 30 March 1995. The Court sentenced Şevki Karaağaçlı to 36 years' imprisonment and Behçet Karaağaçlı to 21 years' imprisonment.

This was a retrial. In the first verdict of 17 April 1997 the Court had sentenced Şevki Karaağaçlı to 36 years' imprisonment, Behçet Karaağaçlı to 24 years' imprisonment and Fikret Karaağaçlı to 2 years' imprisonment. The Court of Cassation had quashed the verdict against Şevki and Behçet Karaağaçlı and only confirmed the sentence of Fikret Karaağaçlı. During the trial Behçet Karaağaçlı had stated that he committed the murder on the wish of the commander of the district's gendarmerie station, Lieutenant Vedat Ergin and the chief commissioner Necati Akyol and received TL 1.5 billion from businessman Naci Koza, known for his relations to the Welfare Party (RP) and Vedat Ergin.

İhsan Tunç

İhsan Tunç (45), chairing the HADEP commission in Yenibey quarter (Adana), was shot dead on 8 September, when he returned home. Reasons for the killings remained unknown.

The Virtue Party (FP)

The Chief Prosecutor at the Court of Cassation filed a case with the Constitutional Court for the closure of the Virtue Party (FP) on 7 May. [\[53\]](#) The indictment alleged that FP was not only the continuation of the closed down Welfare Party (RP), but of all political parties that used religion as a tools. All officials of the party including the chairman Recai Kutan were compared to "vampires that don't use anything else but blood for nourishment". The indictment quoted from speeches of executives of the party and referred to MP for İstanbul, Merve Kavakçı, who had come to the oath taking ceremony with headscarves and who had left the GNAT without taking the oath. The indictment asked for all MPs to lose their mandate except for Aydın Menderes, who obviously did not share the policies of the party.

On 4 June the chief prosecutor forwarded a cassette and transcription to the Constitutional Court as additional evidence. The cassette concerned a taped phone conversation between FP MP Yasin Hatipoğlu, deputy chair of the GNAT, and Necmettin Erbakan after a vote in the GNAT on cancellation of the elections. Reportedly Hatip Yasinoğlu told Erbakan in detail about the events and quarrels in parliament and admitted that he had acted against the rules and laws during the debate. The indictment alleged that FP had

developed a strategy that some well-known politicians would confer with Erbakan and take advice from him. Since the former leader of the closed down RP guided the FP it was obvious that FP was the continuation of the RP.

In the letter, which accompanied the cassette, the prosecutor admitted that the cassette had been obtained in violation of the principle of secrecy of communication; the transcription had been made by Vural Savaş himself and it should be advisable that only the rapporteur, the judges of the Constitutional Court and lawyer of the charged party should be informed of its contents. Yet there should be no objection on using the cassette for the verdict.

On 10 September FP forwarded a written defense to the Constitutional Court.

#### The Welfare Party (RP)

Following the closure of the RP the former leaders appealed to the European Court of Human Rights (ECHR). On 22 May 1998 the ECHR declared the application admissible and asked the Turkish government for a comment until the beginning of March 1999. The government presented the reply in September giving a detailed explanation of laicism (secularity). The government claimed that RP had close ties to radical movements in other countries. RP was shown as a potential threat and danger and provisions of Turkish law were shown as the reason for the closure.

The government also quoted from speeches of the former chairman Necmettin Erbakan, Şevket Kazan, Ahmet Tekdal, Şevki Yılmaz, Hasan Hüseyin Ceylan, İbrahim Halil Çelik and Şükrü Karatepe.

A number of cases against executives and former MPs of RP continued in 1999. The information on some of them is as follows:

#### The “Milli Görüş” (National View) Case

In March Ankara SSC Prosecution Office launched a trial against Necmettin Erbakan and executive members of the closed down RP, the National Youth Foundation (MGV) and the Independent Industrialists and Businessmen Association (MÜSİAD). The indictment accused the defendants of “carrying out activities to establish a state based on religion.” Necmettin Erbakan was accused of “getting in touch with pro-Kurdish Islamic organizations” during the period he served as prime minister.

According to the indictment, PKK leader Abdullah Öcalan said the following regarding Necmettin Erbakan in his testimony to the prosecutor on 22 February 1999: “After Necmettin Erbakan was assigned Prime Minister in 1996, he sent me a message via Mervan Zerti, with the code name Ağa, who is very close to the Syrian government, and via my man in Syria, with the code name Delil. He stated that they would bring economical, political and cultural improvements in the Southeast, and he demanded peace and a cease-fire for this reason. I replied him with a letter sent via the same persons. I declared that I regarded his proposal as positive and accepted it.”

The indictment demanded the closure of the MGV and the MÜSİAD on the claims that these were “organizations educating pro-Sheria (Islamic law) militants.” The indictment sought the death penalty for Ahmet Tekdal, former Deputy Chairperson of the RP, Şevki Yılmaz, Hasan Hüseyin Ceylan and İbrahim Halil Çelik, former MPs. The case files against Necmettin Erbakan, Şevket Kazan, the former Deputy Chairperson of the RP, and Oğuzhan Asiltürk, Ömer Vehbi Hatipoğlu and Zeki Ergezen, MPs with the Virtue Party (FP), were separated because of their immunity as MPs.

The names of the defendants who were indicted under Article 146 § 3 of the Turkish Penal Code were: Ali Nabi Koçak (Sultanbeyli Mayor, İstanbul), İmdat Kaya (Director of Cemeteries, İstanbul), Erol Yarar (Chairperson of MÜSİAD), Ali Bayramoğlu (Deputy Chairperson of MÜSİAD), Ahmet Akgül (columnist with the daily Milli Gazete), Süleyman Mercümeç (known to the public as the treasurer of the RP), Adnan Demirtürk (Chairperson of the MGV), Nevzat Laleli (former Chairperson of the MGV), and the MGV executive members, Tacettin Çetinkaya, Yılmaz Bölükbaşı, Sadık Küçükğünay, Mecit Dönmezbilek, Fikret Erçoban, Ahmet Ertok, Abdülkadir Geylani, Muzaffer Baydar, Ali Tandoğan, Mehmet Bozgeyik, Mustafa Akgün, Mükremin Karakoç, Mehmet Karaman, Tuncer Tabak, Asım Sezen and Nuh Mehmet Solmaz.

The „Milli Görüş” case started on 17 May. Hasan Hüseyin Ceylan pleaded not guilty and stated that the indictment was solely based on a book by Ergun Poyraz that used expression such as traders in religion, partners of the PKK, dirty view gang. Ceylan stated that he had filed a case against the author, because of insults. The author had also called him MP for Kars, while he was an MP for Ankara.

In the hearing of 4 August Erol Yarar and other defendants also pleaded not guilty.

In the hearing of 22 November Ankara SSC issued arrest warrants against the defendants Şevki Yılmaz, İbrahim Halil Çelik and İmdat Kaya. The case did not conclude in 1999.

Necmettin Erbakan

The trial launched at Ankara Penal Court No. 5 on charges of insulting the Constitutional Court ended in acquittal.

The cases against Necmettin Erbakan at Diyarbakır SSC No. 1 and Ankara Criminal Court No. 9 did not conclude in 1999.

Hasan Hüseyin Ceylan

In March the Court of Cassation confirmed the verdict of 1 year’s imprisonment imposed under Article 312 TPC on Hasan Hüseyin Ceylan by Ankara SSC No. 1 in connection with a speech he made in Kırıkkale in 1993. The verdict included a lifetime ban on political activities. On 7 September Hasan Hüseyin Ceylan started to serve his sentence in Çubuk Prison (Ankara).

On 14 October Ankara Penal Court No. 19 sentenced Hasan Hüseyin Ceylan to 15 months’ imprisonment in connection with a speech he had made in Germany in 1992. In this speech he allegedly insulted the memory of Atatürk. The prison term was suspended.

Ankara SSC No. 2 decided to drop the case against Hasan Hüseyin Ceylan based on his book “Treason of the Blue Mosque” because of laps of time. Charges had been brought under Article 312 TPC.

The case against Hasan Hüseyin Ceylan at Konya Penal Court No. 1 on charges of insulting the State President did not conclude in 1999. Another case at Ankara Criminal Court No. 2 on charges of insulting the armed forces, the GNAT and the State President also continued.

Şevki Yılmaz

Four different cases existed against Şevki Yılmaz at Ankara Criminal Court No. 2 on charges of insulting the State President, the armed forces and the GNAT. The Court issued an arrest warrant in absentia since the defendant was “on the run”.

Similar court cases in Ankara referred to speeches Şevki Yılmaz made. He stood accused

of having insulted the personality of Atatürk, the State President Süleyman Demirel, the former President of the Constitutional Court, Yekta Güngör Özden, former Minister Mustafa Taşar and his wife Gülderen Taşar and Gaziantep Mayor Celal Doğan and his wife Aysel Doğan. In the absence of the defendant none of these cases concluded in 1999.

İbrahim Halil Çelik

On 28 September the chief prosecutor in Kahramanmaraş had an arrest warrant issued against İbrahim Halil Çelik in connection with a speech he made in Kahramanmaraş in 1993. In this speech he allegedly had called the former President of the Constitutional Court, Yekta Güngör Özden, “trader of Atatürk, secularism and atheism”. Directed at Atatürk he reportedly said, “For 70 years we are governed by a regime without Allah. Atatürk and the Pharaohs claimed that there is no Allah”.

Ankara SSC No. 1 continued to hear the case against Çelik based on his words “If compulsion and pressure continues, blood will be shed. Bloodshed is nice, because it brings democracy”. The charges related to Article 312 TPC.

A different court case continued at Ankara Criminal Court No. 2 for similar words Çelik had uttered in an interview with a newspaper. The charges here related to Article 159 TPC for the words “I spit on such a government”.

The Labor’s Party (EMEP)

On 19 January a group of five people attacked the offices of EMEP in Ankara-Altındağ. The assailants broke the windows with picture of Metin Göktepe and shouted, “this is our first warning” and ran away.

On 25 January the police in Gaziantep raided the election offices of EMEP in Düztepe and Ünalı quarters. The police officers interrogated the staff member on the Düztepe office for some time before going to Ünalı quarter. Here the staff member was detained under beatings. The police officers released him after they had searched his house.

On 26 April Ankara SSC acquitted the executives and members Muhammet Uludağ, Mustafa Yalçın, Kamil Tekin Sürek, Seyit Aslan, Nedim Köroğlu, Haydar Kaya, Celal Aygün, Jülide Kalıç, Ali Rıza Eroğlu, Deniz Gürbüz and Murtaza Aykaç from charges brought under Article 312 TPC in connection with leaflets for 1 May 1998 (Labor Day).

In the early hours of 2 February unidentified people attacked the offices of EMEP in İstanbul-Eyüp and demolished the equipment.

On 19 February the police in Malatya raided the offices of HADEP in Malatya. On 22 February the offices of HADEP in Sivas province and Divriği district were raided. The wallpaper of EMEP on the Kurdish question was shown as the reason since Malatya Penal Court had issued an order of confiscation for the paper.

Mehmet Alşan, Deniz Uygun and Serdal Türkmen were detained in İstanbul-Kadıköy on 21 February, when they distributed leaflets of EMEP saying “No to Educational Fees”.

Halil Keskin, chairman of EMEP in Balya district (Balıkesir) was reportedly sentenced to 3 months’ imprisonment and a fine of TL 900,000, because he put up the decision of the party’s first ordinary congress one hour late. He started to serve his sentence on 24 February.

In İstanbul the EMEP members Mustafa Duman, Murat Kılıç, Cüneyt Yılmaz, Şahin Şen and Turgay Batıbek were detained on 28 February, when they returned from a wedding of Erdal Özdemir, executive of EMEP for İstanbul province.

On the same day İsmet Torun, chairman of EMEP for Tuzla district, Hiyasettin Tepeli and Fevzi Tepeli were detained in İstanbul, when they put up posters saying “We won’t carry the burden of the crisis. No to the free zone”.

Aslan Topal, executive of EMEP in Manisa and the member Yusuf Sabancı were detained on 3 March, when they sold the daily “Evrensel”.

In Amasya the EMEP chairman for the province, İsmail Arslan and three unnamed persons were detained on 2 March.

In İstanbul Özgür Mert, Yavuz Uruçoğlu, Deniz Turgaroğlu and Ender Tangör were detained on 8 March, when they prepared leaflets for EMEP.

The police in Diyarbakır prevented a visit of EMEP chairman Levent Tüzel to Diyarbakır. He and his companions were stopped in the Değirmendere region on 22 March. They were told that the OHAL governor had banned their entry to Diyarbakır. On the same the offices of EMEP in Diyarbakır were raided and the police seized posters and leaflets of the party.

In İstanbul the police prevent a festivity planned by Şişli district organization of EMEP for 21 March in order to introduce the candidates for the general election.

The Chief of Çorum Police filed an official complaint with the public prosecutor on 11 May in connection with a leaflet of the provincial organization of EMEP on the 1<sup>st</sup> of May.

Ali Taman, chairman of EMEP for Tunceli province and Metin Turan, candidate for EMEP to become mayor of Tunceli were indicted in connection with speeches they held on 27 March, when EMEP chairman Levent Tüzel visited the town. The charges related to Law No. 2935 on the State of Emergency. The court case did not conclude in 1999.

On 21 June the police in Pertek district (Tunceli) raided the offices of EMEP and detained 5 people. The detainees later alleged that they were beaten at the police station and put under pressure to confess that they were members of an illegal organization.

On 3 July the EMEP members Veysel Kavak, Ali Kavak, Hıdır Tülek, Kerim Özdemir, Uğraş Yıldırım and Servet Salar were detained, when they put up EMEP posters in İstanbul-Bağcılar.

The executives of EMEP in Nazilli district (Aydın), Mehmet Kaya, Bülent Çamoğlu and Mustafa Sarıoğlu went to prison on 13 July to serve a sentence of 20 months’ imprisonment imposed on them by İzmir SSC under Article 312 TPC in connection with a leaflet on peace.

The court case against Cuma İlbeyli, chairman of HADEP in Urfa, and Sadık Güleç, chairing the youth commission, who had been detained on 21 March, concluded on 23 June. Both defendants were fined, because of separatist propaganda in the brochure “This time the workers will win”, which they had been carrying at the time of detention.

On 18 July at 1.30am the office of EMEP in Aydın was attacked. Hüseyin Sevrani, chairman of EMEP in Aydın, said later that the attacker entered through a neighboring building, damaged the equipment and destroyed several documents.

Ali Yıldız, Zeynel Yıldız and Barış Aktan were detained on 27 July, when they left the offices of EMEP in Mazgirt district (Tunceli).

The EMEP member Metin Gül was held in detention for 24 hours after his detention in Ankara on 5 August, when he put up posters against the IMF.

The EMEP members Ulaş Velioğlu, Levent Günay, Ersin Günay, Olcay Yanar and Ali

Yaman were detained in İstanbul-Avcılar on 19 August, when they collected aid for the victims of the earthquake.

In İstanbul the police intervened when EMEP wanted to announce a press statement on 1 September World Peace Day. Cevriye Aydın, chairwoman for the province and the executives Seyit Aslan and Düzgün Buluç were detained later.

Arif Toprak, spokesperson for EMEP in Urfa, was indicted under Article 312 TPC in connection with a press statement on 1 September World Peace Day.

In Ankara EMEP official Coşkun Gül and the member Yalçın Gül were detained on 8 September, when they distributed leaflets. They were fined TL 15 million for having distributed leaflets without permission.

In November several EMEP members were detained when they put up posters against the IMF and Bill Clinton. The places and names of these detentions were: in Ankara-Mamak Mutlu Kılıç, Sevil Aracı, Kenan Polat; in İstanbul-Gaziosmanpaşa, Beykoz, Kadıköy, Kağıthane and Zeytinburnu Mustafa Gürsoy, Gökhan Kıl, Leyla Işık, Kenan Tokgöl, Şerif Yeşilbingöl, Hicran Danışman, Erhan Demir, Serpil Öztürk, Ebru Atakan, Esra İskitoğlu, Kahraman Durmuş, Göksel Karataş, Serkan Kızılkaya, Sevgi Delibaş, Aşur Çetinkaya, Ebru Önal, Mehmet Çelik, Ahmet Akgüzel, Levent Erkoç, Serdar Aydın, Meryem Durmaz, Özgür Sağıroğlu, Mahir Yamen, Mehmet Gerçek, Akcil Bozkurt, Birol Bozkurt, Haluk Demir, Yeliz Çopuz, Bektaş Durmaz, Mustafa Atik, Ali Doğan, Faruk Terzi, Suat Çelik, Server Salar, Bülent Kaya, Ayla Belek, İlhan Altın, Onur İlçi, Yasemin Saylı, Sinan Danacı and two persons with the first names of Hasan and Aslan.

The same posters were the pretext of a raid by the police in Elazığ on the local offices of EMEP on 16 November. Several journals, books and other publications were seized on the grounds that confiscation orders against them existed.

The governor's office in the OHAL region banned the EMEP posters reading, "Stop the Pressure – Lift OHAL". Shortly after the decision the police raided the offices of EMEP in Diyarbakır on 26 November and seized the copies of the poster. In İstanbul the police detained Nizam Kaya, Sabri Şen, Caner Taşçı, Göksel Karataş, Tahire Ayla Belek and Ebru Atakan on 28 November, when they were putting up these posters.

On 29 November some juveniles of EMEP put up posters against OHAL in İstanbul-Sarıgazi. They were attacked by MHP followers.

Özcan Dağıstan and Gülhan Benli were detained on 5 December, when they put up posters prepared by the EMEP organization in Kağıthane (İstanbul).

On 9 December the police in İstanbul-Bostancı detained Yüksel Akkaya, Mehmet Alşan, Ergün Enç, Halis Karaaslan and Sinan Danacı, when they put up posters against the IMF. The police in Beykoz detained Murat Kırkgöze, Kemal Özcan, Yasemin Saylı, Hicran Danışman, Sinan Danacı, Ergin Ay and Haluk Emir when they distributed leaflets of EMEP.

On 12 December the police in Tuzla-İstanbul detained Metin Yasan, Hayrettin Akın, Ercan Yavuz, Muharrem Yiğit, Serhat Bal and Deniz Göl, when they put up poster of EMEP.

On 25 December the police detained the EMEP members Engin Ay, Yeliz Topuz and Bülent Erdoğan, when they distributed leaflets in front of the glass factory Paşabahçe in İstanbul-Beykoz.

The Freedom and Solidarity Party (ÖDP)

On 16 March the police in İstanbul detained Ufuk Uras, chairman of ÖDP, deputy chairman Atilla Aytemur, Mehmet Atay, chairman for İstanbul province and the executives Doğan

Halis, Halis Yıldırım and Hüseyin Cengiz, when they wanted to place flowers at the place of the 16 March massacre that happened 21 years ago. They were released after some time.

In Divriği district (Urfa) Metin Şimşek, chairman for the district and board member Güzel Karayılan were sentenced to 15 months' imprisonment in connection with an action that the ÖDP Headquarters had organized under the motto of "The Citizen Seeks Justice".

On 7 January Kadıköy Criminal Court No. 3 acquitted 32 ÖDP members, who on 24 October 1998 had gathered in front of the Kadıköy office of ÖDP to read out a press statement. They had been charged with staging an illegal demonstration.

On 14 January unidentified assailants threw a molotov cocktail into the office of ÖDP in İstanbul-Maltepe.

Adana Criminal Court No. 2 heard the case of Mehmet Beyaztaş, chairman of ÖDP for Adana province, and the ÖDP members Hasan Sarıkaya, Yaşar Demir, Sadık Sıçramaz, Yakup Durmuş, Leyla Uyar, Adalet Nefise Çınar, Hayri Akgün and Metin Çelik. They were charged with insulting the police in speeches they had held during the Solidarity Night on 28 February 1998. The trial did not conclude in 1999.

Ankara SSC continued to hear the case of ÖDP officials charged in connection with posters they had prepared in support of the students on trial for having unfolded a banner in parliament. The charges against Ufuk Uras, the deputy chairpersons Yıldırım Kaya, Serpil Boğa and the board members Necmi Demir, Saruhan Oluç, Atilla Aytemur, Burhan Sönmez and Sultan Özcan were brought under Article 169 TPC. The trial did not conclude in 1999.

On 20 March right-wing extremists attacked the election convoy of the ÖDP İstanbul organization in İkitelli. ÖDP announced that the attackers used stones, sticks and knives and injured one person to the head.

On 23 March the police in İstanbul detained Mehmet Sadık Varsak, candidate for ÖDP in İstanbul-Güngören and three members of the party.

Unidentified assailants attacked the ÖDP offices in Kütahya province on 4 June. Nobody was harmed. The organization declared that this office had been attacked twice before.

On 6 November the police in İstanbul raided the house of İsmail Bektaş, chairman of ÖDP in İstanbul-Kağıthane district, when he was not at home. Officials of the police, who were asked about this operation, stated that they had no knowledge of such an action.

#### The Worker's Party (İP)

On 23 February Ankara SSC continued to hear the case of 10 party officials including the chairman Doğu Perinçek. At the time he was serving a sentence of 14 months' imprisonment imposed on him for a speech he made prior to the general election in 1991. The speech allegedly contained separatist propaganda. In this trial Doğu Perinçek was charged with supporting an illegal organization, a violation of the Law on Firearms and having published secret documents of the State. The latter two charges also applied for İP Secretary General Mehmet Bedri Gültekin and the other 8 officials. The case had been opened because of statement of the repentant PKK confessor Şehmuz Batur, who had admitted to have collected money for the political wing of the PKK, the ERNK.

The trial did not conclude in 1999.

On 4 March Ankara SSC passed another verdict on Doğu Perinçek, at the time still in Haymana Prison (Ankara). He and Ayşenur Zarakolu, owner of Belge Publishing House,

had been charged with disseminating separatist propaganda during the 5<sup>th</sup> General Assembly of the HRA in 1994. Ankara SSC sentenced Doğu Perinçek to 1 year's imprisonment and a fine of TL 100 million, while it acquitted Ayşenur Zarakolu. In June the Court of Cassation quashed the sentence against Doğu Perinçek.

On 25 May Doğu Perinçek withdrew from the post of President of the İP. In his letter to the central committee he stated that he had to take such a decision in order that the party would not be exposed to unlawful acts.

On 8 August Doğu Perinçek was released from prison, having served 10 months of his 14 months' imprisonment according to the Law on Execution of Sentences. During the congress of the İP on 17 October he was again elected chairperson.

There were also cases involving representatives of different political parties. In Tunceli, for instance, Hasan Korkmaz, Mayor of Tunceli for the CHP, Seyfi Kılıç, candidate for the DYP, Celal Yaşar, chairman of the chamber of trade and industry in Tunceli, Metin Çetindere, former chairman of the RP in Tunceli and the businessman Seyit Ali Kızılaslan were charged with supporting an illegal organization in connection with the testimony of repentant PKK confessor Fesih Yıldırım (Güner). During the hearing at Malatya SSC on 27 May the confessor Fesih Güner withdrew earlier testimonies against the defendants, but the confessor Erdinç Peker repeated his accusations. On 24 June Hasan Korkmaz, Seyfi Kılıç and Seyit Ali Kızılaslan were released. On 5 August Malatya SSC sentenced Celal Yaşar and Metin Çetindere to 45 months' imprisonment, but acquitted Hasan Korkmaz, Seyfi Kılıç and Seyit Ali Kızılaslan.

#### b) Associations and Foundations

##### The Mesopotamian Culture Center (MKM)

On 29 April İstanbul SSC continued to hear the case of artists from the MKM, who had been detained on 8 December 1998, when they wanted to go to Romania. They had been remanded and charged with supporting an illegal organization. The defendants Serhat Bucak, Rauf Bozkurt, Selma Civak, Zelal Gökçe, Mehmet Yapıştıran, Kadriye Çırık and Alaaddin Aykoç were released after the hearing.

On 4 May İzmir SSC heard the case of Hamide Yüksel, Fadime Genç (both under arrest in Uşak Special Type Prison) and Çetin Toprak, Zelal Morsümbül and Leman Akay (not under arrest) from the MKM in İzmir. The Court decided to change the charges from supporting an illegal organization (Article 169 TPC) to separatist propaganda (Article 8 LFT).

During the hearing of 2 June the defendants pleaded not guilty. The Court acquitted Çetin Toprak, Zelal Morsümbül and Leman Akay, but sentenced Hamide Yüksel and Fadime Genç to 10 months' imprisonment and a fine of TL 5 billion. The prison terms were suspended for five years and Yüksel and Genç were released after 6 months in pre-trial detention.

On 10 June İzmir SSC passed the verdict on MKM İzmir branch staff members Cezmi Yalçınkaya, Beyaz Emektar and Nuri Turan and sentenced them to 1 year's imprisonment and a fine of TL 6 billion under Article 8 LFT. During a festival organized by the youth commission of HADEP in Denizli they had sung Kurdish songs. The sentences were suspended for five years.

On 19 June the police in Mersin raided a wedding party in Yenişehir quarter. Bedran Şener, staff member of the MKM, later alleged that he had been threatened with death and thrown down from the third floor.

“At 10.40pm the police and members of special teams raided the wedding party and dispersed the crowd. I guarded the music instruments. Three plain-clothes detectives came to me and asked me, where I had come from. When I said that I had come from the MKM they told me to go to the roof, because my friends were waiting there. I went to the roof and the three officers followed. None of my friends was there. One of the plain-clothes detectives put his kalesnikov to my head and said that he would kill me. I stepped backwards and when I was at the edge of the roof they started to beat me. I lost my balance and fell down. I stayed there for about half an hour, until other people in the house took me to hospital.”

Bedran Şener stayed in intensive care for two days. When police officers came to take his testimony he stated that he had fallen from the roof, because he was afraid of being subjected to a similar treatment again.

Deputy Governor for İçel (Mersin) province, Yaşar Kırımlı stated that the security forces were not responsible for the injuries. The person had panicked, when the security forces came to the wedding party, tried to run away and fallen from the roof, which caused his injuries.

On 14 November the police raided a wedding party in Demirtaş quarter of Mersin and detained Ayten Pasin and Kenan Şahin, members of the music group Koma Vendidad in the MKM. Reportedly the police assaulted the parents of the couple and dispersed the participants.

On 15 November the police in Mersin raided the local office of the MKM. They searched the premises for about two hours and detained 14 staff members and 9 visitors. The names of the detainees were: Revze Öngel, Fatma Ölmez, Yekin Ölmez, Zeynep Süer, Nusret Süer, Yılmaz Bayram, Metin Yılmaz, Behçet Pekdoğan, M. Abdulselam Çağlar, Sibel Özdemir, Arif Adalı, Meral Gündüzalp, Aziz Süer, Yusuf Binici, Abdullah Dağ, Ferit Süer, Ahmet Aktaş, Murat Akyıldız, Mehmet Aktaş, Hacı Demirdeğmez and Şehmuz Demirdeğmez.

Vahdettin Emen, chairman of the MKM in Adana, was arrested after Cevat Soysal, who had been abducted in Moldavia, had arrived in Turkey. He was put on trial at Adana SSC, but acquitted in the first hearing on 23 September.

Hayri Tunç, working in theatre branch of the MKM in İstanbul declared that people introducing themselves as police officers had kidnapped him on 22 December. He participated in a press conference at the HRA in İstanbul on 25 December to protest the torture and rape of Şeyda Girgin from the music group “Kutup Yıldızı” to further report that the kidnappers had blindfolded him, driven around for a while and asked him to become a police informer. Referring to Ş.G. (see the chapter on rape in detention) they had said that this was a last warning.

Pir Sultan Abdal Culture Asscoation (PSAKD)

On 30 December 1998 plain-clothes detectives raided the offices of PSAKD in Ankara-Yenimahalle on the pretext that the branch had not informed on a change of address.

The branch in Mersin was not allowed to commemorate the massacre in Sivas that had resulted in the death of 37 persons on 2 July 1993.

The police in İzmir prevented the branch in Buca to hold its 4<sup>th</sup> Ordinary Congress in the premises of the Association for Atatürk Thought in mid-October claiming that they had to use their own offices.

## Students' Associations

On 3 February police officers from the department to fight terrorism at Ankara Police HQ raided the students' association TÖDEF/AYÖ-DER and detained Özgür Yılmaz, Taylan Tanay, Sevgi Lüle, Sevinç Çiçek, Dursun Atakul, Berivan Upçin, Övünç Bileyen, Önder Karagöz, Reha Ertaş, Gürsel Gülmez, Döndü Şahingöz, Gül Tekin, Naciye Barbaros, Songül Ergül, Solmaz Yılmaz, İbrahim Murat Hülya, Özge Güner, Tamer Biçer, Nazan Biçer, Güvent Eker, Hacer Türk, Ebru Özlem Çınar and Deniz Keskin. The students were held in custody for 7 days, before they were presented to the prosecutor at Ankara SSC. Prosecutor Talat Şalk sent 27 of 29 students to the court with the demand of arrest. He released only Alp Bora Balyalı and Özge Güner.

Talat Şalk finished the indictment on 21 March. The number of defendants had risen to 30, 28 of them in pre-trial detention. The indictment alleged that the students conducted activities for the DHKP-C under the name of "Rights and Freedoms Platform", "Dev-Genç" or "TÖDEF". The defendants were accused of having put up banners, conducted demonstrations, boycotts, and occupations in order to organize sympathizers. One of these actions had been a meeting in memory of the DHKP-C militant Birtan Altunbaş, who died in detention. The defendants were also accused of having participated in the Newroz celebrations of HADEP in Ankara on 21 March 1998, in the workers' demonstration on 1 May 1997 and in the civil servants action on 7 February 1997. The prosecutor wanted the students to be sentenced according to Article 168/2 TPC (membership of an illegal organization).

On 20 February the police in İstanbul detained Barış Yıldırım, chairman of the Students' Association at Yıldız Technical University in İstanbul and the board members Sinan Zarakolu and Deniz Zarakolu. On 22 February Aylin An, Pelin Uçer and on 23 February Barış Altan, Tuncay Emir and Altan Candan were detained. On 27 February all of them were taken to İstanbul SSC, which ordered the arrest of Barış Yıldırım, Serdar Güzel and Gülyla Boran as alleged members of the Marxist-Leninist Communist Party (MLKP).

On 10 March Diyarbakır SSC started to hear the case of 10 students, 8 of them in pre-trial detention. They stood accused of having founded a students' association under the name of Contemporary Students of Kurdistan in Kızıltepe (Mardin). The association was said to work in line with the PKK and the students were accused of membership to the PKK. During the hearing of 9 June 5 students were still under arrest. After the hearing on 9 September Diyarbakır SSC No. 1 ordered the release of four students, but decided that Aslan Erin should be kept in detention.

### The People's House/s (Halkevleri)

The branches of the People's Houses in Keçiören, Kalaba and Mamak (Ankara) were closed on 4 May for one week on the grounds that they conducted activities outside their aims and had accepted minors inside. The branches opened again on 11 May.

On 23 June İzmir Judicial Court No. 4 ordered the closure of Göksu People's House (İzmir-Buca), even before its official opening on 27 June. Ali Burç, chairman of İzmir People's House stated that their central office had been raided on 19 June without an official permission. The police officers had accused the officials of being members of the illegal THKP/C and had prepared a note that the association was conducting activities outside its purpose.

On 21 June the governor in İzmir had ordered the closure of the People's House and İzmir Judicial Court No. 4 had passed a verdict on 23 June, confirming the decision of the governor. On 2 July the administration of the People's House in İzmir filed an official

complaint against the police officers at İzmir Police HQ and the governor on the grounds of illegal entry to a house, misconduct of duty and wrongful accusations.

Social Help and Solidarity Association with IDPs (Göç-Der)

On 28 January the İzmir branch of the Social Help and Solidarity Association with Internally Displace People (IDP, in Turkish generally called “migrants=göçmen”) was closed on demand of İzmir Police HQ and verdict by the Judicial Court on the grounds that the chairman of HADEP for İzmir province had spoken at the opening ceremony on 23 January.

The branch was reopened on 1 July, but the police closed it on the same day. During the night the police raided the house of the chairman Duran Boztepe and detained him. He was released the same night and alleged that he was beaten at the department to fight terrorism in Bozyaka and threatened with death.

In July four unidentified people attacked the offices of HADEP in Küçükçekmece and the house of Göç-Der executive Timurbey Köylü. They seriously injured him.

On 8 July the headquarters of Göç-Der was raided. The police conducted a search and detained the SG Pakize Eriş.

The board members of Göç-Der were tried in connection with articles in the bulletins of December 1998, February and March 1999 on charges of having insulted the armed forces. The first hearing was conducted at Fatih Penal Court No. 5 on 16 December. Chairman Mahmut Özgür stated that they had not intended to insult anybody and the interview reflected the opinions of the interviewed persons. The other defendants in this trial were: Pakize Eriş, Mehmet Avcı, Duran Boztepe, Zübeyir Avras, Ahmet Demir, Timur Beyköylü, Emin Demirtaş, Süleyman Yıldız, Ramazan Ay and Semra Oğuz.

İdil Culture Center

On 18 February the premises of İdil Culture Center in Ortaköy (İstanbul) were raided on orders of the prosecutor at İstanbul SSC. The 11 people inside were detained, although they had locked the doors. Reporters, who wanted to take pictures of the incident, were beaten by members of the anti-riot police.

c) Trade unions

Obstacles for trade unionist activities increased in 1999 due to the speedy process of privatization and corresponding legal provisions.

On 13 August the GNAT accepted changes to the Constitution in connection with international consolidation that would allow international enterprises to work with their own rules in the private sector. The changes to Article 47, 125 and 155 of the Constitution entered into force the next day, when the amendments were published in the Official Gazette. Actions organized by trade unions and organizations of civil society such as demonstrations and press conferences were hindered by the police. Many trade unionists were detained and put on trial in connection with such actions.

The pressure on trade unions in the OHAL region did not decrease. Employees in the public sector faced difficulties in organizing. The confederation KESK informed the International Labor Organization (ILO) in June that in 1998 and the first half of 1999 a total of 42 people employed in the public sector had been sentenced to imprisonment, 12 had been sacked temporarily, 31 had been “exiled” and 8 had been dismissed from duty. The report presented the figure of 133,582 people in the public sector, who had been subjected to criminal and/or administrative investigations during the last 10 years. In continuation:

“During the same time 4,245 were “exiled” (appointed to remote places), 25 people were taken off duty, 1,192 employees were dismissed, 155 were sentenced to imprisonment and the cases of 16,182 people are continuing. A total of 72,744 had a cut in wages, 1,781 people lost a permanent place of employment, 917 people were set back in their career, 28,585 people were punished by a warning or protest and against 730 demands of losing the status of civil servants were made.”

#### Confederation of Trade Unions in the Public Sector (KESK)

On 6 February the police in Ankara raided the offices of SES. They stayed in the office for a while and did not allow journalists to come in. The police officers conducted an ID check for the 30 people inside the building and confiscated a number of journals, books and brochures, beat some students, who had come to the trade union in a group and detained the students Ahmet Demir, Kadir ıplak, Ata Alkusan, Alp Bora Balyalı and Ömer Demir.

SES member İkrım Dunlayıcı died after an attack of right-winger Yakup Harmancı, who killed him with a knife in Bademay village, Yapraklı district (ankırı) on 31 January.

Hasan Soysal, chairman of the Diyarbakır branch of BTS, was detained during a raid on his house on 20 February.

Unidentified people beat Hüseyin Aral, chairman of the Mersin branch of Tüm Bel-Sen and the secretary Ali Temiz on 23 February.

Bedriye Yıldızeli, chairwoman of the Kocaeli branch of Tüm Bel-Sen and Cengiz Coşkun, member of the trade union in İstanbul, were detained on 7 March.

SES member Mehmet Ali Işık was detained on 23 March in front of the hospital in Göztepe, where he was working.

The Urfa branches of Tarım Gıda-Sen and Eğitim-Sen, which had been closed on 10 December 1998 on orders of the governor, were reopened on 23 June.

The SES executives and members Eylem Batga, Gülseren Genge, Sema Erdoğan, Murat Ertan, Erkan Bakır and Rikoş Odabaş were detained in Bingöl on charges of supporting the PKK.

SES board member in Trabzon, Kemal Emirođlu, was detained on 13 December. He was remanded on allegations that three bullets and illegal publication had been found at his home.

Fazlı Kaya, secretary on the 6<sup>th</sup> branch of İstanbul of Tüm Bel-Sen was detained during a house raid in 21 December.

#### The Union for Workers in Education, Culture and Science (Eđitim-Sen)

Eđitim-Sen member in Ankara, Bülent Sara, was detained on 2 February.

On 26 February the offices of Eđitim-Sen in Ardahan were raided by the gendarmerie accompanied by the deputy governor and the deputy director for national education, Yücel Erten. The trade unionists were asked why they visited HADEP and not CHP. The authorities stated that they had formed a supervising committee on orders of the Prime Ministry and would visit the office every month.

Hüseyin Akpınar, Eđitim-Sen member in Erzincan, was abducted on 24 February by two men, who introduced themselves as members of the secret service. They pushed him into a car, claimed that he was conducting destructive and separatist activities and put him under pressure to become a police informer. The next day Hüseyin Akpınar was attacked in front of his house and received a report certifying his inability to work for 7 days.

In Diyarbakır the police detained the Eğitim-Sen members Celal Çeçen and Mehmet Atlıhan on 6 March. On 8 March they raided the premises of the trade union and detained the secretary Muharrem Cebe, Medeni Alpkaya and four members.

On 16 March the police in İstanbul detained the Eğitim-Sen member Ali Haydar Aymaz at the school, where he was working.

Unidentified people attacked the offices of Eğitim-Sen in Düzce on 10 April.

Yücel Yeşil, Eğitim-Sen member in Sivas, appealed against the decision of the governor to cut his wages by 1/8 because he participated in a demonstration in March 1996. The regional administrative court accepted his arguments, but the governor's office appealed against this decision. On 22 April the Supreme Administrative Court rejected the appeal of the governor's office.

On 1 June the police in Sungurlu district (Çorum) raided the offices of Eğitim-Sen, accompanied by the governor and the director for national education. During the search the police claimed to have found an article with the title "Language Question". The trade unionists said that they had not seen the article before. The police detained 12 people. Ten of them were later released, but Asker Akyol and Mustafa Satılmış were held longer.

In Urfa the Eğitim-Sen member İbrahim Ayhan was detained on 25 July.

On 28 October the police in Batman prevented teachers from holding a press conference in protest at "exiling" their colleagues. The police detained 18 teachers including the executives of Eğitim-Sen, Murat Ceylan, Şuayip Alp, Nevin İşgilen, Nihat Keni, Rahman Çağır and Aydın Güneş. The detainees were released on 30 October.

#### Workers' Unions

##### Workers in the Industry of Vehicles with Motors (TÜMTİS)

In Adana workers of the company "Feyzi Çapar Nakliye" started a strike in December 1998. On 6 January the police detained them including the chairman of the Adana branch of TÜMTİS, Erol Dolaşır and the treasurer Halil Çekin.

Workers of the company "Yibitaş Lafarge", who had been dismissed, after they joined a trade union, were detained several times in January. Trade unionists from Ankara visited workers from "Yibitaş" on 3 January and the police detained 95 people including the executives of TÜMTİS, Nurettin Kılıçdoğan, Abidin Kandeyer, Mustafa Gökçe and Zeki Karacan.

During a second visit on 10 January the police detained 55 people including the TÜMTİS executives Abidin Kandeyer and Selahattin Demir. Soldiers from the gendarmerie destroyed the tent of the workers. The detainees were released in the evening, but the workers were not allowed to get close to the company.

In Gaziantep several workers of the cargo company "Akın" and members of TÜMTİS went to see the employer on 7 February to talk about the forbidden night shifts. The employer Ömer Konukoğlu and his "men" attacked them. They later came back with police officers, who detained Hasan Kara, İsmet Gümüş, Mehmet Adçeken, Murat Amik, Selahattin Karakaş, Nahsen Karadağ, Mehmet Gezen, Selahattin Mişe and Bekir Gözen. They were released at noon the next day.

Again in Gaziantep, Sait Yılmaz, one of the workers on strike at the company "Özgür Nakliyat", was attacked on 13 March by the employer Nuri Özkılıç and his "men". The trade unionist from TÜMTİS, Hüseyin Seyrek and Kenan Öztürk came to the place accompanied by workers from "Akınal Kargo" and "Birlik Nakliyat" (also on strike). The

police, who had come immediately after the attack, detained the trade unionists and some 20 workers. The detainees were taken to Gaziantep Police HQ, but released with testifying.

In Ankara the trade unionists Abidin Kandeyer and Selahattin Demir wanted to talk to the employer Dursun Er, who allegedly had not paid the insurance of workers at "Bursa Turan Nakliyat", on 15 March. They were detained on complaint of the employer. When the chairman of the branch, Nurettin Kılıçdoğın, went to Site Police Station to inquire about his colleagues, he was also detained. They were released at 11pm, but Nurettin Kılıçdoğın, Bekir Karaca, Ahmet Sezer, Aslan Kılıç and Sinan Yılmaz were again detained the next day and taken to Site Police Station.

In İzmir the TÜMTIS executives Hasan Yayık, Recep Avcı, Gazi Karakuş, Muzaffer Küleş, Seyfi Erez, Şaban Çelen, Cafer Kömürcü, Hüseyin Bektaş, Celalettin Karakucak and two unnamed members of the work council were detained on 2 December. They were released in the evening. During the night unidentified men attacked the offices of TÜMTIS in İzmir, damaged the equipment and stole the money.

The Leather Work Union of Turkey (Deri-İş)

Reports from Tuzla district in İstanbul stated that the chief of the "Mega Deri" Company, Mehmet Şimşek, threatened Cemal Taşkın, chief of the Deri-İş branch in Tuzla, on 15 January, after a strike at his company that lasted for 25 days. The gendarmerie was informed, but allegedly no measures were taken.

In the same area the gendarmerie attacked workers on strike at the company "Tabaksan Deri" on 8 February. The strike was a protest at dismissal. Reportedly 250 soldiers and civilian armed with sticks participated in the attack. Many workers including Cemal Taşkın were injured and the gendarmerie detained 19 workers. Some workers blocked the E-6 road in protest at the incident. Here the gendarmerie attacked them again.

On 17 March representatives of Deri-İş held a press conference in support of workers from the shoe factory "Aymasan", who had lost their jobs. The gendarmerie detained executives and members of Deri-İş, Yener Kaya (chairman of Deri-İş), Musa Servi, Naciye Özdemir, Cemal Taşkın, Hüseyin Yiğit, Filiz Aslan, M. Ali Boz, Hasan Çolak and Zeynel Koca. On 18 March the public prosecutor in Kartal decided on their release.

After a long period of strike at the factory "Ayaz Deri" in İstanbul-Tuzla the gendarmerie attacked the workers on 22 April and detained some 20 of them. The soldiers reportedly beat the trade unionists Hasan Sonkaya and Cemal Taşkın.

On 11 May the gendarmerie again intervened in a strike action in the industrial area of Tuzla. The security forces came with panzers and tore the tents of the workers down. The workers started a sit-in and were beaten in return. The soldiers detained Cemal Taşkın.

Three days later the gendarmerie came again and stated that on orders of the governor of İstanbul and the commander of the gendarmerie they would no longer allow workers to erect tents in the industrial area. In case that the workers did the soldiers would beat them the whole night or take them to the woods and shoot them there. The soldiers surrounded the area and detained the workers. Some soldiers reportedly threatened the workers by saying that the MHP would come soon and their members would work there. No Kurd or person from the east would be allowed to work there.

On 15 May the police attacked the industrial area and detained the trade unionist Hüseyin Akgül. On 17 May the police detained some 60 workers.

In mid-June Hasan Sonkaya, now chairman of Der-İş in Tuzla, visited workers, who had been dismissed from the company "Mader Deri". He was detained and remanded on 15 June. He appeared in court on 29 June and was released.

On that day Cemal Taşkın was detained on the complaint of an employer.

Other trade unions

On 2 January Süleyman Eryılmaz, SG of BTS (trade union of transport) was detained, after he participated in a radio program.

On 9 February Şükrü Kartal, education specialist of DİSK, was seriously injured during an attack of unidentified men.

Members of the trade union Basın-İş (Press) started a resistance against the hindrance of organizing in the company "Swisscard" in Kartal (İstanbul). On 6 April 38 workers were detained including the trade unionists Derviş Boyoğlu (chairman), Tuncer Özkan, Zekai Türkmenoğlu and Sermin Öner. Further detentions followed until the end of the resistance on 13 April. The detainees were later released.

On 8 April Derviş Boyoğlu was kidnapped by three armed men and threatened to stop the resistance at "Swisscard". He said that he had been kidnapped in front of his house in Uğur Mumcu quarter and taken to the Sultanbeyli Forest. He had been held for five hours and threatened to be killed, if he did not stop the resistance. In the attempt to have 40 sacked workers be employed again, Beyoğlu was detained a few more times.

On 3 May the police prevented trade unionists and workers from visiting the strikers at "Swisscard" and detained the trade unionists Kamil Kartal and Murat Akıncılar.

Süleyman Türker, chairman of the Ankara branch of Birleşik Metal-İş, was detained on 12 April together with workers from the company "Ersa Çelik Eşya", who were on strike against their dismissal from the company in Sincan. During the following month further detentions were made at this company including Süleyman Türker.

On 3 May, the 17<sup>th</sup> day of the strike of workers from "Kenteks", members of the trade union Dokuma-İş, the police attacked the workers in attempt to keep them away from the working place. Journalists were prevented from taking picture of the police brutality.

On 27 May some workers from „Kenteks“ went to Merkezefendi Police Station to complain about the attitude of the employer. The workers with the first names of Perihan, Sefa, Ergin, Ahmet, Fevzi and Ali were detained.

Murat Hancer, organizational secretary of Genel-İş in İzmir was detained on 23 May, when he was on official duty at the municipality in Aliağa.

On 12 July Hasan Vural, executive of Belediye-İş, was reportedly kidnapped and threatened by police officers, who released him after 6 hours.

In Mardin the bodyguards Ali Ökmen and Necdet Babayiğit, working for the Mayor Abdülkadir Tutaşı, attacked workers, who asked for their wages and social rights on 21 July. The trade unionist Hamit Başboğa (Belediye-İş) and Mehmet Akgül were wounded.

Mürel Taşçı, chairman of the wood trade union "Ağaç-İş", was detained on 19 August, when he went to Mengen (Bolu) to talk to the owner of "GENTAŞ" about the dismissal of 85 workers.

8 members of the trade union Kristal-İş, who had participated in a general strike, were dismissed from the company "Trakya Cam" in Lüleburgaz on 13 August. The other workers stopped production in protest. The gendarmerie attacked the workers and wounded Naci

Çelik, Mümin Vatansever and Recep Sezer severely; Mustafa Yaynık, Lokman Öner, Turgut Yılmam, Mustafa Eriş, Turgut Yılmaz and Bülent Tunç slightly.

On 9 October the Industrial Tribunal in Kırşehir decided that the action of the owner of “Petlas”, who had dismissed 222 workers on the grounds that they had conducted an illegal strike and had caused damage to the machines, was unfounded, since no such action had taken place.

Salih Gündoğan, candidate for the chair of Genel-İş in Diyarbakır, was detained during the congress on 31 October, allegedly because he disseminated separatist propaganda.

In İstanbul workers and trade unionists tried to protest the dismissal of 20 workers from “Stil Matbaacılık” in Seyrantepe. The police erected a barricade to prevent them from marching. The protesters made a press statement and after discussions with the police came in front of the company. Here the police detained the trade unionists Hulisi Karlı, Kamil Kartal and Tufan Sertlek.

#### d) The 18 April Elections

Before and after the 18 April elections the pressure on members and executives of oppositional political parties increased. In particular small towns and villages witnessed severe fights. During these fights at least 37 died and hundreds of people were wounded.

In Esence town in Afşin district (Kahramanmaraş) relatives of an independent and one candidate for DYP clashed on 7 January. Ali Türkmen and İsmet Türkmen died. The gendarmerie detained Ökkeş and Fatih Özkan.

On 11 January the police in İzmir detained Takiyeddin Tekin, Sıraç Demir and Ferhat Tanrikulu from the HADEP in Konak district.

At the beginning of January a clash occurred on Aliçeyrek village of Horasan district (Erzurum) resulting the death of three and injuries of 7 people. The fight between the Bingöl and Karataş family arose on the question of repeated names in the list of voters. Kamuran Karataş (45) and İsmet Karataş (29) died on the spot. Kenan Bingöl died in hospital.

In Beşağil village Karatay district (Konya) Ömer Karataş, candidate for the post of village headman, killed the current headman Vahit Apak.

Clashes between two groups from Esenceli town in Kahramanmaraş province, who had come to inspect the voters’ lists in Afşin district, resulted in the death of İsmet Türkmen and Ali Türkmen and injuries of 7 people.

During a fight between the headman of Demirci village in Kastamonu province, Ali Osman Semerci, and the candidate Mehmet İbikoğlu the latter died.

Lawyer Hasip Kaplan was prevented from entering Şırnak so that he had to file his candidacy as an independent politician via a notary at the end of February.

On 30 March a group of people attacked the election convoy of the MHP in İstanbul-Sarıyer. The members of the convoy responded. During the clash Saadet Gökmen, Erhan Dikmen, Hüseyin Özgür, Murat Filoğlu and İrfan Yılmaz were wounded. Four people were detained after the incident.

In Ankara-Keçiören members of CHP attacked a group of EMEP members on 30 March, when they were putting up posters. The CHP members wounded the EMEP members Murtaza Aykaç and Taylan Saygılı.

On 1 April a group of DYP members attacked ANAP MP for Batman province, Ataullah

Hamidi, in the office of ANAP in Batman. ANAP members responded and the bodyguards of Hamidi fired some shots in the air. The security forces intervened, but could not prevent that the brother of Atallah Hamidi, Hayrettin Hamidi and three more 3 ANAP members were wounded. Five people were detained after the incident.

On 1 April a group of 15 DYP members attacked Mustafa Özgür Kaya, executive of EMEP, while he was putting up posters in Çorlu district (Tekirdağ). He was injured and received a medical report certifying his inability to work for three days.

In İstanbul-Alibeyköy unidentified people threw a molotov-cocktail into the shop of Cansel Kişioğlu, executive of İP and candidate for the parliament of the municipality.

On 4 April uniformed and plain-clothes police officers attacked a HADEP convoy in Şanlıurfa-Suruç district. Fifteen people were injured, one of them seriously, because an officer had shot at him. The police detained some 400 people and ordered the convoy out of town.

On 4 April the police in İstanbul stopped the convoy of HADEP in İstanbul-Zeytinburnu on the grounds that some people had made the peace sign (two fingers for two separate States). At the same time a group of MHP followers attacked the convoy with stones and sticks. The police let the convoy drive on, but stopped it again in the Yedikule area and detained 4 people. The police beat Selçuk Koç, Leyla İlhan and Mesut Er, reporters from the daily "Star", who wanted to cover the action. Reportedly the leg of Selçuk Koç was broken.

On 7 April Ömer Tayyar, headman of Göydoğan village in Taşova district (Amasya) went to the shop of Erdoğan Aydoğan, the son of the candidate Seyfullah Aydoğan. After a discussion Aydoğan killed Tayyar. He tried to run away, but was shot dead by Tayyar's assistant Mehmet Toşova and the guard Zikri Yıldız. They also killed Şerafettin Aydoğan, the grandfather of the victim, who had come to the spot.

On 9 April PKK militants kidnapped Osman Dara, candidate for ANAP in Hakkari province, his brother İzzet Dara and two unnamed person in Beşbulak village in Yüksekova district. Two days later the police detained Nihat Buldan, candidate for HADEP, Hetem İke, candidate for the HADEP for the post of mayor, and the HADEP members and executives Hasan Mert, Kemal Uçun and Şevket Yıldız. They were interrogated for 6 hours. Osman Dara and İzzet Dara were released close to the Iranian border on 5 May.

On 10 April MHP followers attacked the election bus of the independent candidate for region 3 in İstanbul, Sabri Topçu, while he was traveling in Avcılar. The assailants beat the people in the bus. Three of them were injured, Arif Terzi severely.

On 11 April a fight broke out in İstanbul-Esenler between a group of MHP followers and ANAP members, because the MHP had put up posters over the posters of ANAP. During the fight MHP follower Fethi Aslanhan (19), and the bodyguard of Ömer Kazancı, the ANAP candidate for the post of mayor, İhsan Keleş, were killed. A group of MHP adherents came to the election office of ANAP in Esenler district and broke the windows, after they had heard of the death of Aslanhan. Later they went to Esenler Police Station and wounded the brother of Ömer Kazancı, Nurettin Kazancı, when he came out of the police station.

On 11 April MHP adherents attacked HADEP convoys in İzmir and İstanbul. In İzmir the MHP followers attacked the cars with stones after the meeting in Gaziemir. The police stopped the convoy and detained many HADEP members. Three HADEP members were wounded by the stones and had to be taken to hospital. In İstanbul the MHP followers

attacked the HADEP convoy in Kağıthane quarter and also in Ümraniye and Beykoz districts. The police reportedly detained many HADEP members.

In İstanbul-Avcılar MHO followers attacked SİP members, who were putting up posters. The MHP members used knives, axes and stones and injured four SİP members including the Mayor for Avcılar, Serpil Çakır.

On 10 April a fight broke out in front of the MHP election office in Şanlıurfa, Eyyübiye quarter. During the fight Hakim Şahin killed Ahmet Kılıç, Salih Harkut, Mehmet Demir, Halil Kılıç, Mehmet Harkut and Müsbeh Menteş. The mother of Ahmet Kılıç, Ayşe Kılıç, died of a heart attack, when she heard that her son had been killed.

In Batman the discussion between CHP and ANAP members on where to put up posters turned into a fight on 15 April. During the fight the CHP members Cemal Demirhan, Ömer Acet and Mehmet Erol were wounded.

Ramazan Topaktaş died in a fight on the election in Adana on 15 April.

Students affiliated to the BBP wounded Selami Akçam at the Faculty of Literature at İstanbul University on 15 April, when he wanted to put up posters of ÖDP. The police detained 41 students, mostly those, who had been attacked.

A discussion occurred, when on 17 April convoys of SİP, BBP and DYP met in Kadıköy-İstanbul. SİP member Hüseyin Duman was killed by shots from an unidentified person.

In Bekirhan town, Kozluk district (Batman) members of ANAP and DYP had a fight on 17 April that resulted in injuries of 7 persons, one of them seriously. Kenan Gözelge was injured by gunfire, while the other 6 people were injured with stones and sticks.

In Fıstıközü village in Halfeti district (Şanlıurfa) the village headman Hüseyin Yalçınkaya and the relative of a candidate, Kadir Tezel, had an argument that resulted in Kadir Tezel's death and injuries of Hüseyin Yalçınkaya.

On 18 April the Dağdeviren and Cevher families clashed in Viranşehir district (Şanlıurfa) in connection with the election of headmen. Mehmet Demir, Mehmet Devanlı and Mehmet Nilüfer were killed and 7 people were injured.

Fikret Çolakoğlu, candidate for the DTP in Çorlu district (Tekirdağ) was injured on 17 April, when someone attacked him with firearms.

On 17 April MHP followers attacked a convoy of the FP in Ankara-Altındağ. Three people were injured in the attack carried out with stones and sticks.

In Ankara-Keçiören members of CHP and DSP clashed on 17 April leading to injuries of 8 people.

On 17 April, Adil Yılmaz, brother of Adnan Yılmaz, a candidate for the post of headman in Adalar village, Ağlı district (Kastamonu), killed another candidate, Mustafa Arslan.

On 17 April some 20 MHP followers beat Bilal Ayyıldız, Ali Bulut and Erhan Kahraman in Ankara-OSTİM, when they were putting up posters.

Members of a special team killed Mehmet Elüstü (19) and Yılmaz Elüstü in Bingöl on 17 April, when they distributed leaflets on the election (see the chapter on Right to Life).

On 18 April at 3pm a military vehicle that transported staff of the election from Kızılcaören village to Hafik district in Sivas province was attacked. The soldiers Davut Gündoğdu and Hasan Yılmaz and the election staff members Nail Çelik and Kemal Ayan were killed and the soldiers Hacı Fındıkçı, Bekir Bozbağ, Kemal Ocak, Serdar Kurtçu and the staff Cemil

Akbaş were injured.

In Cizre district (Şırnak) allegations were made that votes on the 18 April election for the post of mayor had been stolen. Followers of Kamil Atak, chief of village guards and a candidate for ANAP fired shots in the air at 11pm. It was said that during the ensuing chaos other supporters of Kamil Atak stole election boxes and replaced them with other boxes containing faked votes. Until then the candidate for FP, Emin Dünder had been leading, but he lost the vote to Kamil Atak. After the rumors several shops closed and about 10,000 people marched to the city center. The gendarmerie intervened and detained some 50 people.

On 19 April Mustafa Meriç was killed in Gecikmez village, Sarıkamış district (Kars), allegedly because he voted for HADEP. The village guards Tahsin Çetinkaya, Tufan Çetinkaya, Hakan Hindistan and İbrahim Taş were detained in connection with the killing.

On 20 April Ahmet Akay killed Hakan Tomak in Kırklareli-Pınarhisarı town during a dispute on the election results for the post of mayor.

In Yeşilli village (Mardin) followers of the winning headman and the loser clashed. The clash resulted in injuries of 7 people.

In Malatya-Yazıhan district the families 'Ölmez' and 'Köse' clashed on 20 April about the election results. Gazi Köse, Mercan Köse, Selçuk Ölmez, Elif Ölmez, Yakup Ölmez, Sırrı Ölmez and Hatice Akyol were injured.

In Kırıkkale-Keskin district MHP candidate Bülent Altınışik objected to the election of the DYP candidate Dede Yıldırım as mayor. He wanted the votes to be counted again. This led to a fight on 22 April, during which Haydar Altınışik, a relative of Bülent Altınışik, injured Ferit Sağlam, working in the election council.

In Uluköy (Şanlıurfa) a dispute on the election of the headman resulted in injuries of 20 people.

During the 18 April elections Fesih Demir was elected advisor of the municipality from a list of HADEP. On 21 April soldiers detained him. Fesih Demir alleged that he was tortured and complained to the HRFT and the HRA.

During the 18 April election the teacher Medeni Alpkaya, sitting at the polls, had reported on police officers intervening in the election in Diyarbakır. On 3 May police officers beat him up. Alpkaya was certified 5 days' inability to work. He reported: "At 0.30pm I left school. A plain-clothes detective forced me out of the minibus that I had entered. About 4 to 5 people searched me and confiscated my ID and notebook. I asked them for their names, but did not get a satisfactory answer. Later I found out that one of them had been among the police officers, who intervened in the voting on 18 April. They took me to a shed for police officers and asked the uniformed officers to leave. They beat and insulted me for about two hours and forced me to sign a paper that I was not allowed to read. Then they took me to the political police and from hear to a health center. Then I was released." Medeni Alpkaya added that he would file an official complaint.

In Yukarı Kurdoğlu village (Ardahan) the fight on the result of the elections for headman resulted in the death of 2 and injuries of 8 people. During the 18 April elections İlkin Gökçe had won the vote. His and the family of the defeated Cemal Yılmaz had an argument on 6 June that resulted in a fight with arms, stones and sticks. Akın Gökçe and Suat Gökçe were killed with arms. Dilek Yılmaz, Ömer Yılmaz, Osman Yılmaz, Rasim Yılmaz and İbrahim Ertürk were wounded.

In Şırnak-Silopi the ANAP candidate for the post of mayor, İbrahim Tavşun and Neşet Ökten, who was elected mayor for the DYP, had an argument on 16 June. In the fight Fahrettin Şengül, nephew of İbrahim Tavşun was killed and five people were injured.

On 2 November ANAP member Kemal Arat and his men attacked HADEP members, after four of five members of the Administrative Council in Muş had been elected from HADEP. The HADEP members Bahattin Bingöl, M. Mirza Güneş and Şahin Kotan were injured and detained after treatment in hospital.

#### Pressures on Voters for HADEP

Reports from Güroymak district in Bitlis stated that the commander of the gendarmerie station called the headmen of Serievi, Körhaç, Çitax, Bozağaç, Birik and Goryan village in January and threatened them that he would set the villages on fire, if anybody voted for HADEP.

On 23 January soldiers raided Tepeden, Aşağı Balçıkçı and Yukarı Balçıkçı village in Özalp district (Van) and threatened the inhabitants not to vote for HADEP. In Tepeden village they gathered the population on the square and said that they would have to leave if they voted for HADEP. They said: "You can put your belonging together and go to the Iran or Iraq".

In Eruh district (Siirt) evacuated villages were shown as completely inhabited on the list of voters. Local people named Keve, Torik, Nit, Gomika, Awel, Buqat, Yakup and Hergule village as examples for faked lists.

Reports from Beytüşşebap district (Şırnak) stated that the commander of the gendarmerie station gathered the headmen from villages, mayors and leaders of tribes and threatened them not to vote for HADEP.

In Başkale district (Van) officials from the police and gendarmerie reportedly toured the villages asking the population not to vote for HADEP. On 26 January Başkale Governor Şevket Cimbir, the chief of Başkale police and gendarmerie commander visited Kadan, Kızılca and Embi village in a convoy of 26 military vehicles and asked the inhabitants not to vote for HADEP.

Officers from Hacıali Police Station in Özalp district (Van) reportedly visited Bodurağaç and neighboring villages ordering the population not to vote for HADEP. They would only collect boxes, if the votes had been done openly. In case that the villagers would vote for HADEP, they would burn down their houses.

At the beginning of March soldiers raided İsxan (Altınbaşak) village in Viranşehir district (Van) and threatened the villagers with evacuation, if they voted for HADEP. They gathered the population in the village square and reportedly detained two men.

On 16 and 17 April soldiers raided some 20 villages in Uludere district (Şırnak) and detained some 400 people including 28 HADEP members campaigning for the 18 April elections. They were only released after the elections. The names of some of the detainees were: Şakir Elma, Sadık Elma, Ali Özhan, Tevfik Öncü, Edip Öncü, Zeki Tosun, Ahmet Öncü, Halit Öncü and Ramazan Öncü.

Reports from Aşağıkonak (Xanıkajir), Beşpınar, Meşitki (Salyazı) and Başalan village in Çınar district (Diyarbakır), where the inhabitants of some 30 villages left their votes, stated that village guards forced the voters to place their crosses openly. They reportedly beat journalists, who wanted to take pictures. In Beşpınar village Nevzat Bingöl, local representative of ATV, the cameraman Esat Aydın, the Reuters reporter Yılmaz Akıncı and

two staff members of the TV station Kanal 6 were taken outside the village. Musa Farisoğlu and Abdullah Yavuz, candidates for HADEP in Diyarbakır, went to the village and were detained. They were released later.

On 21 and 23 April soldiers raided Hethetke (Doğankavak) and Bolinde village in Beşiri district (Batman) and told the population that they had to take up arms against the guerillas since they voted for HADEP. Otherwise they would have to leave. The villagers also complained that the soldiers made arbitrary road checks and gave penalties to the drivers. This practice had started after the election.

Allegations from Kozluk district (Batman) said electricity was cut in some 40 villages for about two weeks. Officials from the electricity company TEDAŞ said that the electricity was cut, because the bills had not been paid, but the villagers maintained that the gendarmerie controlled the electricity and had cut it, because they voted for HADEP.

On 28 April the electricity for 10 villages in Kozluk district, 15 villages in Bekirhan district and 14 villages from Tuzlagözü town was cut. Inhabitants from Şelmo village (Bekirhan) stated that the officials from TEDAŞ had come accompanied by soldiers and cut the electricity. The villagers stated that it was not true that they had not paid their bills. One of them said that the meters were read once in 6 months and the last time the meters had been read in January. All but one family had paid the corresponding bills. Another villager stated that the soldiers had come before the election and threatened them not to vote for HADEP. They had said that they would be treated according to the result of the election. Still many villagers had voted for HADEP. The names of some of the villages are: in Kozluk district: Timoq (Gümüşörgü), Sihhiye (Örensu), Zengoviye (Kocabey), Daragozîñ (Danagözü) and Mişrîta (Yedibölük); in Bekirhan district: Şelmo (Ulaşlı), Çemik, Zûra (Zorluca), Cewşan, Melkişa (Kavakdibi), Dahk (Kaletepe), Tûmo (Tomurcuk), Hürriyet Köy, Ware Melle, Baqîne (Dönagözü), Rabat (Sarıküşak) and Zıla (Yeniçağlar); in Tuzlagözü town (the city), Tojgan (Uğurlu), Gundenû (Yeniköy), Reşedara (Çayönü), Beriana Jor (Taşlık), Kûrere (Derince), Petexiye (Ankaya), Ceznike (Dikbayır), Sewika (Yemişlik), Gola Masiya (Yeşilyurt), Baqircaye (Dilimli), Cezne (Yazpınar) and Mala Xano (Kurşunlu) village.

Reports from Yayla town in Genç district (Bingöl) stated that villages that voted for HADEP for subjected to a food embargo starting at the end of April, while villages in Karlıova district were threatened with evacuation after they had voted for HADEP. Villagers in the area of Yayla town stated that there had not been any restriction on food they bought in Diyarbakır, Bingöl and Genç, but for over a week soldiers had taken the food away from them. Now they were forced to get permission from the gendarmerie station for only small portions of food. On 29 April soldiers had informed them that this was the punishment for having voted for HADEP. On that day soldiers had detained 50 people. The villagers were released on 2 May and alleged that they had been tortured.

Soldiers from Yamaç Gendarmerie Station cut the electricity of Gökdere village (Bingöl) and reportedly said: "Get the electricity from those, you voted for".

Reports from Karlıova district stated that soldiers from Karlıova Gendarmerie Station frequently raided the villages, after 60% of the votes had been given to HADEP. Many people were detained during the raids and tortured in custody. The villagers also alleged that they had been threatened with evacuation of their villages.

During a raid on Molapolat village in Çınar district soldiers said to the villagers: "We have taken you down from the mountains and given you houses and you voted for HADEP. We shall send you to the mountains again. Afterwards the soldiers searched the houses and detained the daughter of Mehmet Demirkapı, allegedly because they found a kaleshnikov

at home. The villagers claimed that the soldiers had placed the gun there.

On 22 April Mehmet Altıntaş and another 15 inhabitants of Taxmas village in Gevaş district (Van) were called to the local gendarmerie station, after 25% of the votes had gone to HADEP. The villagers alleged that they were threatened and beaten before release.

The strategic village Martanıs (Konalga) had been established in 1998 by putting together 4 villages. In this village, where only village guards of the Ezdinan tribe were living, HADEP gained 100 out of 800 votes. Salih Özbek, leader of the Ezdinan tribe, allegedly burned the votes for HADEP.

On 2 May soldiers raided Akbaş (Sergewra) village (Bismil) in the morning. They searched the houses and allegedly destroyed the furniture in some houses. They later gathered the men in front of the school and beat them up. They forced the men to lay down with their faces on the ground, ran over them and cursed at them asking why they had voted for HADEP. One commander threatened them with heavy punishment. The priest (imam) was asked to make propaganda for the State. Otherwise he would get a heavy penalty. Further allegations stated that the electricity meters of 40 families were destroyed.

The soldier then took Salih Erkek, Celal Mertaş, Bedrettin Kahraman and Abdullah Kahraman and made them wait under the hot sun until the evening. The villagers said that they had been threatened not to vote for HADEP, but many people had voted for HADEP.

In Kargapazar village of Karlıova district Mehmet Çiftçi (60) and Nurettin Taşkın (52), 2 of 8 villagers, who had been detained on 2 May, were arrested. On 3 May the soldiers raided the village again and detained Fehim Kaya (67), Ramazan Kaya (55), Hasan Çelik (75), Abdulbaki Şenocak (80) and Osman Nuri İnce (40). During a third raid on 5 May Burhan Özmen was detained. They were released after some time. The remanded Mehmet Çiftçi and Ramazan Kaya had been released from Elazığ Prison a while ago.

On 6 May officials from TEDAŞ cut the electricity in Beşpınar village, Çınar district (Diyarbakır). The villagers protested and stated that they had been threatened before the election. They said that 33 families had been forced to leave the village in 1993, because they did not want to become village guards. These families owed TL 1.5 billion, but none of the remaining villagers had debts of electricity.

In Beytüşşebap district (Şırnak) the villagers were not allowed to graze their cattle and sheep on meadows. They collected signatures alleging that the ban was not imposed for reasons of security, but because HADEP had gained 400 votes, despite threats.

Reports from Kocaköy district (Diyarbakır) stated that the villagers in Qatin (Çaytepe), Dirûn (Gökçen), Beni (Boyunlu), Kûçik (Bozbağlar), Aqraci and Memedyan (Arkbaşı) village were threatened, because they voted for HADEP during the 18 April election. The commander of the gendarmerie station had called them traitors, who had no right to live. Şevket Kaçmaz from Şatin village stated in July that their income was very small. His 7-year old son Ramazan had fallen ill and he had taken him to Kocaköy:

“I went to the health center and got a green card (for free treatment) that needed to be signed by the district governor and the commander of the gendarmerie station. The governor signed the card without any objection. At the gendarmerie station I was asked for the place I had come from. When I said that I was from Çaytepe village the lieutenant on duty took my card and said that 300 terrorists were in my village and people from there would not get a green card. He cursed at me and chased me away.”

Similar practices were reported from Çınar district (Diyarbakır). Reportedly green cards were taken away from their owners.

In July 13 families from Bay village (Hakkari), who had been disarmed as village guards, because they had voted for HADEP, left the village to settle in Hakkari. They said that they had not been allowed to work on their fields and graze their sheep and had been threatened with death. Only the inhabitants were allowed into Bay village.

On 25 August soldiers raided Kazancı village in Bismil district (Diyarbakır). They gathered the inhabitants and beat them in the village square. They continued to beat Davut Dal, Mahmut Çavdan, Şükrü Altunç, Sabri Türk and Ahmet İpek with the butts of their rifles and kicked them for a long time. The villagers complained to HADEP in Bismil district and said that they had been attacked, because they voted for HADEP.

## 10. Pressure on Human Rights Defenders

The pressure and attacks on human rights defenders continued in 1999. Executives and members of human rights organizations were put on trial. On 3 June Akin Birdal ([\[54\]](#)), chairman of the HRA, went to prison to serve his sentence for speeches on human rights. The Gaziantep branch of the HRA was closed in July for a period of 3 months. The branch in Diyarbakır remained close for the whole of 1999. The Malatya branch of Mazlum Der was closed in May.

On 26 January the Press Center of the General Staff issued an information sheet on “Fight against Terrorism and Human Rights”. The note claimed that the human rights organizations in Turkey were not impartial and objective and accused the HRA, without spelling out the name, of being the “brain of the PKK”. HRA chairman Akin Birdal was called “a person with close ties to the PKK, who became candidate of a pro-Kurdish party”. The human rights defenders were said to expect the Western world to impose a serious on Turkey and to make Turkey’s fight against terrorism ineffective. The human rights organizations allegedly used every possibility to criticize the Turkish State, but would never protest the murders of the PKK. An incident in May 1993, during which 33 soldiers were killed, was shown as an example, because the HRA chairman had said that this might be a provocation of the government.

Hüsnü Öndül, at the time SG of the HRA, responded on 29 January. He said that Akin Birdal had run for the Peace Alliance including the United Socialist Party and used the right of every citizen to be a candidate in elections. Öndül pointed to the fact that the General Staff had made the statement right before the general and local election and added that it was unacceptable to be called pro-Kurdish and linked to the PKK. He reminded that the HRA had protested against the killing of 33 soldiers. He further stated that human rights violations in Turkey were not used an allegation, but a fact that had been confirmed by decisions of courts.

The Ministry of the Interior did not allow the International Human Rights Foundation (FIDH) to hold a board meeting in İstanbul in February. Hüsnü Öndül argued that this was a meeting intended for an exchange of information among human rights activists and, therefore, the Law 2911 on Meetings and Demonstrations was not applicable. Öndül called it a contravention to international human rights norms not to allow representatives of human rights organization in 60 countries to come to Turkey and exchange their views on human rights.

### *Akin Birdal*

The imprisonment of Akin Birdal on 3 June was based on verdicts by Ankara and Adana SSC. He had been tried under Article 312 TPC for speeches he made on 1 September 1995 and on 1 September 1996. Both courts had sentenced him to 1 year’s imprisonment each. The Court of Cassation confirmed the sentence of Ankara SSC on 27 October 1998 and the verdict of Adana SSC on 20 April.

In its newsletter of May Amnesty International (AI) informed the world of the fact that Birdal had been convicted for speeches on World Peace Day and the sentences had not been suspended. AI adopted Akin Birdal as prisoner of conscience in June asking for his immediate and unconditional release. Pierre Sané, AI’s Secretary General, wrote to Mr. Birdal to express his support:

"Our organization is outraged that just one year after you barely survived a callous attempt

on your life the Turkish authorities are enforcing a verdict which is clearly in violation of Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, without regard to your continued need for rehabilitative treatment usually not available in prison," Mr. Sané said.

Ai further stated that HRA officials had been threatened, arrested, prosecuted, abducted and 11 of them killed. These killings had never been investigated properly. Akın Birdal was the target of an assault on 12 May 1998 in which he nearly lost his life and from which he had not fully recovered. In addition to campaigning for Mr. Birdal's immediate and unconditional release, Amnesty International also campaigned for the reform of all articles of the Turkish Penal Code and the Anti-Terror Law restricting the right to freedom of peaceful expression, for all closed branches of the HRA to be reopened, and for all human rights defenders to be allowed to pursue unhindered their lawful role of monitoring and reporting human rights matters, as set out in the UN Human Rights Defenders Resolution of 9 December 1998.

On 2 June the Forensic Institute sent a letter to the prosecutor for the execution of sentences recommending a delay of the execution of Akın Birdal's sentence for 6 months so that he could be treated, but the prosecutor rejected a release on the grounds that Mr. Birdal was not suffering from a vital disease.

When Akın Birdal's health deteriorated his lawyers appealed for a temporary release on 21 September. The public prosecutor in Ankara followed the demand and Akın Birdal was released on 25 September.

#### The Case of Attempted Assassination of Akın Birdal

In connection with the armed attack on HRA chairman Akın Birdal on 12 May 1998 a total of 17 defendants [\[55\]](#) were tried at Ankara SSC. During the hearing of 20 April the defense lawyers claimed that there was no other evidence than the statements of the defendants to the police, which had been extracted under torture. Intervening lawyers asked for Hanefi Avcı, former deputy director for intelligence at the General Directorate for Security, but the Court rejected this demand. It decided instead to inspect the testimony of Avcı on the attack and the transcription of phone conversations between Mahmut Yıldırım, known under his code name "Green", Semih Tufan Gülaltay [\[56\]](#), Cengiz Ersever and Ahmet Fulin.

In the hearing of 20 May the response of the General Directorate of Security was read out stating that there were no minutes on the phone conversations between Mahmut Yıldırım and the defendants Cengiz Ersever, Semih Tufan Gülaltay and Ahmet Fulin.

On 8 June the prosecutor summed up the case. He stated that the defendants Kulaksızoğlu, Gülaltay and Ersever had founded the Turkish Revenge Brigade (TİT) to fight against the PKK. They had met Mahmut Yıldırım at the beginning of 1999. They had decided to punish Akın Birdal, who they thought was supporting the PKK via the secret service of Iran. The defendants had undergone training in arms in İstanbul in preparation of the attack. He asked for a conviction of Semih Tufan Gülaltay, Cengiz Ersever and Hasan Hasanoğlu for the full attempt of killing and forming a gang to commit a crime. For the defendants Bahri Eken and Kerem Deretarla he asked for conviction for the full attempt of killing a person.

During the hearing of 3 August defense lawyer Cahit Torun admitted that the defendants had met once to talk about how to stop activities of the HRA and Akın Birdal. Defendant Hasan Hasanoğlu shouted at the intervening lawyers calling them slaves of the PKK and had to be removed from the courtroom, because he was about to attack the lawyers. After

the hearing defendant Selçuk Gürz was released.

During the hearing of 21 October the defendants Semih Tufan Gülaltay, Hasan Hasanoğlu, Bahri Eken and Demir Demirok presented petitions asking for treatment as repentants. They withdrew these petitions on 16 November, after they had heard of the possibility of an amnesty bill to be passed in parliament.

The trial concluded on 29 December. Ankara SSC sentenced Cengiz Ersever to 18 years, 10 months and 20 days' imprisonment for being a founder of TİT and having ordered the attack on Akın Birdal. Semih Tufan Gülaltay was sentenced to 19 years, 2 months and 3 days' imprisonment for having organized the attack. Hasan Hasanoğlu, Cemal Kulaksızoğlu and Bahri Eken were sentenced to the same prison term for the foundation of a crime gang, the full attempt of murder and having used a faked ID. The triggerer Kerem Deretarla, who had been under 18 years of age at the time of the crime, was sentenced to 12 years, 2 months and 20 days' imprisonment. Demir Demirok was sentenced to 10 years, 10 months' imprisonment; Selçuk Gürz to 9 years, 2 months; Ekrem Santulu to 20 months' imprisonment. Ankara SSC acquitted Mehmet Furkan Ek and Namık Zihni Ozansoy from charges of having founded a gang to commit crimes, but Mehmet Furkan Ek was convicted for the possession of hashish and Namık Zihni Ozansoy for the illegal possession of arms. Both received prison terms of 10 months each. The sentences were suspended. Ahmet Fulin, Cem Kadir Keçecioğlu, Cengiz Kördeve, Oya Kaya, Ayfer Çakar and Nejat Algan were acquitted completely.

After the verdict Akın Birdal said: "In the light of the evidence this verdict had to be expected. I did not want them to be sentenced to death, because I am opposed to the death penalty. I hope that these sentences will be a deterrence for attacks on human rights defenders."

#### Cases against Akın Birdal

On 9 February Bursa Criminal Court No. 1 acquitted Akın Birdal in connection with a speech he had made on Flash TV on 25 October 1997. He had been charged under Article 159 TPC with insulting the armed forces.

On 23 December Ankara SSC concluded the case against Akın Birdal and Doğu Perinçek, chairman of İP on charges of supporting the PKK. The Court acquitted both defendants because of lack of evidence. An official complaint was filed against repentant militant Sami Demirkıran, whose statements had led to the trial.

On 9 February Diyarbakır SSC started to hear the case of Akın Birdal, Cemil Aydoğan, chairman of the Mardin branch of the HRA and Mahmut Şakar, former chairman of the Diyarbakır branch of the HRA. They were charged in connection with speeches they made on the HRA Congress in Mardin in 1996. Akın Birdal stated that they had talked about human rights in the region and the press statement had been a criticism of human rights violations. He would repeat it, if necessary. On 9 November the prosecutor summed up the case and asked for the defendants to be convicted according to Article 8 LFT for having disseminated separatist propaganda. Diyarbakır SSC acquitted the defendants on 14 December.

On 25 March Akın Birdal testified to Ankara SSC in connection with a case running at Adana SSC for a speech he made in Tarsus on 24 December 1995, at the time being a candidate for the alliance of various parties for the general elections. He was charged under Article 312 TPC. The trial at Adana SSC did not conclude in 1999.

The trial against Akın Birdal, Haydar Kaya, chairman of EMEP for Ankara province, Recep

Dođaner, former member of the parliament of HADEP, Mustafa Kahya, board member of ÖDP and the journalist Ragıp Duran in connection with speeches they made during human rights' week in December 1996 continued at Ankara SSC. This was a retrial. On 30 December 1998 Ankara SSC had sentenced Haydar Kaya to 1 year's imprisonment and acquitted the other defendants. The Court of Cassation had quashed the verdict.

A court case was opened against Akın Birdal, Şehmus Ülek, chairman of the Urfa branch of Mazlum Der and Aziz Durmaz, chairman of the Urfa branch of the HRA on allegations of having insulted the State authorities in speeches they held during the congress of the HRA in Urfa in May.

### *The Human Rights Association (HRA)*

#### *HRA Headquarters*

Following the decision of the Court of Cassation on the Öcalan case of group of 30 to 35 people stormed the HQ of the HRA on 25 November. The group under the leadership of lawyer Şevket Can Özbay, who had acted as intervening lawyer in the Öcalan trial, allegedly had come to leave a black wreath. The intruders beat chairman Hüsnü Öndül and board member Avni Kalkan and damaged the equipment. The group left without any intervention of the police. Police officers positioned at the entrance of the HQ of the HRA since the attack on Akın Birdal did not stop the group from entering.

Hüsnü Öndül said after the attack: "We all have seen, how risky it is to work for human rights in Turkey. I do not have any problems with the families of martyrs. Pain is pain, whoever feels it. I believe that they were incited." The HRA filed official complaints against Ankara Police HQ, the governor in Ankara and the Ministry of the Interior. The subsequent investigation resulted in a decision not to prosecute anyone.

Following the attack the political advisor to the EU talked to Hüsnü Öndül and said he would prepare a report on the incident. AI protested the attack in letters to Prime Minister Bülent Ecevit, Interior Minister Sadettin Tantan and Mehmet Ali İrtemcilik, State Minister for Human Rights. AI called for charges against the officers, who had neglected their duty.

On 2 December the police dispersed a crowd of people, who had gathered in front of the İstanbul branch of the HRA to protest against the attack and detained the board members Şaban Dayanan and Kivanç Sert under bearings. They also beat Suavi Saygan, board member of the HQ of the HRA. The detainees were released shortly afterwards and the press conference was held inside the office.

#### *HRA Şanlıurfa Branch*

On 13 January the Urfa branch of the HRA was opened again. The branch had been closed on 29 June 1997 on a decision by Şanlıurfa Penal Court No. 1 ruling that the association had carried out activities against the statute. The Court of Cassation had overruled the decision on 16 June 1998.

#### *HRA Bursa Branch*

On 17 June the Bursa branch of the HRA was opened again. On 12 November 1998 Bursa Governor's Office had closed the association on the grounds of possessing illegal publications and conducting a hunger strike against the pressure on the HRA. The same allegations had led to a trial at Bursa Penal Court No.3, which ended in acquittal.

#### *HRA Gaziantep Branch*

On 8 July the police raided the Gaziantep branch of the HRA. The raid followed the detention of Selda Torunođlu and Songül Tilkidađ on 7 July, when they collected

signatures for the HRA's campaign against the death penalty. During the raid the police detained board member Ali Şimşek. Rıdvan Özer, chairman of HADEP in Şahinbey district, Fatma Akın and a person by the first name of Ercan were detained in the same context. All of them were charged with collecting signatures without permission. After the raid the governor in Antep ordered the closure of the association for three months. The door was sealed on 25 July and on 25 October opened again.

#### HRA İstanbul Branch

On 29 September the police raided HRA İstanbul Branch on claims that the HRA organized the protest action in and outside the prisons. Lawyers and board members of the HRA, who came to spot, were not let in and some of them were beaten. Later they were allowed in. The search lasted for two hours and the police seized posters, placards and press bulletins, which the HRA used during its actions.

#### HRA Van Branch

The Van branch of the HRA that had been closed in 1994 was opened on 23 October. The branch had started activities in 1989, but was forced to close down, because of the pressure on the chairman Nazmi Gür and other board members.

#### HRA Diyarbakır Branch

On 24 May 1997 the governor's office in Diyarbakır had ordered the permanent closure of the Diyarbakır branch of the HRA. The court case opened in connection with the allegation that the association was conducting activities threatening the unity of the State ended in acquittal on 11 May. Diyarbakır SSC acquitted the board members Mahmut Şakar, Osman Baydemir, Sinan Tanrikulu, Vedat Çetin, Özlem Çetin, Pirozhan Doğrul, Mazhar Kara, Bülent Uçaman, Doğan Özdemir and Salih Tekin. Demands for an opening of the branch remained fruitless, since Diyarbakır SSC argued not to be competent on this.

#### *Pressure on Officials and Members*

On 8 January Sevgi Yamaç, chairwoman of the Denizli branch of the HRA and the treasurer Hacı Ahmet Akkaya were remanded on charges of membership to the DHKP-C. They were among 18 defendants tried at İzmir SSC. After the hearing of 25 May Sevgi Yamaç was released. The trial did not conclude in 1999.

In April the Court of Cassation confirmed the sentence of 11.5 months' imprisonment imposed on lawyer Eren Keskin, chairwoman of the İstanbul branch of the HRA for an article in the journal "Medya Güneşi", published in 1995. The sentence was suspended according to the Amnesty Bill for the Press.

On 3 February İstanbul Penal Court No. 5 acquitted Eren Keskin from charges of illegal distribution of leaflets. Keskin stated that the HRA had made a statement against the cell-type prisons and added that press statements were not against the Law on Associations.

In July the public prosecutor in Beyoğlu indicted Eren Keskin under Article 312 for praising a criminal act. During a press conference on 21 March she allegedly had answered a question by saying, "You may be astonished, but we are also protecting the rights of guerillas". Eren Keskin stated that the paper "Öncü" had misquoted her, because she had talked about the attack on the "Blue Bazaar" and said that the journalists may be astonished about the fact that the HRA protested the attack. The trial at Beyoğlu Penal Court No. 4 did not conclude in 1999.

Another case was opened on Eren Keskin in connection with a press statement she made on 1 September World Peace Day. Beyoğlu Penal Court No. 8 heard the case on charges

of a violation of the Law on Association, but did not reach a verdict in 1999.

On 9 June the court case against Ercan Demir, chairman of the İzmir branch of the HRA and the members Alp Ayan, Derviş Altun and Hacay Yılmaz concluded at İzmir Penal Court No. 8. The case had been launched in connection with a press conference in front of Buca Prison on 24 July 1996. The defendants were charged with having staged an illegal demonstration. The Court sentenced Alp Ayan and Derviş Altun to 18 months, Hacay Yılmaz to 20 months and Ercan Demir to 4 months' imprisonment. The sentence against Ercan Demir was commuted to a fine. The sentences of the other defendants were not suspended on the grounds of their past and the likeliness that they might commit the same offence against.

On 27 September İzmir Penal Court No. 15 acquitted Ercan Demir and the board members Aysel Çiçek, Suat Çetinkaya, Zeynel Kaya, Selahattin Ilgaz, Gani Oğuz and Orhan Ağacıkoğulları from charges of having illegally distributed leaflets. The case had been opened in connection with the campaign "Freedom of Thought". In protest at the ban of the governor to distribute leaflets and put up posters the HRA had organized a press conference on Konak Square. Leaflets had allegedly been distributed during the press conference.

Bekir Ceylan, chairman of the Balıkesir branch of the HRA, was dismissed from his job at Balıkesir State Hospital on 27 January. On 14 July the premises of the HRA had been searched. Later the public prosecutor had started an investigation on the claim that a form on the "People's Constitution" distributed by the journal "Kurtuluş" and other illegal publication had been found in the office of the HRA. The investigation had decided in a decision not to bring charges, but the High Disciplinary Council of the Health Ministry had dealt with the case on 11 December 1998 and ordered the dismissal of Bekir Ceylan, specialist for mental diseases, 6 months before his retirement.

Bekir Ceylan stated later: "Two cases were conducted: one against the HRA with the demand of closure and another one against me as the chairperson. I was acquitted. After acquittal someone called me saying that he was an official in the Ministry of Health. He said that I could continue my job at the hospital, if I resigned as chairperson of the HRA. Otherwise I would lose my job."

The dismissal was based on Article 125 of the Law 657 on Civil Servants providing that civil servants will be dismissed, if they dispose, hang up, distribute any kind of leaflets, posters and similar publications of illegal organizations or with an ideological aim.

Lawyer Ayhan Erkal mentioned that this provision was not applicable in this case, because his client had been chairman of the HRA as a private person and, even if the alleged offense had been committed it had not been committed as a civil servant. Erkal said that he appealed to the Administrative Court in Bursa and also approached the Ministry of Health pointing at the "amnesty of criminal records" that had entered into force on 28 August. The Ministry of Health had sent a negative reply.

In June a court case was filed against Osman Baydemir, Mahmut Şakar, Vedat Çetin, Sinan Tanrikulu, Özlem Çetin and Pirozhan Doğrul, board members of the HRA in Diyarbakır. They were charged in connection with a campaign on aid for the girl R.K., who had been raped by a village guard in Eryol village, Mermer own, Diyarbakır. The campaign started in 1997 and was supported by a large number of individuals and organizations. The board members of the HRA were accused of having collected money without permission. The statement of the HRA of 8 April 1997 was shown as evidence, because an account of a bank was shown as the place for donations. The trial did not conclude in

1999.

On 27 August Diyarbakır SSC started to hear the case of Cemil Aydoğan, chairman of the Mardin branch of the HRA. He was charged under Article 312 TPC in connection with a statement he made on Med TV concerning human rights violations in the Mardin region. The trial did not conclude in 1999.

In February lawyer Kenan Çetin, chairman of the Elazığ branch of the HRA, was acquitted from charges of having violated the Law in Associations in a press statement on 19 December 1998, the human rights' day.

On 11 May plain-clothes detectives came to the Ankara branch of the HRA and detained the chairman Lütfi Demirkapı stating that this was an order of the prosecutor at Ankara SSC. Demirkapı was released after testifying to the prosecutor. The interrogation was based on the action "save the country from gangs and the opposition from prison" conducted every Saturday at the Human Rights Monument in Yüksel Street.

#### Prevented and Hindered HRA Activities

On 29 September the police in İstanbul hindered some 30 HRA members from sending protest telegrams from Sirkeci Post Office to the State President, Prime Minister and Justice Minister in connection with the killing of 10 prisoners in Ankara Closed Prison. The police beat board member Şaban Dayanan and detained him. The other protesters were dispersed under beatings. One day before, 102 people had been detained on Sultanahmet Square. Only the lawyers Eren Keskin, Mihriban Kırdök, Muharrem Çöpür, Güzel Yazar and Gül Altay had been released in the evening. The others were said to refuse testifying in protest at the police brutality.

On 13 February the police in İstanbul prevented the İstanbul branch of the HRA to hold a press conference on Sultanahmet Square in connection with the plans to introduce prisons based on the cell system. When the crowd started to dissolve police officers went after them and beat them.

The Ankara branch of the HRA was not allowed to hold a press conference in front of Ankara Closed Prison on 19 February. The arrest of Abdullah Öcalan and hunger strikes were shown as the reason. The police beat members of the HRA, who waited in front of the prison. The press statement was made at the Human Rights Monument in Yüksel Street.

The HQ of the HRA was not allowed to start the "Week of the Disappeared" to be held between 17 and 31 May with a press statement. For 30 May a meeting was planned in connection with the campaign on freedom of thought. The governor and the police chief of Ankara did not allow the meeting pointing at a circular of the Ministry of Interior that banned all meetings and demonstrations on the ground that the trial Abdullah Öcalan would start on 31 May. The meeting had to be postponed for two months.

On 10 June the police prevented human rights defenders from sending postcards from Galatasaray Post office to Akın Birdal as part of the campaign "Freedom of Thought". When Eren Keskin wanted to make a statement about the action she was pushed inside the post office. The other protesters were not let into the post office. Having been held in the post office under surveillance of plain-clothes detectives Eren Keskin was let out of it after some time.

On 13 June the governor's office in İzmir forbid the HRA in İzmir to distribute bulletins and put up posters on the Freedom of Thought campaign in the office of the association. The decision was based on the "conditions in the country".

In Ankara the police prevented members of the ÇHD and HRA to hold a press conference in front of Ankara Closed Prison, when the prisoners boycotted the daily counts and were not allowed to receive visitors. The press statement was read out in Ulucanlar Park, close to the prison.

### *The HRA in the Press*

The daily "Hürriyet" titled on 13 March "This is Your Achievement" for a story on the attack in the "Blue Bazaar" in Göztepe-İstanbul holding the HRA responsible for the death of 13 people. Other papers and TV station presented similar stories. Hüsnü Öndül, SG of the HRA, made a statement saying that the HRA did not approve of any actions against civilians and stressed that the organization would not change this position. He reminded of the fact that the HRA had decided in 1992 not only to deal with violations of the State, but also to look into humanitarian issues. "It is part of our area of interest not only to observe human rights violations of the authorities, but also to follow actions in contravention to humanitarian law committed by armed political groups and organizations. We have protested against the taking of hostages, killings, injuring or bombing of teachers, engineers or other civilians, whatever their profession was".

Hüsnü Öndül pointed at Article 3 of the Geneva Convention as the guideline for their actions. He said that the HRA did not believe violence to be a means of political struggle. He called the action on the Blue Bazaar a crime against humanity and called on all human rights activists worldwide to protest this action.

The press statement in the premises of the İstanbul branch of the HRA was commented in "Hürriyet" of 15 March with the headline of "Amazing! The HRA Protested":

„The Human Rights Association that screams when a terrorist is killed, but keeps silent when innocent people are massacred has issued a statement in reaction to heavy criticism. The İstanbul branch of the Human Rights Association said in the statement on the massacre, in which 13 people were killed with molotov cocktails that no explanation could justify such an action. The association stated that violence had no restriction and said: "The reason for the explosives in a shopping center in Göztepe cannot be understood."

In June Ankara Judicial Court No. 18 decided that the daily "Hürriyet" had to pay compensation of TL 500 million to Osman Baydemir, deputy chairman of the HRA. The paper had presented his comment on the killing of Erdal Aksu, who on 29 October 1998 had hijacked a plane from Adana to Ankara, "he should have captured alive" under the headline of "Look at the Idiot".

Ankara Judicial Court No. 7 awarded Akın Birdal TL 300 million, because the columnist Yağmur Atsız, writing for the daily "Yeni Yüzyıl" had called him "traitor" in an article that was published on 21 November 1998.

Emin Çölaşan: "Human Rights"

In Turkey we observe that specific marginal circles deprive the term human rights like all other terms from its meaning. Leading in this attempt is the organization called Human Rights Association.

For them the people, whose rights have to be defended the most, do not exist. But whenever it is necessary to stand by the PKK and its terrorist actions they take the floor and start to speak.

For example, there was the great disaster of an earthquake in our country, leaving

hundreds of thousands citizens homeless.

We didn't see the Human Rights Association there for just one day and did not have the opportunity to benefit from their valuable views.

The real human rights were there in the region of the catastrophe. But when they say human rights they first think about defending enemies of society and support them.

...

Wherever you are in the world, if you carry out an action or express an opinion, if you advocate something you believe in, you have to get the support of certain circles in society.

If you don't, you may create attention on a few incidents, but you will lose all credibility and won't find anyone behind you, except for some marginal citizens.

Our Human Rights Association is in this situation for some time. Left on its own, apart from society.

Look, what the chairman Hüsnü Öndül told the Anatolian News Agency yesterday:

"We are opposed to quit the ward system and introduce the room system in the prisons. The reason for the problems in the prisons is not the ward system."

Mercy! Which of the Western countries, whose values you are defending, if they serve your purpose, have the ward system? Where in the world is this system maintained, apart from some primitive countries such as Afghanistan, Sudan, Ethiopia and Tanzania?

When the Western countries rightly say "Stop Torture" you jump on it, but defend the ward system with massive dirt, unhealthy and outrageous conditions.

These wards will be the nests for terror; you can find there all kinds of bribes, gambling, drugs, arms and dark relations. Small and inexperienced prisoners will be raped there and you say, "keep up the ward system!"

This is a shame.

Is this confusion human rights?

... (Hürriyet, 29 September 1999)

On 30 September Eren Keskin, chairwoman of the HRA in İstanbul, responded by saying that the Hüsnü Öndül's comments on the ward system had been misinterpreted. She called the allegation that the HRA had done nothing in connection with the earthquake a great lie. She called on Emin Çölaşan to stick to the obligation of every journalist to remain objective. Eren Keskin continued:

"The HRA forwarded tons of clothes, food, cleaning stuff, wheelchairs and other equipment to the area of the earthquake. It became part of civilian initiatives in the region, but did not want to use this as advertisements. We did not even put up banners at our tents. But the people in the region know, what the HRA has done."

On 18 March "Hürriyet" alleged that Abdullah Öcalan had called the HRA an organization close to the PKK. Hüsnü Öndül reacted on the same day wondering how parts of a secret testimony had reached the paper. He said that there were many doubts on the existence of such a testimony and criticized the paper for not having asked the people concerned for a comment. The journalists, who had published such a story, had violated the principles of their profession and, if officials had forwarded such a secret document to the paper, they had lost the qualification of being on official duty." HRA SG Hüsnü Öndül also criticized the

article for the expression that the executives of the HRA were appointed. He reminded of the fact that officials of the HRA were elected during general assemblies, which were closely followed by representatives of the State.

### *The Human Rights Foundation of Turkey*

On 11 May Adana SSC acquitted Mustafa Cinkılıç, representative of the HRFT in Adana and lawyer Kemal Kılıç from charges under Article 169 TPC, because of lacking evidence. The two lawyers had been indicted after an incident in Ceyhan Prison on 19 October 1998. On that day the lawyers had visited prisoners and after they left prisoners had clashed with guardians. The prosecutor alleged that the lawyers had started the fight.

On 19 October physician Zeki Uzun, one of the volunteers with the HRFT representation in İzmir was detained after a raid on his house. Apparently a repentant militant had accused him. Zeki Uzun was released on 25 October. İzmir Police HQ made a statement claiming that Zeki Uzun treated militants in his clinic in Alsancak, made abortion and his two sons had close relations to HADEP.

After release Zeki Uzun said that he had been tortured in detention. During a press conference in the premises of the Turkish Medical Association on 17 November, board member Metin Bakkalıcı stated that the examination of Zeki Uzun had shown that he had been tortured. He suspected that doctor Zeki Uzun was tortured, because he worked actively in the commissions of İzmir Medical Association for the verification of torture and had always stuck medical ethics.

İzmir Medical Association issued a report stating, "Dr. Uzun was blindfolded during interrogation and on several occasions he was beaten, insulted, threatened and tortured in particular by beatings on his head, chest, squeezing of testicles, kicking and by putting a bag over his head to keep him breathless."

Zeki Uzun said: "For one week I was held in a cell. I was blindfolded and handcuffed. In this manner they searched my home and office, although they did not have a search warrant. They messed the programs on my PC up. All information on my patients was mixed up." Dr. Uzun also commented on the reporting of his detention: "The papers showed the fact that my two sons go to a legal party as a crime. One of my sons is just 10 years old and can hardly be connected to a political party. I protest against the paper Türkiye, Star, Milliyet and Gözcü for false reporting. The daily Gözcü wrote that I had been arrested, even before I was taken to the prosecutor. Do the papers or others decide on arrest?"

The HRFT protested the torture of Dr. Uzun calling it an attack on the honor of doctors. The HRFT also demanded an official investigation of the torture claims stating that medical reports confirmed these allegations. The investigation into the allegations of torture ended in a decision not to prosecute anyone, while Zeki Uzun became one of 14 defendants charged with supporting an illegal organization according to Article 169 TPC.

During the funeral of Nevzat Çiftçi, who had died in the operation in Ankara Central Closed Prison on 26 September, the gendarmerie detained 68 people in Helvacı village, Aliğa district (İzmir) on 30 September. On 3 October 14 of them were indicted for having violated Law No. 2911 in Demonstrations and Meetings. Aliğa Penal Court order the arrest of Alp Ayan and Günseli Kaya, staff members of the HRFT, the trade unionists Hacal Yılmaz (Maden-İş), Mihti Perinçek (Tarım Gıda-Sen), the politicians Haydar Canan (Emeğin Partisi), Ahmet Birge Uzuner (HADEP), Birol Karaaslan (HADEP), as well as Sinan Yaman, Sokullu Cem Pekdemir, İrfan Güleser, Turgut Yenidünya, Erkan Polat, Zafer Doğan and Cem Cihan Erkul and released the other to be tried without remand. The trial did not

conclude in 1999.

#### *Organization of Human Rights and Solidarity for Oppressed People (Mazlum Der)*

The calendar produced by the Urfa branch of Mazlum Der for 1999 was confiscated on the grounds that incited the people to hatred and enmity. Şanlıurfa Judicial Court ordered the closure of the branch until the end of the corresponding court case. Şehmus Ülek, chairman of the branch appealed to Urfa Penal Court No. 2, which ordered that the confiscated calendars should be given back. The Şanlıurfa branch received the calendars on 31 December 1998. It took the prosecutor at Diyarbakır SSC 8 months to prepare the indictment against the board members. They were charged under Article 312 TPC, but the case was suspended on 13 September according to the Amnesty Bill for the Press. Yet, a decision to open the branch again was not made.

On 9 December Urfa Criminal Court No. 1 acquitted Şehmus Ülek from charges under Article 312. The case had been opened in connection with a press statement on actions of students against the ban of headscarves.

On 28 May Malatya Judicial Court No. 2 ordered the closure of the Malatya branch of Mazlum Der on demand of the governor in Malatya. The reasons for the closure were given as “protecting public order” and “prevention of crimes”.

In June the police raided the offices of the Kocaeli branch of Mazlum Der and confiscated journals and bulletins.

In April the board members of the İstanbul branch of Mazlum Der were charged with illegal collection of money during the campaign on sacrifice and headscarf forest. The trial ended in acquittal.

On 16 June İstanbul Criminal Court No. 2 acquitted Şadi Çarsancaklı, chairman of the İstanbul branch of Mazlum Der. He had been charged with insulting the judiciary, because he said in an interview that the state security courts were unlawful and could not guarantee impartial trials.

On 19 June the HQ of Mazlum Der and 14 branches were searched on orders of the prosecutor at Ankara SSC. On 21 June Yılmaz Ensaroğlu, chairman of Mazlum Der stated that the search warrants had been sent to the governors via the Ministry of the Interior. The accompanying letter had stated, “Evidence exists that Mazlum Der conducts activities against the unity of the country and the regime of the Republic”. According to Yılmaz Ensaroğlu that meant that the crime had been established before and later the evidence was looked for. Yılmaz Ensaroğlu accused the police of not having given them copies of the notes they took during the searches of the offices and houses of executives. During the search of the headquarters board member Ömer Ekşi and the staff had been insulted.

On 28 February Yılmaz Ensaroğlu commented on reports that appeared under the title “Apo’s Confession” and had shown Mazlum Der in close contact to the PKK. Ensaroğlu warned that these wrong accusations might prepare the ground for violent acts against the accused persons and organizations. He reminded of the fact that HRA chairman Akın Birdal was attacked after alleged testimony of Şemdin Sakık that later turned out to be wrong had been published. Mr. Ensaroğlu stated that Mazlum Der was only close to human rights. He called this kind of reporting a violation of law holding the reporters as well as those, who provided such stories responsible for the results of such a provocation.

#### *Relatives of „Disappeared“ (Saturday Mothers)*

The actions of the so-called Saturday Mothers, who since 1995 gathered each Saturday in

front of the Galatasaray Lyceum in order to establish the fate of disappeared people, continued to meet with preventive actions of the police. The relatives of “disappeared” persons were detained under beatings and they were not allowed to make press statements. The first intervention had been on 8 August 1996 during the HABITAT II Conference. Some 2000 people had been detained and 668 people had been indicted. This trial continued in 1999.

After week 170 the police brutality increased and the relatives of “disappeared” people decided to suspend the action after week 200. On 13 March the relatives of disappeared people met at the “Forest of Disappeared”, erected by Amnesty International in a park in Okmeydanı quarter (İstanbul). The police did not allow the Saturday Mothers to make a press statement and detained some 10 people including Fadime Ocak, Hanım Tosun and Nimet Tanrıku.

On 13 April İstanbul Penal Court No. 5 acquitted 18 defendants in connection with the action on 10 October 1998. On that day relatives of disappeared had staged a sit-in in front of Galatasaray Lyceum. Several participants had been detained under beatings. The official complaints they filed against police officers had ended in decisions not to prosecute anyone.

During the action of 26 September 1998 a total of 31 persons had been detained. Later Hanım Tosun, Besra Tosun, Necmiye Aydın and the student Mehtap Yurtluk were indicted under Articles 312/1 and 537 TPC on allegations of having written leftist slogans on the walls of their cells. During the hearing at Fatih Penal Court No. 1 one of the defendants stated on 31 May that she was illiterate. Mehtap Yurtluk said that the detainees had no writing tools and she had never been kept in the cells with the slogans on the wall.

On 29 June the police officers Sadi Yıldırım and Aydın Sirek were heard as witnesses. They said that they did not recognize the defendants and stated that the walls of the cells had been freshly painted before the so-called Saturday Mothers had been brought. After the release of the Saturday Mothers they had seen the slogans, which might have been written shoes or hair slides. The trial did not conclude in 1999.

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[1] Tarık Ümit “disappeared” in 1995. His daughters opened a case after his car was found near Silivri. They wanted a decision that their father was presumably dead, but the court rejected this demand in April that year stating that there was not sufficient evidence.

[2] Kırıcı had first been detained on 25 January 1996 when he was playing in a pub in İstanbul Bahçelievler. On 31 January 1996 he was taken from the department for murder to the department to fight terrorism. On 1 February the public prosecutor in Küçükçekmece ordered to prolong detention until the notification of the verdict arrived. Kırıcı had been sentenced to death seven times. The same night Kırıcı escaped. In connection with the escape the police officers Servet Atan, Cevat Yanar and Nihat Demiray were tried, but acquitted.

[3] 17 January 1999/daily Hürriyet /Uğur Dündar

[4] Major Cem Ersever, an important figure of the special gendarmerie intelligence unit JİTEM, disappeared in November 1993. He, Mustafa Deniz and Neval Boz were found dead near Ankara on 5 November 1993. . Kutlu Savaş said in the report on Susurluk the following about this case:

“One of the unsolved cases is the killing of Cem Ersever. According to the secret service MİT Hanefi Avcı called Mahmut Yıldırım and told him that Cem Ersever had to be liquidated. Later Mustafa Deniz and Neval Boz (wife of Ersever) were also handed over to the death squad.

[5] The immunity of the MPs Mehmet Ağar (independent-Elazığ) and Sedat Bucak (DYP-Şanlıurfa) was lifted on 11 December 1997 and sat on the bench of defendants for some time. However, after the 18 April election they became deputies again and the trial against them was stopped.

[6] Celal Adan, meanwhile DYP Chairman for İstanbul province had been accused of providing intelligence for the murder of Kemal Türker. Ankara Military Court had included him in the main trial against MHP, but acquitted him for lack of evidence. Celal Adan became deputy in the elections of 18 April.

[7] During his treatment in Ankara Numune Hospital soldiers and doctors reportedly ill-treated İdris Çalışkan and he was sent back to prison, before the treatment was finished.

[8] Article 25 of the OHAL Law provides that anybody, who does not listen to orders issued according to this Law, will be punished by 3 months' imprisonment. Article 526 TPC provides for 3 to 6 months' imprisonment for people, who do not listen to orders of relevant authorities.

[9] Referring to a decision by the 2nd Appeal Court of Rome dated 4 December Italy accepted the asylum claim of Öcalan for the time he stayed in Rome.

[10] The elderly brother of Serpil Polat, Ali Polat and the lawyer Murat Çelik, who was dealing with the burial, were reportedly beaten in the offices of İstanbul Deputy Chief of Police Atilla Çınar. They filed an official complaint against the police officers involved. Her sister Sevim Polat and her brother Ali Polat were arrested on 21 February after the funeral in Günaltı village (Elbistan) on allegations of having shouted slogans.

[11] Despite an order by the Justice Ministry the case file of 101 defendants, on trial at Şanlıurfa Criminal Court No. 2 was not sent to Ankara SSC. On 27 August it was sent to Ankara Criminal Court No. 8. The trial referred to events before

the military coup of September 1980 and had started at a military court. Ankara Criminal Court No. 8 started to hear the case on 15 December

[12] On 2 June lawyer Hasip Kaplan had withdrawn from the defense.

[13] The wording of Article 125 is: "Whoever commits an offense of putting the whole or part of the land of the State under the reign of a foreign country or reduces the independence of the State or destroys its unity or separates part of its sovereign soil, will be sentenced to death."

[14] Immediately after the incident police officials stated that Hamdin Salgın and Gülseren Özdemir had been killed. These two people had killed one police officer and injured two others. The police also maintained that a clash broke out, but the public prosecutor in Fatih established during an on-site inspection that no traces of a clash existed in the house.

[15] During the raid Aydın Güçlü, cameraman of the local TV station KTV, and Yavuz Yavuz, news director of the local paper "Ekspres", were detained. The police destroyed the images taken by Aydın Güçlü.

[16] Mustafa Köprü was put on trial with the demand of the death penalty. The trial started on 14 December at Adana SSC. Mustafa Köprü stated that he wanted to become a repentant. The hearing was closed for the public and adjourned in order to evaluate the request. Lawyer Mustafa Çinkılıç, chairman of the ÇHD in Adana and lawyer for Erdiç Aslan raised some questions. He said that Mustafa Köprü had been transferred to a prison in Osmaniye. Although he wanted to confess the court had not taken his testimony. Mustafa Çinkılıç suspected that Köprü might have promised to testify in favor of the police officers involved in the raid.

[17] In a traffic accident that happened in İstanbul-Kadıköy on 10 May, when the police was chasing a car with suspected thieves, 2 people died and 3 people were wounded. The car with the thieves hit a taxi. In that car *Gülay Safkan and Yılmaz Şenekat* died.

[18] When on 18 November the acquittal of Oral Çelik had become legally binding he was detained on orders of the Defense Ministry that wanted his report of "not being fit for military service" to be reviewed.

On 22 November the public prosecutor in Ankara launched another case against Çelik. He accused him and his friend Nebi Doğan of kidnapping the dancer Svetlona Gromova Aleksandır on 11 November to Çelik's office in Ankara. Çelik was accused of attempted rape, because the dancer could escape when the suspect's mobile phone rang. The charges against Oral Çelik were based on Articles 429/1, and 416/1 TPC. Oral Çelik had to expect a sentence of up to 12 years' imprisonment and his friend Nebi Doğan had to expect up to 5 years' imprisonment.

[19] Enis Berberoğlu from the daily "Hürriyet" wrote an article on 3 November entitled "the document was found, but Özbey is still free". He stated that Özbey was under protection in Germany as a witness. German intelligence had used him after the military coup of 12 September (1980). He had been arrested in 1983 with false papers, but had been released shortly afterwards. Berberoğlu alleged that he had been released in order to persuade Abdullah Çatlı and Oral Çelik to say that the KGB was behind the assassination attempt on the Pope. Özbey had confirmed this at a court in Rome. Germany had granted him the status of crown witness.

[20] Executives of the CHP in İskenderun were put on trial, because they wanted to hold a commemoration meeting for journalist-writer Uğur Mumcu on the anniversary of his death. The public prosecutor in İskenderun indicted them at the end of March on charges of violating the Law on Demonstrations and Meetings. The board members were: Fuat Esmer, chairman, Bestami Çorapçı, secretary, Gazanfer Dik and İbrahim Çebişiçi.

[21] The prosecution of the young girl C.G. (16) started on 21 December at Ankara SSC. The court decided to release her and referred her to a hospital for mental examination.

[22] This section deals with violent actions of organizations except the PKK.

[23] Ali Yörük, reporter with the news agency İhlas, died in a traffic accident, when he went to see the parents of Ayhan Çevik, living in Tekirdağ-Hayrabolu.

[24] On 10 March a bomb exploded in a taxi outside the shopping center Carousel in İstanbul-Bakırköy. The taxi driver Ufuk Akdoğan died. Yasemin Yıldırım, Abdullah Başer, Yaşar Kaygusuz, Mustafa Kaygusuz, Önder Mutlubulut, Feridun Eryurt, Cengiz Devrim and Veysel Beran (12) were wounded.

[25] Cevat Soysal, who was abducted in Moldavia and taken to Turkey on 18 July, was later accused of having ordered the attack on the "Blue Bazaar".

[26] A second trial against Pınar Selek started at İstanbul SSC on 10 February. In this trial she was charged with membership of an illegal organization according to Article 168/2 TPC. In the first hearing Miss Selek stated that he testimony in detention had been extracted under torture. This case was combined with the main trial.

[27] In the court files two different testimonies of Abdülmecit Öztürk exist, which he reportedly gave to the prosecutor at

İstanbul SSC within 15 minutes. According to the daily "Hürriyet" Abdülmecit Öztürk told the prosecutor Engin Baltacı that he admitted his participation in two incidents of bombing, but not the one in the Egyptian Bazaar. He even stated that he was ready to be executed, if any relation to the incident could be established. After this testimony Abdülmecit Öztürk stayed with police officers and reportedly asked to testify a second time. In this testimony he accepted his statement during detention and said that he and Pınar Selek prepared the bomb one day before the action and Selek had chosen the target.

[28] Mak's lawyers, Nedim Değirmenci, chairman of the ÇHD in İzmir, Ercan Demir, chairman of the HRA in İzmir, Cemal Çakıcı, former chairman of ÖDP in İzmir, Hacay Yılmaz, board member of ÖDP, Cezmi Yalçınkaya, executive of EMEP, Selver Altun, Firuzan Ayhan Özkaya, Ramiz Sağlam and the observers Ahmet Teymurtaş, Hatice Necla Şengül, Niyazi İletmiş, Ecevit Piroğlu and Haydar Cenani were indicted at İzmir Penal Court No.1, because of a press statement they made in front of the court hall on 11 September.

[29] In Malatya, the police intervened in the commemoration ceremony held at the grave of Ümit Cihan Tarho, a student of İnönü University who was killed on 11 January 1998 for not fasting. The police officers, who surrounded the grave of Tarho, dispersed about 700 people under beatings and detained 20 people. The detainees were released on 12 January.

[30] From an answer to a question tabled by MP for Rize, Mehmet Bekaroğlu, on 9 June 2001.

[31] On 21 August 1988 Dr. Cem Cemal İşyapan had filed a complaint with the Forensic Institute, asking for the dismissal of Nur Birgen. In return he was put on trial, charged under Articles 482 and 273 TPC with insulting Nur Birgen because of her duty. The case was heard at Fatih Penal Court No. 1. The trial was not concluded in 1999. If convicted Dr. Cem Cemal İşyapan had to expect a sentence of up to 4 years' imprisonment.

Lawyer Metin Narin, who had signed the petition with Dr. Cem Cemal İşyapan, should also have been prosecuted, but the Ministry of Justice rejected permission for prosecution in September.

[32] The girl N.K. (14) declared that she had been tortured in detention.

[33] The corpse of Rasim Kayra, who had been detained together with N.K., was found in Dörtöyl district (Hatay) on 24 June.

[34] The village guard Süleyman Askan was tried at Diyarbakır Criminal Court No. 2 on charges of raping 10-year old R. K. under threat with a weapon and a violation of Law No. 6136. He was acquitted in 1997 for lack of evidence.

[35] On 4 November the trial against F.D.P., N.C.S., Yusuf Öntaş, Mehmet Şirin Kaplan, Müslüm Doğan, Abdülcabbar Karabey and Özgür Yaşar concluded at Adana SSC. N.C.S. was sentenced to 12 years, 13 days' imprisonment and F.D.P. to 12.5 years' imprisonment for membership of the PKK and throwing of molotov cocktails.

[36] On 5 February the 9<sup>th</sup> Chamber of the Court of Cassation rejected the application of Mahir Göktaş, the youngest among the torture victims, to be compensated for the time he spent in pre-trial detention. The Court argued that he had been a pupil at the time without an income. Mahir Göktaş was 14 years old, when he was remanded. Therefore, İzmir SSC had ruled that he had not been in a position to understand the scope of the crime and had not punished him. Mahir Göktaş stayed in prison for 9,5 months and lost one year of his studies. He had asked for compensation of TL 10 billion.

[37] The Chamber of Medical Associations in Turkey (TTB) punished some physicians, who issued reports on the juveniles of Manisa stating that they had not been tortured, by banning them from carrying out their profession for specific periods of time. The Honor Council of the TTB banned Yusuf İzzettin Küçük and Türkan Özcan, who had been working at the health center for six months from profession, because they had gone to the police headquarters, without being obliged to and had issued reports as requested by the police. The physicians Ayla Yücetürk, Canan Kuş, Ertuğrul Demirpehlivan, Erhan Keskin, Emine Keskin, Hatice Öteyüzoğlu, Levent Mercan and Müzeyyen Soyalp were banned from profession for 3 months, because they had not shown the necessary caution during the examination of the prisoners.

[38] During the hearing of 7 July 1997 gendarmerie soldiers had beaten Okan Kaplan (17), Devrim Öktem, S.K., Zülcihan

Şahin, Arzu Kemanoğlu, Ulaş Batı, Özgür Öktem, İsmail Altun, Bülent Gedik and Müştak Erhan İl, who had been taken to the hearing as victims. The forensic institute had issued reports of 10 days' inability to work for Okan Kaplan and 5 to 7 days' inability to work for the other victims. The gendarmerie had prepared a report stating that the prisoners might have escaped and attacked the soldiers by kicking them. Okan Kaplan had fallen down the staircase and his face had hit the concrete floor.

[39] The European Court of Human Rights was set up in 1959 in Strasbourg to deal with alleged violations of the 1950 European Convention on Human Rights. On November 1 1998 a full-time Court was established, replacing the original two-tier system of a part-time Court and Commission. Turkey ratified the European Human Rights Convention (EHRC) in 1954. It accepted the right to individual petitions in 1987 and in 1990 it also accepted that the judgments are legally binding. Details on the ECHR can be found at <http://www.echr.coe.int>.

[40] **Article 16/1 of the Law No. 5680:** "The responsibility concerning the crimes committed via the press, belongs to the person who wrote that article or news report or drew that picture or cartoon that constituted a crime, as well as the editor-in-chief of that person. However, the sentences of imprisonment for editor-in-chiefs are converted into a fine no matter how long the imprisonment sentence is. The lower limit of the amount specified in first paragraph of Article 4 of the Law on Execution of Sentences numbered 647 is used in calculation of the fine. Editor-in-chiefs are not remanded."

[41] **Article 162/1 of the TPC:** "Presenting a publication regarded as crime by law is an offence by itself and the perpetrator is subjected to the same sentence. If the contents of such a publication are not approved of or presented with caution or some other person taking the responsibility completely does not spare the person, who is presenting it, from responsibility."

[42] **Article 312 of the TPC: First Paragraph -** "The person who openly praises or approves of an act regarded as a crime by law or who incites people to disobey the law gets sentenced to a prison term from 6 months to 2 years and a heavy fine from TL 2.000 to TL 10.000."

**Second Paragraph-** "The person who openly incites people to hatred and enmity on the basis of class, ethnic, religion, sect or regional differences gets sentenced to a prison term from 1 year to 3 years and a heavy fine from TL 3.000 to 12.000. If the incitement is done in a manner to produce danger for the public, the sentence is raised by one third to one half."

[43] İstanbul SSC had sentenced Eşber Yağmurdereli to 10 months' imprisonment for a speech he delivered at a meeting on 8 September 1991, organized by the HRA in İstanbul. The Court of Cassation confirmed the verdict on 26 June 1997. In 1978 Eşber Yağmurdereli had been sentenced to life imprisonment according to Article 146/1 TPC. He had been released on 12 April 1991 according to the Law No. 3713 to Fight Terrorism. Samsun Criminal Court later quashed the decision on conditional release, because Yağmurdereli had committed another crime in the period set as condition for the release. Eşber Yağmurdereli started the execution of his sentences on 21 October 1997. Because of his bad health the execution of the sentences was suspended on 9 November 1997 for one year. This was an obvious reaction to national and international protests at his imprisonment. The decision on temporary release was based on a medical report certifying problems with the heart, bronchitis and full blindness. Following his release Eşber Yağmurdereli stated that he did not want an individual amnesty and refused to get another medical report. Çankırı Public Prosecutor's Office withdrew the decision for temporary release and Eşber Yağmurdereli entered prison again on 1 June 1998.

[44] In January and July 2000 further trials were opened against Kaya in connection with concerts he had given in Germany. Ahmet Kaya died in Paris on 16 November 2000 as the result of a heart attack.

[45] When İlnur Birol went to prison on 24 November 1998 a group of teachers went to Kadıköy Courthouse to support her by a press statement. The security forces dispersed them under beatings. Six teachers were later charged with having staged an unauthorized demonstration. Kadıköy Penal Court No. 4 acquitted them on 11 January.

[46] On 15 January 1996 a minibus was hired to bring village guards back from a gendarmerie station in Güçlükonak district (Şırnak) to their village. On the way the bus with 11 people was set on fire. It was later determined that the driver was killed by shots to his head and that the villagers burned to death. After the incident the Chief of Staff hired a helicopter to foreign journalists to the scene stating that the PKK conducted a massacre. The Working Group on Together for Peace formed a delegation of 40 people to inspect the place and talk with witnesses. The delegation later declared that they found hints that the killings had not been conducted by the PKK, but by soldiers. Şanar Yurdatapan, Münir Ceylan and Ercan Kanar had filed an official complaint against the Chief of Staff hoping that the incident would be investigated. However, there was no investigation, but Yurdatapan, Ceylan and Kanar were put on trial and sentenced to 10 months' imprisonment.

[47] The first verdict in this case was announced on 19 March 1998. The defendants Şuayip Mutluer, Saffet Hızarcı, Seydi Battal Köse, Fedai Korkmaz and Metin Küşat were sentenced to 7.5 years' imprisonment. The defendants Selçuk Bayraktaroğlu, İlhan Sarioğlu, Fikret Kayacan, Tuncay Uzun, Burhan Koç and Murat Polat were acquitted. On 17 July the Court of Cassation quashed the verdict on the ground of insufficient investigation and the trial started again on 20 August 1998.

[48] Article 11/e of the Law No. 2935 on the Emergency Legislation provides for the authority of the regional governor to ban the printing, copying and distribution of printed material in the region or to ask for special permission. Article 25/B of the same law defines it a heavy crime, if someone does not abide to such a ban. The ban has to be announced.

[49] Nureddin Şirin had been remanded in January 1997 after the so-called Jerusalem Night in Sincan district (Ankara). Ankara SSC sentenced him to 17.5 years' imprisonment for membership of the radical Islamic organization Hezbollah. Şirin remained in Bandırma Prison

[50] Ahmet Taner Kışlalı, a columnist for the newspaper Cumhuriyet, former Minister of Culture and an instructor at the Faculty of Communication, was killed by unknown assailants in a bomb attack in Ankara on 21 October.

[51] This was an answer to a parliamentary request of İstanbul MP Emre Kocaoğlu. The answer was given on 11 February 2002 and covered also the year 1999.

[52] The Statute for Licenses of Cable Broadcasting of the High Council for Radio and TV of 23 March provided in Article 9 that various files had to be prepared in order to obtain licenses including the aims of the station, its financial situation. One of the documents needed was the national security document (para d and e). Should a criminal record exist with a sentence over 5 years' imprisonment the person would not be given the security document, even if the offense had been pardoned. In particular people convicted under Articles 168, 311, 312 and 313 TPC and/or Articles 7 and 8 LFT would not be given the document.

[53] In Bursa Osman Ayan, who protested against the act of the chief prosecutor Vural Savaş, was arrested. Bursa Police HQ declared on the case that on 11 May Osman Ayan

put up a banner on his balcony with the words “Vampire Vural Savaş”. He was detained and on 12 May remanded.

[54] On 23 June Akın Birdal resigned from the post of chairman and membership of the HRA, because of the confirmed prison terms. On 26 June lawyer Hüsnü Öndül was elected chairman of the HRA.

[55] The 17 defendants were Cengiz Ersever, Kerem Deretarla, Hasan Hasanoğlu, Bahri Eken, Demir Demirok, Semih Tufan Gülaltay, Selçuk Gürz, Mehmet Cemal Kulaksızoğlu, Ekrem Santulu, Furkan Ek, Namık Zihni Ozansoy, Oya Kaya, Ayfer Çakar, Ahmet Fulin, Cengiz Kördeve, Cem Kadir Keçecioğlu, Nejat Algan

[56] In April the father of Semih Tufan Gülaltay, Sırrı Gülaltay, was detained together with another 9 suspects on accusation of having formed a gang to commit crimes.