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Introduction

The present issue is documenting interim results of the common project of NFR (Lower Saxonian Refugee Council), TAV (Foundation for Arts, Culture and Social Research) and PRO ASYL in co-operation with IHD (Turkish Human Rights Association) on the subject "Turkey and refugees", which is supported by the European Union since May, 2000.

The goals of this two-year-project are the creation of qualified consultation offers for refugees by increasing the level of qualification of people working for the IHD and other human rights organisations in Turkey, in the field of refugee work and international refugee rights, the sensitisation of the public for refugee's problems and the improvement of the protection of refugees by legal and political support of refugees. In order to be able to ensure more unequivocal administration of the law for asylum seekers from Turkey in Germany and other EU-states, and to provide better protection for potential torture victims, it is intended to develop more exact valuation criteria for an impending risk of rejected asylum seekers to return.

Refugees (i.e. foreign refugees, domestically displaced people and rejected asylum-seekers of Turkish citizenship returning from the EU) are being confronted with special difficulties in Turkey. Their living situation is characterised by a lack of unequivocal administration of the law, the exclusion from democratic participation, economic destitution, violations of human rights and often also traumatising. These problems have not been discussed, neither extensively nor adequately, in the Turkish public yet. The history of refugees in Turkey and Turkey's attitude towards refugees, respectively, is shown by the study of TAV.

In Turkey, a codified right to obtain asylum is not existing. So far, Turkey has not accepted the minimum standards of European refugee rights and has signed the Geneva Convention on Refugees, provided that it is only applied for European Refugees.

Regarding non-Europeans, Turkey is under international law tied only to the non-refoulement principle. Many non-European refugees live illegally in Turkey, due to the restrictive regulations that are being applied. They can be deported at any time without examination of the reasons of their persecution. This is drastically shown by the testimony of a soldier, made during the project's workshop in Ankara. Complaints by the UNHCR, which maintains a representation in Ankara, about the Turkish practice, did not lead to changes yet. Even the UNHCR itself or some of its representatives, respectively, is subject to criticism of some human rights organisations (see "Policies of denial" by IHD and the contribution of Vahap Ertan).

Especially problematic is the situation of domestic refugees. The existence of this group of refugees indicates human rights violations and a lack of the protection of minorities in Turkey itself. The majority of domestic refugees is Kurdish. According to the human rights report of IHD, about 3.500 villages and settlements in the distressed provinces in Eastern Turkey have been evacuated and in some cases burned down within the last 15 years. About 5 million people have been displaced from their hereditary settling areas and forced to flee. The majority of the displaced people, about 3 million, stayed in the country. A lot of them took refuge in Western Turkey. It is debatable, if or under which conditions, respectively, these displaced people find protection from persecution and possibilities for existence. The number of reports by human rights organisations on pogrom-like infringements and human rights violations, committed by governmental and right-nationalistic forces, is increasing. IHD has written the report "Enforced Migration" on this subject.

Every year, thousands of Turkish citizens, mainly Kurds, are fleeing from Turkey and seek asylum abroad (mainly in Germany, the Netherlands and, meanwhile, Great Britain). Since the mid-seventies, Turkey ranges as one of the main countries of origin in the EU asylum statistics. In the year 2000, Turkish citizens formed the fifth largest group of asylum seekers in the EU, according to UNHCR data

Therefore, the third group of refugees the project is focussing on are Turkish/Kurdish asylum seekers who have to return to Turkey after rejection of their asylum application in a European country, especially in Germany.

Reports about cases of violations of human rights of those forced returnees were investigated during the whole project period. For this purpose, local research in Turkey has been conducted as well as in Germany. Some of these cases are documented in the report "From Germany to Turkish Torture Chambers". The investigations have shown clearly that persecution and human rights violations are to be expected in similar cases as well.

The research on the situation of rejected asylum seekers who returned to Turkey has led to a more differentiated estimation of the German Foreign Office regarding the human rights situation in Turkey. In its latest country report on Turkey, dated June 22nd, 2000, the Office corrected its assessment of the returning risk of Kurdish refugees in some relevant points. Also in other countries, especially in the EU, the research caused a big resonance what becomes visible in numerous requests. We deeply hope that on a long term basis also the practice of decision making in cases of Kurdish asylum applicants will change.

The main problem for the project work was and still is the political situation in Turkey. Human rights organisations and political opponents have to face continuous pressure. Repeatedly, collaborators and members of IHD, Mazlum-Der, Lawyers' Association, Women's Rights Office, Hadep and others became victims of human rights violations. During the period of the project, several branches of IHD were raided and partly closed (see "Pressures faced by IHD"). Collaborators and board members were accused on the grounds of alleged subversive activities. Many of the IHD branches have been raided by the police and closed down by the relevant Governor's Offices, hard disks and documents have been seized, executive members of the IHD branches were taken under custody and referred to the courts. In February 2001, the Public Prosecutor's Office in Ankara has instituted proceedings aiming at a ban on IHD (see "Petition of the HRA"). The proceedings still continue. Due to the repressive policy of Turkey to treat statements of opinion as criminal offences, one has to be careful making public statements especially on refugee problems. The refugee issue is put under several taboos.

Invited by the project, several representatives of Turkish and European human rights organisations met for a workshop in Ankara in March, 2001, for the exchange of experiences and information on "Turkey and Refugees" and establishing of contact and co-operation between their organisations. Especially the subjects "Flight abroad", "Turkey as a transit country" and the term "economic refugee" were discussed controversially. (For reasons of space, relevance and avoiding repetitions, only some of the contributions for this workshop are published here - partly shortened and slightly revised.) The majority of workshop participants criticised the governmental logic on the necessity of deterring measures against refugees, in order to filter politically persecuted refugees from those who allegedly come for economic reasons only. It has been emphasised that this separation into "good" and "bad" refugees, into those who deserve support and those who do not, first of all neglects basic human rights principles of treating all human beings in a humane way. Secondly, the populist use of the term "economic refugee" which causes the association of "parasite", ignores the fact that the destruction of houses, belongings, working facilities and environment as a result of war, civil war or governmental displacement operations, indeed produces existential economic misery which cannot be categorised as individual political/criminal persecution. Nevertheless, the loss of a perspective for living, often accompanied by traumatising, affects thousands of people who sought or seek refuge in Turkey or try to transit through Turkey. From a human rights point of view, the right to live safely cannot be an exclusive right for political activists only.

The European Union favours policies of refusal and deterrence towards refugees. The massive consolidation of the outer border of the EU ("Fortress Europe") claims countless victims every year: dead and mutilated people. Only in the minefields at the Turkish-Greek border, at least 29 people died within the past ten years while trying to flee from Turkey (see press release on Adnan Cevik). In order to prevent flight movements towards Europe, countries of origin as well as transit countries become more and more involved in warding off refugees. The contribution of WADI e.V. is critically dealing with the EU's refugee politics and the concept of regional accommodation, the so-called "relief work"

During the second year of the project, training courses for collaborators of human rights organisations shall take place as well as a public campaign on the subject "refugees in Turkey". Besides, field studies on the living situation of refugees are going to be conducted. In the beginning of 2002, project results will be presented and aspects of the problems shall be discussed within the framework of a symposium in Ankara. A final documentation will finish the project in spring, 2002.

With the project "Turkey and refugees" we hope to contribute to the process of democratisation, strengthen the local human rights movement and improve the situation of refugees.

Claudia Gayer & Anli von Alvensleben

Refugees and Turkey

Foto: 3.Welt Saar

A study on the concept of refugees historically and presently within the context of legal and human rights problems in Turkey

By TAV, 2001

- *Shortened version* -

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„Everyone has right to seek and enjoy in other countries asylum from persecution“

Universal Declaration of Human Rights Article 14 (1)

1. Introduction

When the time span we live in is examined with respect to refugees / asylum seekers and problems of those people who are forcibly displaced from their countries, we face the following scene: The United Nations High Commissioner for Refugees says there are 27 million people in the world who are „of concern“ to them. Of these, at least 15 million people are entitled to international protection, because they are refugees. 25 to 30 million people are displaced within their own countries.

80 per cent of the world's refugee population live outside Europe and North America, more than half the world's refugees live in Africa and the Middle East.

1 in every 115 people on earth has been forced into flight, people flee their homes and countries because they fear being victims of human rights violati-

ons (UNHCR, 2000; Amnesty International, 2000). In order to distinguish refugee movements which is a versatile problem field touching issues such as international migration movement, international relations, law, democracy, etc. from other migration movements, Appleyard classifies population movements into 6 basic categories: Permanent settlers, temporary contract workers, temporary professional employees, clandestine or illegal workers, asylum seekers and refugees (Appleyard, 1995). While these categories are mostly intermingled with each other, these are distinctions that we take into consideration while handling the refugee / asylum seeker problem.

The purpose of our study is to discuss the concept of refugee / asylum seeker as defined in 1951 Geneva Convention and 1967 Protocol, historically and presently within the context of legal and human

rights problems in Turkey. On the other hand, it is also discussed how „forced internal migration”, resulting from human rights problems, made Turkey become also a refugee generating country. This was historically experienced in connection with ethnic minorities. Especially the Kurdish problem is an actual matter. Besides, Turkey is a country of asylum. In addition, it is also intended to establish how the refugee problem is defined in Turkey and how it is perceived in society.

The concept of refugee, with its history extending to ancient times, found its legal meaning with 1951 Geneva Convention and 1967 Protocol. There is a struggle between political governments and non governmental organisation on the meaning of this concept. Turkey is a contracting party to Geneva Convention but is a European country reserving geographical restriction, together with Monaco.

The first internal legal regulation on the refugee problem in Turkey is the 1934 Settlement Law. Although this law, which may be deemed as an extension of the policies of making Anatolia Turkish and Moslem and of having been used in accordance with the political preferences of the existing governments, is still in force, it has recently lost its importance.

2. Refugees and Turkey

2.1. Turkey's Refugee Legislation

2.1.1. Settlement Law

The first domestic regulation concerning the immigration problem was the settlement law which was resolved in 1934. It can be said that this law on Settlement no: 2510 (of 1934), was greatly influenced by the process of making Anatolia Turkish (see: Section 2.2, Historical Background).

According to the provisions of the said law, only those who have the Turkish ethnic descent and culture are entitled to immigrate to and to settle in Turkey and receive Turkish citizenship. Article 4 of the same law defines those who may not benefit from the provisions of the law. According to the subject article, „from the prospective settlers those who are not attached to Turkish culture, anarchists, spies, nomads and gypsies may not be accepted as refugees” (Altuä, 1967: 8). Furthermore, this law formed the first legal basis of „forced migration” in relation with the Kurdish problem which is an actual concern even today and on which we shall elaborate later on.

Besides the explanations given above, the law has not defined clearly the meanings of „Turkish ethnicity and culture”. This ambiguity obviously and na-

Turkey is one of the contracting parties to 1951 Geneva Convention, and this Convention is in the position of an internal legislative norm. There are intense criticisms that although fundamental principles of the convention are binding in Turkey, Turkey does not abide by these principles. The first legal regulation following the Geneva Convention was carried out in 1994 in Turkey. Several articles as set forth in this regulation which has become effective in 1994, have been subject to criticism by national and international circles. In the „national program” declared in 2001, it is stated that Turkey shall abolish the geographical reservation stipulated in the 1994 Regulation. The fact that the essence of the problem is not only a legal matter but also a fundamental human rights and democracy problem is still an unsolved problem.

Another important problem is the phenomenon of forced internal migration experienced as a result of the Kurdish problem in Turkey. There is no doubt that the practice of forced internal migration is one of the most basic and highest priority problems of Turkey, and efforts of non governmental organisations to deal with this issue are existing but not adequate. As for the asylum seekers coming from other countries, there is no adequate sensitivity.

turally has lead to some interpretations, and as a result of such interpretations, besides the ethnic Turks of Caucasus, Balkans and Asia, it was constructed to cover Moslem origin Albanians, Bosnians and Bulgarian speaking Slav - Muslims (none of whom are ethnic Turks). Furthermore, Kazakhs, Kirghizes, Uzbeks, Turkmen, Uygurs and Iranian Azeris and Turcomans from Northern Iraq were among those who benefited from the provisions of the subject Law (Kiriçwi, 1995). Giving the opportunity for the Muslim minorities of the Balkans (who were not ethnic Turks) to benefit from the Law, indicates the transition from Turkish to Islamic identities. Indeed, the history of Turkey shows parallelisms and transitions between nationalistic and religious concepts (Q en, 1995).

The law gives definitions for two types of immigrants: „Independents” are those groups who have not received support from the government for employment and settlement; and solved their problems with self endeavour or by the help of relatives. „Settled immigrants”, on the other hand, consisted of the immigrants / groups who received support from the government and settled in a certain region

of the country, also by the aid of the State. (Kiriçwi, 1995; Erder, 2000: 238). This law which was adopted for the purpose of increasing the Turkish Moslem population in Anatolia, lost its effect over time. It is worth to notice that after 1981, out of the more than 300.000 immigrants who are accepted to Turkey, only 5 thousand have been „Settled Immigrants” (Erder, 2000). 48% of these immigrants have been of Bulgarian origin. Bulgarian Turks, who came here with the large migration movement of 1989, benefited from the „settled immigration status” of the law. Additionally, in 1982, a group of Afghan Turks were brought to Turkey through Pakistan; and their settlement was financed by public funds. In 1992, Meshketian Turks were included in the law's coverage by a special amendment.

These immigrants are called „national refugees” in Turkish legal and academic circles, although this term is not used in the relevant international literature (Kiriçwi, 1995, 2000; Odman, 1995: 193). In reality, however, these people do not fall into the category of „refugees” as defined in the 1951 Geneva Convention because they are expected to complete their applications and other formalities before coming to Turkey. Also, their main aim was not to seek refuge, but to obtain the Turkish citizenship (Kiriçwi, 1995). For this reason, provisions of the settlement law were applied to them instead of those of Geneva Convention (Odman, 1995: 194). On the other hand, in 1989, Turks and Pomaks were forced to leave Bulgaria due to the religious and ethnic pressure they experienced in their country of origin. Hence, they should be given „refugee status” under the provisions of the Geneva Convention, but this status has not been granted to them. Similarly, Bosnian Muslims who came to Turkey in 1992 from Yugoslavia have not been given the same status by the Turkish Government, and they have been taken within the category of „national refugees” as mentioned above. Those who came from Yugoslavia are accepted as „quests / visitors” by the Turkish Government. Since these „guests” could not receive the refugee status under the provisions of the Geneva Convention; they were not able to benefit from some of the citizenship rights. For this reason it is not proper to name this „national refugees” category as refugees. In comparison to Kurdish refugees from Iran and Northern Iraq it seems more appropriate to call them „better treated guests”.

The largest group in the „national refugees” category is formed by those who came from Bulgaria. Especially in the years 1951 and 1989, Bulgarian Turks who are forced to leave their homes came to Turkey. The majority of these people fall both within the categories of independent and settled immigrants whose definitions are given above. The underlying reason of such migrant movements is the

assimilation policies of the Bulgarian Government which have gained momentum in various periods. Upon the increase of the pressure of such policies, the number of participants of the immigrant movements of Bulgarian Turks has increased as well. The reason of implying such policies is that Turkey and Bulgaria have stood at opposite sides during the Cold War period.

On August 12, 1950, upon the announcement that 250.000 Turkish origin people would be deported within three months because Muslims objected especially the shared propriety in Dobruja, the number of those who came to Turkey raised to 102.208 in 1951. The immigration moves of 1950 and 1951 were accepted as deportations instead of voluntary migrations; hence, without considering the provisions of the Convention, these persons were given accommodation and land (Andrews, 1996).

The second great refugee movement from Bulgaria to Turkey occurred in July 1989. After the assimilation attempts of 1984, in 1989 Mr. Theodor Zhivkov, then President of Bulgaria, demanded from Turkey to open its border gates, and at the same time ordered the Bulgarian Turks to leave the Country immediately (Kiriçwi, 1995). Upon this incident, by the end of August, 312.000 Turks entered Turkey. The Turkish Government, being anxious that the migration move would increase, brought back the visa requirement. Due to the extreme exploitation of national resources, worsening of economic conditions and upon rendering the rights of Bulgarian Turks on January 12, 1990, hundredthousands of Turks returned by Mid - February to Bulgaria (Andrews, 1996).

The second largest group in this category is the one consisting of Yugoslavian migrants. When an affinity had arisen between Turkey and Yugoslavia in 1950, Yugoslavian authorities allowed ethnic Turks to leave the country to go to Turkey. The major part of this movement took place between the years 1946 - 1970. During this period, together with approximately 183.000 ethnic Turks plus some Albanians, Muslim Slavs left Yugoslavia and arrived in Turkey. When economic, political and social conditions have improved in Yugoslavia, immigration decreased significantly. However, with the starting of ethnic conflicts at the beginning of the 1990s in Yugoslavia, Bosnian - Herzegovinan refugees, whose number has been estimated as between 20.000 - 25.000 have entered Turkey. Although the Turkish Government should grant these Bosnian Muslims refugee status, it abstained to give such status to them. Granting this status would mean that they would enjoy all the rights of citizenship. On the contrary, the Government gave those people only the residence permit and accommodated them in the Camps in Kırklareli and İzmir Provinces. Also hospitals and schools were established within these

camps (Kiriçwi, 1995).

According to the data at the Foreigners' Department, in the refugee camp near the Bulgarian border, 40 Kosovans and 83 Bosnians have been accommodated on 01.11.2000.

After adoption of the settlement law dated 1934, no domestic legislation has been issued in Turkey until 1994 on asylum subjects. Upon its ratification in the

Turkish Parliament in 1951, the Geneva Convention became an integral part of the Turkish legal system. Since the Geneva Convention is one of the basic texts of international legislation, and its 1967 Protocol is binding Turkey as well, it is appropriate to highlight its important points here. Because, besides giving the definition of „refugee” it underlines one of the most significant rights, namely the right of „non - refoulement”.

2.1.2. Geneva Convention of 1951 and Refugees

The definition of a refugee, which is valid today, is based on the provisions of the „1951 Geneva Convention on the Status of Refugees”. The 1951 Convention defines the refugee as any person, who:

„as a result of events occurring before 1 January 1951, and owing to a well - founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it”

Inclusion of a spatial and time limitation in the Convention is because the Convention has taken the conditions of the World War II into consideration. In fact, during the World War II, in the regions occupied by Germany, Italy and Austria, 11 million people of „non - German” origin have been forced to migrate. The 1946 Constitution of the International Refugee, which precedes the 1951 Convention has limited the refugee status to:

„Victims of the Nazi or Fascist regimes or of regimes which took part on their side in the Second World War, Spanish Republicans and other victims of the Falangist regime in Spain, and persons who were considered as refugees before the outbreak of the World War II.”

However, the Universal Declaration of Human Rights which was adopted in 1948 - two years later than the resolution preceding the Geneva Convention - states that „everyone has the right to leave any country including his own (Article 13); and everyone has the right to seek and enjoy other countries' asylum from persecution (Article 14/1)”.

An interesting paradox can be seen between the two texts: while the first one has limited the right of being a refugee to the European victims of the war,

the declaration has stressed that the right of asylum is valid for everybody. The limitations which were introduced on the right of asylum in the 1951 Convention were left out in the 1967 Protocol Relating to the Status of Refugees. Odman maintains that the 1951 Convention has two distinct characteristics. The first one is the strategic concept which was adopted for the definition and scope of refugee. With this strategic consideration, persons who escaped from the USSR and Eastern European Regimes were intended to be taken under international protection. The second one is that the definition of refugees in the Convention was European - Centered (Odman, 1995: 40). However, although the 1967 Protocol Relating to the Status of Refugees lifted these spatial and time limitations regarding the refugees, Turkey has not adopted this resolution and kept the geographical limitation. In other words, in Turkey only the asylum seekers who come from Europe may obtain the refugee status; and to those who come from outside of Europe such status is not granted.

After Malta's resolution on lifting the geographical limitation mentioned above, Turkey and Monaco are left as the two last States which still keep their reservations on the subject matter. According to Kiriçwi, in practice, the meaning of this reservation is, as a result of the anti - communist politics of the cold war period, to ensure that those who escaped from the USSR and Eastern European Regimes reached Western Europe safely. During this period, Turkey has served as a „staging post” (1995: 5). These persons whose applications were in conformity with the provisions of the Geneva Convention were called „Convention Refugees” (Kiriçwi, 1995, 2001; Odman, 1995). When the number of these refugees reached 2.300 in 1960, an UNHCR branch office was established in Ankara to act as a liaison bureau between the Turkish Government and these refugees. It has been stated that between 1979 - 1991, there were 3.624 asylum seekers who fit to the definition, however the ratio of those who were accepted as refugees is not known. Kiriçwi says that, during this period, the number of asylum seekers or „Convention refugees” of the USSR and of Ea-

stern origin may be much higher (1995: 13). Furthermore, as it is stated above, the Turkish Government abstained from applying the provisions of the Geneva Convention to the Bosnian Muslims who came from Yugoslavia in 1992; hence they were given the status of „national refugees”. They are under „guest” status, and when their status is compared with those who sought asylum by coming from Iran and northern Iraq, it can be seen that their conditions are better: They are not deported, infrastructures of their camps are provided, and in many cases they obtain residence permits.

The Convention contains five major factors which distinguish the refugee movements from other migrations. They are 1. Alienage; 2. Genuine risk; 3. Fear of persecution; 4. Affiliation that leads to persecution; and 5. Need of protection respectively. (Uwarer, 1996). Besides these major factors, the Convention states such entitlements as the right to own movable or immovable properties, the rights to obtain education, employment, freedom of movement, and access to courts. To some rights such as the right to access to courts the signatory states have not put reservations.

Besides the definition of refugees, the most significant second principle of the Convention (on which no reservations were put) is the „non - refolement” principle. There is a substantial authority that the principle is binding on all states independently of specific assent (Godwin - Gill, 1996; 167). In other words, this non - refolement principle is binding even for the non - contracting states of the 1951 Convention. Article 33 of the convention which prohibits refolement reflects the rule of the customary international law and crystallises it. Article 33 of the Convention states that:

„No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”

Although it is one of the basic principles of the 1951 Convention and the core of the international projection, the right of the individuals to be accepted as asylum seekers is under the interpretation of the relevant states. In the words of Goodwin - Gill,

„the state has discretion whether to exercise its right as to whose favour; as to the form and content of the asylum to be granted” (1996: 202). Furthermore, the concern of „national security” may be another basis to reject the asylum seekers or expel them. This rationale is based on the Article 32 / 1 of the convention which states that

„The Contracting states expel a refugee who is lawfully domiciled in their territory save on the grounds of national security or public order.”

Since the definitions and scopes of the concepts of „public order” and „national security” are subject to domestic legislation, different states may bring different interpretations to such concepts, and as a result of such differences some asylum seekers may be expelled accordingly. Especially the matter of „national security” is an excuse which is continuously used by Turkey against refugee movements. In fact, in 1991, during the „Gulf War”, Turkey closed its border gates to the Kurds of Northern Iraq by stating the risk of instability of the country as the reason. As a result of this action, hundreds of thousands of Kurdish asylum seekers have been forced to wait in the snowy mountains under unhealthy and unprotected circumstances (UNHCR, 2000: 212).

Sadako Ogata, who was the High Commissioner for Refugees of U.N. during the previous period, declared that while some countries closed their borders officially, others secretly enacted legislation which hinders passing through borders. Hence the threat towards asylum seekers has started to gain a global character (AI, 1997a: 6). The report of Amnesty International on the subject matter indicates that for several times Turkey has sent back tens of Iranian origin asylum seekers to Iran or expelled them to Northern Iraq with unlawful reasons. Moreover, the very existence of several treaties, signed between the Turkish and Iranian Governments, worsen the situation. Among those are treaties on the „measures to increase border safety” and on „prevention of terrorist acts which aimed at separatism and destroying the integrity and legal systems of countries”. In the above - mentioned report it is stated that after ratification of a treaty in June 1994, a Turkish Minister has declared that „no individual or group who is against the Iranian Islamic republic shall be allowed to stay in Turkish territory” (AI, 1997b).

2.1.3. The 1994 Regulation and its Criticisms

Turkey did not experience a large asylum movement until the 1980's. Then, in the 1980's, the entrance of those who escaped from Ayatollah Khomeini's regime happened in two ways. Those who had valid passports and economic sufficiency

have been able to go to other countries by transiting through Turkey. For those who entered Turkey illegally and sought asylum, the UNHCR office in Ankara has given authority. Due to Turkey's geographical reservation against those who come from ou-

tside of Europe, such persons were allowed to stay in Turkey only on „temporary basis” and they were settled in third countries through UNHCR (Kiriçwi, 1995). For this period, no data is available for both the numbers of those who came and were sent back. It has been observed that during this period, asylum seekers who came to Turkey from outside of Europe, especially from Iran, did not cause an „immediate and important” problem for the Turkish Governments ruling at that time. It is claimed that the migration movement of Iranian asylum seekers has been continuing, but giving a definite number for them is not possible. For the official data for the last years see Table 1.

The event which has compelled Turkey to enact a special law on the matter was the large movement of asylum seekers who were Kurds from Northern Iraq and escaped from Saddam's regime in 1991 and 1998. We can separate these asylum movements chronologically into two steps or stages.

The first one occurred during the Iran - Iraq war years. On March 16 - 17, 1988, when Iraqi Pashmargas occupied a military post in Halepche, Iraq used chemical weapons (poisonous gas) in Halepche and caused the death of thousands of people. This „Halepche Genocide” caused a great reaction throughout the world. After the cease - fire of August 1988, Iraq attacked the Kurds in Northern Iraq. Upon this incidence, thousands of people crossed the border between Iraq and Turkey and entered Turkey to seek asylum. However, because Turkey did not

open its border at first, many people lost their lives. Later, Turkey settled them in three separate camps which were called „temporary sheltering centres”.

The following information is taken from a detailed report prepared by the minorities commission of the Human Rights Association (IHD, dd. 02.02.1990):

Diyarbakır Camp

According to the report, whilst the number of the Northern Iraq people who stayed in the Diyarbakır Temporary Sheltering Centre was 13.000 in August 1988, this number decreased to approximately 12.000 in October 1989.

The report said that there were some health problems of the people in the camp; and in fact, child deaths occurred. The report refers to some dwelling / accommodation, education and employment problems as well. In this report it is said that: „Kurdish asylum seekers are accommodated in the dwellings in Diyarbakır which had been built for the earthquake victims and were empty at that time. However, since the number of asylum seekers is high, each of the 30 - 35 families lives in 45 m2 dwellings in very adverse conditions. There is no school and playground for children. Yet out of the dwellers, 7.000 are under 14 years of age, and again around 3.500 of them are at school age. Entrance and exit controls in and out of the Camp are performed by the gendarme and police. Even the media represen-

Table 1:
Statistics concerning applications under the 1994 Asylum Regulation as of 1 November 2000

| Country | Applications | Accepted cases | Rejected cases | Pending cases | Cases not assessed |
|-----------------|---------------|----------------|----------------|---------------|--------------------|
| Iraq | 8.961 | 2.335 | 2.809 | 3.296 | 114 |
| Iran | 10.713 | 4.946 | 750 | 4.496 | 172 |
| Afghanistan | 184 | 27 | 16 | 126 | 15 |
| Russia | 32 | 16 | 13 | - | - |
| Uzbekistan | 40 | 1 | 15 | - | 18 |
| Azerbaijan | 25 | 2 | 20 | - | 2 |
| Other Europe* | 30 | 6 | 18 | - | 1 |
| Other** | 100 | 8 | 63 | 22 | 1 |
| Total*** | 20.085 | 7.343 | 3.705 | 7.913 | 356 |

* Includes: Albania, Bosnia, Bulgaria, Macedonia, Ukraine and Yugoslavia.

** Includes: Algeria, Bangladesh, China, Congo, Egypt, Eritrea, Ethiopia, Jordan, Lebanon, Libya, Kuwait, Kyrgyzstan, Pakistan, Palestine, Rwanda, Sierra Leone, Somali, Sudan, Syria, Tunisia, Zaire.

*** Not appearing in the table but included in the total for applications are 768 applications that were subsequently withdrawn.

Source: Data obtained from the Foreigners Department of MOI (İwiçleri Bakanlıkı).

tatives can make their interviews under the supervision of police officers only. Kurdish asylum seekers say that they work at construction sites cheaply as illegal workers and mostly work as peddlers.

Mardin - Kızıltepe Camp

In the same report it is stated that in spite of all the efforts, IHD's Istanbul Branch Committee was not allowed to see and interview the asylum seekers in Mardin - Kızıltepe Camp. So, only the information given by the vice governor who was in charge of the Camp affairs are evaluated in the report. This information regarding the Mardin - Kızıltepe Camp is included in the report in the following manner: "While the number of asylum seekers who are staying in the Camp is 15.141 including those who were transferred from Silopi, presently the number has raised to 16.300 with the newly borns. The Camp consists of 75 villages and 2.700 households. It has 2.221 tents, and considering the low quality of such tents it is stated that it seems impossible to stay in tents especially in bad weather conditions. The perimeter of the camp is surrounded by wire - fence, and entrances and exits are controlled by gendarme. Only 60 - 70 Northern Iraq Kurds may go to Mardin every day. Health conditions are also significantly negative. Child deaths are frequent; but the most important problem in this camp is housing. The life in tents has been becoming more difficult day by day.

Muğ Camp

Information which is given in the report regarding the Muğ Temporary Sheltering Centre is as follows: "Approximately 8.000 individuals are accommodated in the camp. In 65 m2 housing units 25 - 30 individuals are accommodated. They do not have any employment opportunity and are allowed to go the Provincial Centre (Muğ) only once a week. As it is the case for the other Camps, entrances and exits are controlled by police and gendarme."

It is underlined in the report that the living conditions of these people should be improved as soon as possible. Also, in the report the human rights dimension of the problem is stressed by stating the international conventions of which Turkey is a signatory, and it is repeated that the Kurdish asylum seekers should be granted refugee status immediately.

The second asylum seekers' movement from Iraq coincides with the Gulf War years. Upon the cessation of occupation of Kuwait by Iraq, Iraqi military forces attacked the civilian population in Northern Iraq, and as a result of this attack 450.000 Northern Iraqi Kurds came to the Turkish border while 1.3 million Kurds came to the Iranian border. Although

Iran was accommodating 1.4 million asylum seekers from Afghanistan and 600.000 asylum seekers escaped from the Iran - Iraq War from Iraq to Iran, accepted this latest movement inside its border, however requested immediate assistance from UNHRC. Turkey on the other hand closed its border on the basis of national security and did not allow the Kurdish asylum seekers to enter in the country (UNHCR, 2000: 212).

The idea of founding a safe haven for these persons who are deprived of food and shelter has been accepted, and Iraqi military forces were banned from crossing the Northern part over the 36° parallel. Thanks to this resolution the Kurdish migrants obtained international assistance.

Besides these asylum seeking events, with the effect of the endeavours of Turkey to become a member of European Union, the necessity has arisen to put the principles and procedures regarding refugees under legislation which had been managed with administrative actions until 1994 (Odman, 1995: 180). On the basis of the above - mentioned necessity, the "Regulation on the Procedures and Principles Related to Mass Influx and Foreigners Arriving in Turkey Either as Individuals or in Groups Wishing to Seek Asylum from Turkey or Requesting Residence Permits with the Intention of Seeking Asylum from a Third Country" has been put into force (Official Gazette, 1994).

In the 1994 Regulation, the refugee definition of the 1951 Geneva Convention is repeated by adding the phrase: "As a result of events occurred in Europe" at the beginning of the sentence, and since it is no international obligation to confer the refugee status to persons arrived in Turkey due to events occurred in countries outside of Europe, such individuals are defined as "asylum seekers". Article 5 of the Regulation explains the asylum seeking process and indicates the authoritative bodies. According to the provisions of the said article:

"With regard to the individuals seeking asylum in Turkey or those who request a residence permit from Turkey with the intention of seeking asylum in a third country:

a) Their identities are determined, their photos and fingerprints are taken at the office of the relevant Provincial Governor.

b) Under the 1951 Geneva Convention on the Legal Status of Refugees they are interviewed.

c) The document containing their interview is sent to the ministry of interior together with the opinion of the Governor.

d) The foreigner concerned shall be kept under custody until an instruction arrived from the Ministry of the Interior.

e) Other procedures are carried out in accordance with the Ministry's instructions." (Odman, 1995: 264)

In Article 6 of the said Regulation, it is stated that „the power of determination of the status belongs to the Ministry of Interior.” Bestowal of the power of detention and determining of the status to the Interior Ministry causes extensive criticisms. In a number of cases the UNHCR authoritative personnel is kept out of the process, and police officers working in the Foreigners Department of the Security General Directorate (which is under the Ministry of the Interior) can easily turn the interview into an investigation. Mr. Rıza Torun, attorney at law, himself an Iranian refugee, explains that during the interview, questions intending to learn the political views of the asylum seeker are asked, hence the provisions of the convention are violated. („Workshop on Refugees and Turkey”; Ankara, 22 - 25 March, 2001). Worse than this, the authorities in the border regions do not know anything about the Regulation (Kiriçwi, 2001).

Article 29 of the Regulation states that „the asylum seeker whose application is rejected shall be deported by the Ministry of the Interior ” However, an asylum seeker's appeal may be considered by the superior of the officer who decides deportation. According to the Regulation, such appeal shall be considered and evaluated not by the courts, but by the higher echelons within the Interior Ministry. Hence, it is obvious that such decisions on the appeals would not be legal, but either administrative, or political.

One of the most critical articles of the regulation is Article 4 which determines the period for application. According to the said Article, those foreigners who seek asylum from Turkey or requesting residence permit for seeking asylum in third countries, those who entered Turkey via legal ways, should make an application to the office of the Governor of the city where such foreigners are residents, and those who entered Turkey via illegal ways, to the office of the Governor of the city where such foreigners entered Turkey within maximum 5 days.

Although Turkey increased this application period to 10 days with a regulation adopted in 1999 (Official Gazette, 1999), the period of five days resulted in violation of the non - refoulement principle in several cases between 1995 - 1999. However, the resolution no 15 of EXCOM stipulates that

„it may be possible to demand asylum seekers to file their asylum claims within a certain period of time,

however, failure to comply with this condition or failure to perform any other official requirements may not be used for denial of the asylum claims”.

In spite of this, Amnesty International reports that some of the several Iranian asylum seekers have been extradited to Iran and some others have been deported via Northern Iraq who exceeded this period of 5 days. In 1996, although Mehrad Kavouçî who is a member of People's Fighters Organisation of Iran was recognised by UNHCR as a refugee, he was arrested the same day and deported (Al, 1997). This event happened to several Iranian and Iraqi asylum seekers (Al, 1997; Frelick, 1996).

It is very clear that the 1994 Regulation aims at those asylum seekers who came from outside Europe, i.e. „non - convention refugees” (Kiriçwi, 1995: 2001). Non convention refugees have to convince Turkish authorities in order to be admitted as a refugee. It is very doubtful whether police and gendarme officials on duty in the border outposts, are aware of that they have to protect refugees. Worse, it is very clear that in an asylum application of a member of separatist Iranian or Iraqi Kurdish movement, no objective evaluation can be made, since Turkey is in a war with the Kurdish separatist movement in its country. Those people whose application is admitted after a long procedure, are entitled to temporary protection for being relocated in a third country.

The most basic characteristic of the Regulation is the fact that the selection of asylum seekers / refugees is made according to whether concerned persons are of European origin or not. Frelick says:

„Normally an asylum seeker is considered to be a person claiming to be a refugee whose status has not yet been determined by an adjudicator, however, according to the new Turkish regulations, the distinguishing feature between a refugee and an asylum seeker is whether or not the person in question is of European origin.” (1996: 2)

The last governmental resolution adopted in Turkey in relation to the refugee problem in Turkey is the „Resolution on Implementation, Coordination and Monitoring of the Turkish Nation Regarding Undertakings for European Union Membership Acquisition” in 2001. This document which is known in the Turkish public as „National Program” in the process of integration into the European Union, states that Turkey shall aim at lifting the geographical reservation as stipulated in 1951 Geneva Convention on refugees, provided that EU countries show necessary sensitivity in burden sharing and required legislation and infrastructural changes are performed in a manner that this situation shall not encourage a mass influx” (Official Gazette, 2001:

373). Turkey with an amendment it made in 1999 to 1994 Regulation, increased the application period of five days to ten days and in the 2001 National Program stated that it shall abolish geographical reservation in „mid term” (page 374). However, it provi-

des that European countries' burden sharing is a precondition for abolishing this geographical reservation. In addition it is very unclear for the time being how „in a manner that this situation shall not encourage a mass influx” shall be achieved.

2.2. Historical Background

Academic studies carried out in Turkey on migration and population movements specifically emphasise the asylum of Jewish people fleeing from the Spanish Inquisition in 1492 to the Ottoman Empire, and the tolerance shown to these people (Kiriçwi, 1995a, 1995b; Odman, 1995; Baçat, 1997). Contrary to the theses explaining this event of asylum with the tolerance of Ottomans to foreigners and claiming that this tolerance has been an Ottoman legacy to the Republic of Turkey, Tunway states that primarily, the concept of „tolerance” should be rejected. Reminding Tom Paine's statement on human rights, „Tolerance is not the opposite of intolerance, but an imitation thereof. Both are varieties of despotism”, Tunway expresses that there is a tone in this expression, of looking down upon the other, and bearing the other. Arabs fleeing from the Spanish Inquisition in 1492 were not treated with the same sensitivity. Underlying the tolerance shown to Jewish people were pragmatic intentions and utilitarian goals (Tunway, 1995: 51). As a matter of fact, Jewish people, along with other ethnic minorities including the Armenians and Greeks, have played an important role in the Ottoman economy. The owners of industrial organisations at the beginning of 20th Century were, to a large extent, non - Muslim minorities. Armenians and Jewish people have often been involved in the silk industry and production of cigarette paper, respectively (Çen, 1995). This process has been interrupted mainly due to policies of Islamization of Anatolia starting in the 20th century, and Turkicization of Anatolia as by the foundation of the „Republic of Turkey”. It shall be appropriate to briefly mention three historical events with respect to population movement, namely the Armenian Displacement, agreement on exchange of Turkish and Greek population, and Jewish people seeking asylum in Turkey, who have been fleeing from the Nazi massacre during World War II, in regard to the implementation of these policies.

First of all, the identity of „community / people” based on religions bond, not on „nation” as in the western modern meaning, has prevailed in the Ottoman social and political life. Even though in the Ottoman modernisation movements of 1839, 1876 and 1908 as well as in the movement of Young Turks, there have been significant transformations in the conception of „national identity”, the system of „community / people” continued to prevail. In

other words, the members of Ottoman society have been classified as Muslims and non - Muslims, and non - Muslims have been treated as second - class citizens (Tunway, 1995: 51 - 52). For instance, an expression of Gülp renders the conceptual dimension more comprehensibly: „The concept of 'national economy' has been in use, starting from the 1908 regime of Young Turks as well as during Kemalist reforms. However, the concept of nation bore a different meaning and referred to the division of labor between Muslims and non - Muslims within the Ottoman Society” (Gülp, 1995). This division should be taken into consideration underlying the ethnical conflicts experienced afterwards in Anatolia. As Keyder emphasised, specific in the example of Turkey was that the class struggle came along with restructuring the Ottoman Empire at the end of the 19th century, which was also determined by religious and ethnic differences (Keyder, 1995: 50). The process of becoming a modern nation in the beginning of the 20th century has affected both Turkish people and non - Muslim minorities, and ethnic and religious conflicts have been intermingled with economic conflicts. As a consequence, forced migration and atrocities began in Anatolia.

1. From May 1915 till the end of 1916, forced migration of Armenians in the most of the Provinces of Anatolia, especially in the Eastern and South-eastern Provinces such as Van, Tunceli, Erzurum and Mardin, has been initiated, and this migration has turned into mass destruction (Akcam, 1994, 1999). Even though official statements were in the direction that Armenians transported to Syria have died en route due to illness and war, approximately 800.000 Armenians and 200.000 Greeks have died during forced migration. These figures have been confirmed by official records of the time and by Mustafa Kemal himself (Akcam, 1999: 301). Muslim immigrants from outside Anatolia have been resettled in the evacuated Armenian villages.

2. The second event is the population movement experienced after the signing of „the Convention and Protocol on the Exchange of Turkish and Greek People” by Turkish and Greek delegations in Lausanne on 30 January 1923. Prior to and after the Convention, during the years of 1922 - 1924, around 1.200.000 Anatolian Greeks living in Anatolia, and 400.000 Turkish Muslims living in Greece have been displaced. After the agreement that became

„an example” in the international arena, Aktar states that „the national elite has started to consider their ethnic and religious minorities as 'human material to be exchanged during a crisis’” (Aktar, 2000: 78). A typical example for this is that Greeks living in Istanbul and Greeks that were Turkish citizens who were married to those, have been treated as trumps / hostages in international negotiations during the time when conflicts in Cyprus in 1964 have intensified. According to data by Demir and Akar, around 30 - 40 thousand Greeks have been deported during this period. There were those who committed suicide as a result of the fact that they could not endure the living circumstances after their deportation to Greece among the Greeks who were uprooted from their place of birth and growth (Demir and Akar, 1994: 111)

3. The third is the event of asylum in Turkey for certain Jewish people fleeing from the Nazi massacre, which has also been described by certain circles as a positive approach of Turkey. However, this example shows again that Turkey's motivation to accept refugees is rather economic than humanitarian. Turkey indeed has opened its borders to welcome many Jewish people in 1930s. Many of these people were professors, doctors, specialists in law, architects and artists. The positive impact introduced by these people into the cultural and intellectual life of the Turkish society can easily be seen. New departments / faculties for Turkish universities, new laboratories for research centres, new architectural studies and other important developments were brought by these people. Endeavours by these people have lead into many new institutions: Ankara University, Faculty of Languages, History and Geography and Ankara State Conservatory were founded

2.3. Forced Migration

Even though one can hardly give an exact figure, today, there are 20 to 30 million „internally displaced persons” (IDP's) that have been forced to leave their homes by conflict and human rights violations (UNHCR, 2000: 214; Amnesty International, 2000).

Although there is no international consensus on the meaning of this concept, IDP defines those people who are subjected to violence, armed conflict or pressure and are forced to leave their places and homes, yet have remained within the borders of their country (UNHCR, 1997). Unlike the concept of „refugee” which has a deeper history in the literature of International Law and Human Rights, „IDP's” point out those who are forcibly displaced and are unable to cross the borders of their own country. These people who are specified as internally displaced or forced migrants, have been renounced of their basic rights and expelled from citizenship, as

by Bruno Taut and Leopold Lewy, respectively; translations of classical works and the architectural design of TGNA building were accomplished by Georg Röhde and Clemenz Holzmeister, respectively (İdeal politika, 1995, p. 1 - 5).

However, the most apparent example to show how Turkey admitted immigrants in a selective fashion, is the event of „the Ship of Struma”. The Ship of Struma which had Jewish people fleeing from the Nazis in 1942 en route to the Land of Palestine, most of whom were Russian and Polish Jews including 103 children, 269 women and 406 men, a total of 778 people on board, was not allowed to apply for asylum, nor was it permitted to pass the straits to continue its voyage, when the ship made it up to the Turkish coasts of the Black Sea. Struma is still sunken in the depths of the Black Sea with corpses of passengers, hundreds of whom were women and children, torpedoed by a Russian submarine after it has been halted for seventy-five days. This is perhaps the most dramatic event in history in regard to the problem of immigrants. The fact that Turkey has not shown the same degree of tolerance to these people as to academician and artist Jews is an apparent fact that requires no further interpretation or comment. A letter by Grigori Bucspan, a Jew among those who waited for a transit pass from or asylum in Turkey, which describes the conditions of the Struma passengers, is among the best evidence. The letter dated 17 February 1942 starts as follows: „We are still here, and we do not know when we will depart for Palestine. We are on board for 70 days. The cabins we stay in are in terrible condition. I was hoping that our voyage would not take more than 5 - 10 days” (Kırdar, 2000).

they have been defined on the part of the state as civilian groups which are „enemy”, especially in cases of civil war or armed conflicts (Peker, 2000). As the activities by transnational and international organisations have increased in the process of globalisation, this concept has started to be considered important in the 1990's. This problem, having been previously perceived as an interference in a state's domestic affairs, has been brought to the international public agenda, as the sovereignty of nation - states has started to be questioned. However, it is likely to encounter those who have been forced to migrate in the history of Turkey. The most critical examples are the Welfare Tax dated 1942, Dersim Transportation Operation and Tunceli Law dated 1936.

Unlike the examples given previously about the Armenian Migration (Transportation) and Agreement on Exchange of Turkish and Greek Populations,

the Welfare Tax, dated 1942, is a striking example for forced migration of ethnic minorities who were unable to pay high amounts of their taxes due. They were transported from Istanbul to work camps in Erzurum. The main characteristics of the Welfare Tax is, aside from its bringing heavy tax burden on taxpayers, that it specifically targeted towards non - Muslims. According to the Law, the taxes levied on Group G (non - Muslims) had to be a minimum of 2 times, and a maximum of 3 times that of Group M (Muslims). In spite of the heavy tax rate imposed on ethnic minorities, the Prime Minister of the time, Rüşdü Saracoğlu, ordered to increase taxes on „Group G” to the level of 5 to 10 times that of „Group M” (Aktar, 1996). Many non - Muslims who have been facing difficulty paying their taxes due, had to sell all of their properties, movable or immovable; and those who were unable to pay were forced to leave Istanbul, and were sent to work camps in Aşkale town of the province of Erzurum. In these years, when anti - Semitic tendencies in Turkey have become stronger, the Welfare Tax became a means of pressure especially on the Jews (Aydın, 1996). Anti - Semitic tendencies as well as Turkicization / Islamization policies have caused the population of ethnic minorities in Turkey to decrease (Aktar, 1996). The Jewish population of 81.872 in 1927 decreased to 45.995 in 1955 (Aktar, 1996). The Greek - speaking population of 108.725 in 1935 decreased to 89.472 in 1950. In the same period, the Armenian population decreased from 57.599 to 52.776 (Aydın, 1996).

Although not included in the non - Muslim minority, the Kurdish population in Turkey has been an issue during the history of the Republic. It is possible to see the first examples of the implementations of evacuation of villages and forced migration which were intensified especially in the beginning of the 1930's. The above - mentioned Settlement Law, dated 1934, has been the first legal basis for this implementation. The law concerning the right to immigrate to and reside in Turkey for people of Turkish ethnic origin and culture living abroad, has become the basis for „Turkicization” of the Kurdish population living in Turkey, whose mother tongue is not Turkish, and for internal displacement thereof. Article 12 of this law states: „According to the decree by the Cabinet, the Ministry of Interior is obliged to take the necessary measures against those who are not devoted to Turkish culture, or those who are devoted to Turkish culture but speak a language other than Turkish, for cultural, military, social and security purposes. Provided that it is not in mass proportions, transportation to other places and expulsion from citizenship for these people are among these measures” (Göktaç, 1991: 129). The Tunceli Law, dated 1935, which was enacted immediately after the Settlement Law, first of all changed the name Dersim to Tunceli, and following this, the directives for the military operation to be imple-

mented in Tunceli was formed along the lines of this Law. As a consequence, the Cabinet of that time resolved on „repression operation” on 4th May 1937. Thousands of people of Dersim were displaced, forced to migrate to the West of Anatolia, and some died during the operation. The manual distributed to soldiers during the operations describes in detail even „how villages are set on fire” (Göktaç, 1991: 139).

The endeavour to solve the Kurdish problem in Turkey through military means has continued throughout the history of the Republic. The state of war during 1980's and 1990's, as expressed by Turkish military circles as „low - intensity war” has caused intensive population displacement. The military coup - d'état, dated 12th September 1980, has formed an intensive pressure on the Kurds as well as essentially on the left opposition, and has caused the migration of 59.870 Turkish opponents to European countries. The number of migrants has increased with the effect of the state of war starting with the rising of Kurdish ethnic - political movement after 1984. During the period between 1980 - 1989, 579.510 people were forced to seek asylum abroad (UNHCR, 1999). Another problem created by the Kurdish problem is the question of „forced internal migration”. As a matter of fact, this problem is still on the agenda of UNHCR, and according to the data by office of the Commissioner, Turkey is the country with the fifth most IDP's.

Table 2:
Largest IDP's populations, 1999

| COUNTRY | MILLIONS |
|---------------|------------------|
| Sudan | 4.0 |
| Angola | 1.5 - 2.0 |
| Colombia | 1.8 |
| Myanmar | 0.5 - 1.0 |
| Turkey | 0.5 - 1.0 |
| Iraq | 0.9 |

Source: US Committee for Refugees, World Refugee Survey 2000, Washington DC, 2000 (UNHCR, 2000)

However, according to the reports of certain NGO's and even the report dated 1998 by Turkish Grand National Assembly (TGNA - TGMM) „Research Commission For Evacuated Villages and Migration Problem in the Southeast”, it is stated that approximately 3 million people were displaced in Turkey. Due to the intensification of the Kurdish problem, at least 3.500 villages and cultivable fields have been partially or totally evacuated. It was stated in the 1998 Human Rights Report by the Tur-

kish Human Rights Foundation (TIHV), that the forced internal migration has been enforced mostly through directives by headquarters of the security forces or local authorities, instead of resolutions by administrative cadres issuing „internal security directives” in the region, or by the Emergency Rule (OHAL) Administration. However, each Gendarmerie unit or any other unit of the security forces implementing „an operation” in the region claims de facto the right of forced internal migration, and all these actions are approved later through administrative directives. The implementation, meanwhile, included destruction and scorching of places of residence (villages and arable fields), houses, orchards and groves and fields. It has been impossible to claim any act or legal rights against these implementations. In addition, in 1997, the General Staff has been declaring in their briefings for many circles that it was „mandatory for the protection of the state”, to „implement forced internal migration”. For instance, in a briefing by the General Staff to Higher Education Council (YÖK) and presidents, deans and professors of the universities, it was stated that „with the concepts of field control and strategy initiated to be followed since 1993, PKK has been cleared from the mountains that were used as a natural base in the past”. The General Staff authorities reiterated that „in spite of criticisms, villages evacuated according to a certain plan have deprived PKK from its logistical means” (TIHV, 1998).

Cultural Association of Social Solidarity with Immigrants (Göç - Der) founded in 1997, classifies forced migration in three categories. The first category comprises of 3.5 million people displaced from approximately four thousand villages burnt and fully evacuated by those who left their villages for security reasons, by those who rejected pressures from rural guards (korucu), or by those who returned their arms they used as rural guards. While the second category includes those who were displaced from partially evacuated villages due to multi-faceted effects of war such as food embargo, grazing prohibition, continual operations, detentions and problems of safety caused by armed conflicts, the third category is made up of those who were displaced because of attacks on civilians in towns, anxiety for safety of life due to crimes of unknown origin (primarily in Diyarbakir, Batman, Silvan and Nusaybin), intensive detentions, shootings from time to time at civilians and houses in towns like Lice, Kulp, Qarnak and Cizre, and similar events that cause problems of safety of life (Göç - Der, 1998).

There are three main causes for forced migration, according to the TGNA (TBMM) Commission report:

1. „Abandonment of villages by the villagers”

According to the report, life in these places has become unbearable since the security of these settle-

ments has become difficult to be provided as well as resources for livelihood have ceased to exist. Difficulty in provision of safety, livelihood, health, education and other services for people in their village, or lands has forced villagers to abandon their settlement.

2. Forced evacuation of villages and arable lands by armed illegal organisations.

The organisation has increased the pressure on villages that are not providing logistical support and that accepted rural guardianship.

3. Villages and arable lands evacuated by security forces / units.

Settlements evacuated in accordance with Law no. 2935 and under the authority of the office of the Regional Governor of provinces of Emergency Rule (OHAL Valiliği), especially those villages rejecting the system of rural guardianship have likely been evacuated by the security forces due to an anxiety either for the difficulty of the provision of security, or for their possible assistance to PKK. However, this has not been implemented within the legal framework, but by the security forces. Since the evacuation in this manner has not been executed within the legal framework, resettlement, boarding and other services have not been ensured under the provision of Law no : 2510 on Settlement, for people that were forced to abandon their villages (1998: 31).

Forced migration in Turkey has come to the agenda with regard to international human rights and international law. According to the data in TGNA (TBMM) Commission report, there are 358 appeals to the European Court of Human Rights on the grounds of human rights violations (1998: 61). Some of the outcomes are as follows: The government lost the case and indemnified an amount of 260.000 French Francs and 8123 £, in an appeal on the ground that the arable sunflower fields were bombed by fighter jets in the town of Lice in the province of Diyarbakir, and houses were burnt causing 3 deaths and 1 casualty. The European Court of Human Rights decided against the government on the grounds of violation of dwelling immunity, inhumane treatment, forced migration in spite of individual freedom, treatment in this manner due to their being of Kurdish origin, and death of twins in a premature birth due to an applicant's (plaintiff's) displacement, as a result of an appeal on the grounds that their houses in the village of Sağöze in the Town of Genç of the Province of Bingöl was burnt by security forces on 23.06.1993 and they were forced to abandon their settlement.

According to the data provided by the office of the Regional Governor of provinces of Emergency Ru-



Foto: TAV

le (OHAL Governorship), as of 1997, the number of evacuated villages is 517, that of arable lands is 1614, the number of households is 37.608 and that of people displaced is 251.366, in the provinces of Diyarbakir, Hakkari, Siirt, Qarnak and Tunceli within the scope of Emergency Rule (TGNA, 1998: 12). Accordingly, the number of people displaced up to this date seems to be 629.701. On the other hand, the former Minister of state, Salih Yildirim, states that 6.000 settlements have been evacuated. The „1998 Regional Report” by Diyarbakir Bar Association does not confirm the figures by the office of the Regional Governor of provinces of Emergency Rule, and this report expresses that the number of evacuated village, only between 1990 and 1997, is 3.211. As a consequence, millions of people were forced to abandon their settlements, and social, cultural, political and spatial problems, solutions of which are becoming harder, are experienced.

Except for provinces such as Diyarbakir and Van where the Kurdish population is dense, metropolitan provinces in Turkey such as Istanbul and İzmir, as well as provinces such as Antalya, Mersin and Adana have accommodated intensive migration. The fundamental reason why the population of Mersin in 1990 increased from 422.000 to 1 million in 1994, and that of Adana from 927.000 to 2 million, is forced migration (HIC, 1996). In the 1990 census, the population of the central town of Van has been calculated as 153.000. The expected population in 1995, forecasted by the State Institute of Statistics (SIS - DIE) of 185.000 people, was actually found to be 457.380 (Arslan and Al, 1996; HIC, 1996). Van has accommodated an intense migration due to the fact that many villages were burnt and evacuated including those which initially rejected the system of rural guardianship initiated to be

implemented in 1991, but accepted this afterwards. As a result of forced migration, thousands of people have come to the villages and towns in Van from the villages and towns in Kars, Aäri, Bingöl, Muç, Hakkari, Siirt and Mardin. 14 villages of the town of Gürpınar in Van and 23 villages of the same were evacuated in August 1995, and in October and November 1995, respectively (IHD Monthly Human Rights Reports, January 1994 - November 1995). Similarly, the population of Diyarbakir of 381.000 in 1990 has increased to 1 million in 1995. According to a study by Turkish Union of Chambers of Architects and Engineers (TMMOB) in 1996, a large portion of those who migrated, i.e. a rate of 43.13 %, has shown „hardship of livelihood” as a ground for their migration. The percentage of those who migrated as a result of „their villages being burnt down” is 15.94 %, and that of those who migrated as a result of „incidents in the region” is 4.68 %. On the other hand, among those who migrated between 1990 - 1995, 58 % have stated that „their village was burnt down”, 43.63 % have stated that the migrated due to „incidents in the region”, and the percentage of those who stated that „they were facing hardship of livelihood” has been 18.7 % (1996 : 33). In Diyarbakir, neighbourhoods have sprouted, where sewage waters are flowing exposed, and where there are either insufficient or no infrastructure facilities. Furthermore, those migrating to the West of Turkey have established „ghetto” - like settlements.

Amersfoort defines ghettos as „institutionalised” settlement areas inhabited by those who belong to a group identified ethnically, racially or religiously, and which all members of the group are settled in this same area. What is meant by „institutionalised” is that the inhabitants are forced to live in these regions, instead of living there by their own choice (Özüekren and Van Kempen, 1998). In the literatu-

re related to the subject, it has been observed that the terms of ghetto and underclass are used together. It is stated that the problems caused by intensified poverty of ghetto underclass are harder and different from the problems of other poor segments of the society (Wilson, 1987).

There is almost no study carried out on the subjects of the relationship between forced migration,

ethnic identity and underclass, and trends of settlement in ghettos, and it is obvious that there is a necessity for an immediate study in this regard. It has been observed that the neighbourhoods in the provinces of Mersin, Adana, and Antalya experience a division according to ethnic origin. People's Democracy Party (HADEP)'s success in winning the local election of the Municipality of Akdeniz in Mersin, which promotes Kurdish identity, has

3. Conclusion

Before concluding our study on the refugee problem in Turkey, we think that adding our evaluations regarding historical fundamentals of the problems is useful in order to evaluate the matter more objectively. Turkey seems to generate asylum seekers rather than admitting refugees. The basis of this phenomenon doubtlessly results from the fact that Turkey is a country which cannot complete its democratisation and development.

The Republic of Turkey is a state which was established during early 20th Century after the fall of the Ottoman Empire, which was a multinational empire. The fact that the construction phase of a nation state in a part of the territories of Ottoman Empire „was not carried out by the (democratic) pressure of social groups from various classes in an upwards fashion but by the direction of the military - civil bureaucracy in a downwards fashion” (Ahmad, 1994, Akçin, 1996, Timur, 1996) makes itself being felt in the legal and political structure of the state. As a result of this fact, pains created by non - establishment of contemporary norms in legal, political, social and cultural fields, manifests itself in every aspect. Due to fact that the bourgeois which are in the position of the dominant class, have no adequate capital accumulation, the state has a poor and dependant structure. This is one of the most important historical reasons for the fact that Turkey failed to complete the democratisation process in western terms. Today, a majority of Turkey's population lives in rural areas. The unemployment rate in urban and rural areas is high. Regional inequality and imbalance in the distribution of the revenues are very high. This structure leads to a social structure which is continuously dynamic. Non - completion of the democratisation process manifests itself in non - solution of the national problems in a democratic way. Thus, the fact that the state has no democratic structure is pointed out with frequent military coup d'états and oppression periods. As a result, all these characteristics brought Turkey into a structure which generates refugees to other countries and creates internal migration due to economic, political or ethnic reasons (Müftüoğlu, 2000).

Our study demonstrates that inadequacies observed in the field of human rights in Turkey which looks like a country which has not completed its democratisation process yet, are also valid for refugee problems and refugee law. Besides the lack of a refugee law which is developed according to contemporary norms, we also need to underline the inadequacy of the governmental and non governmental institutions in order to satisfy needs of reference and help regarding refugees in Turkey.

It is a common determination shared in the literature, that the 1934 Settlement Law which is the first legal text which is still in force as legal regulation, is to regulate population movements (within the framework of making Anatolia Turkish) caused by the transition to the establishment of the Republic of Turkey from the collapsed Ottoman Empire which was a multinational empire, rather than to develop the rights of refugees.

Turkey, indeed, became one of the states which signed the 1951 Geneva Convention. However, although time and geographical restrictions of the Conventions have been abolished with 1967 Protocol, the fact that Turkey does not grant refugee status to those people coming from outside of Europe is seen as another critical issue with respect to human rights. Although some academic circles derive the fact that Turkey keeps this reservation from Turkey's fear of experiencing extreme refugee movements (Kirişçi, 1995: 2001), it is a generally accepted issue that this defence which legitimises pretexts of the State, does not eliminate universal dimensions of the problem within the framework of human rights. Similarly, the use of words like „Citadel of Europe” or „Fish Net” which means admitting refugees after selection (Geddes, 2000) points out some approaches which are impossible to accept with respect to human rights.

The fact that, following the Geneva Convention, no legal regulation has been made till 1994 may be seen as an indicator underlining legal gaps in this field. Nevertheless, the 1994 Regulation itself may not ex-

hibit characteristics which eliminate these legal gaps. While the application period of 5 days as specified in the Regulation, has been increased to 10 days with an amendment made in 1999, it resulted in several violations of the principle of „non - refoulement” which is one of the most fundamental principles of the Geneva Convention and customary international law. Adoption by Turkish academic and legal circles of the concepts of „national refugees”, „convention refugees” and „non - convention refugees” which are not set forth in the international literature, leads to results causing national and non - convention refugees fail to obtain „refugee” status. The fact that the 1994 Regulation authorises the Ministry of Interior Affairs with respect to refugees, appears to be an element which takes the issue from human rights dimension to the politic arena. Nevertheless, it is observed that the violations which are experienced in the human rights issue, are also experienced in this area very intensely.

When it is examined with respect to practice, village burning and evacuation practices which have been carried out especially during the early 1990s, are striking. These practices displaced millions of people from their habitations, and effected deep impacts on the cultural and social life of Turkey. Families which abandoned all their assets, and their means of making their living in the places they left, have been relocated in suburbs of the metropolitan cities and have to live in unemployment and poverty. In spite of such basic problems, the number of scientific studies on this matter is very small. Moreover, the fact that internally displaced persons whose number is stated to range between 500 thousand and 1 million according to The State of World Refugees Report of UNHCR, are not interesting to the UNHCR (UNHCR Population Data Summary Sheet) is very surprising.

In addition to de jure and de facto practices regarding refugee issues, this study gives striking results with regard to the presentation and assigning of a meaning to the refugee issue via the media. In 15 news articles which are selected as examples, these people are presented associated with negative meanings. By means of negative images created by terms such as „death”, „terror”, „fugitive”, „smugg-

ling” etc., refuge is presented by naming its negative aspects. As if justifying Bourdieu's statement of „naming is pointing, creating and bringing to existence” (1997: 24), refugees are classified under the category of illegal activities and qualified as „fugitives”.

Another dimension of the view towards refuge in Turkey manifests itself with the fact that refugee issues have only been handled in the Turkish Great National Assembly during the period when great massive refugee claims are made and in other times this issue has not even been put on the agenda. When the issue is examined with respect to this dimension, the 1994 Regulation which has been passed urgently against the movement of Iraqi Kurdish asylum seekers, may be taken as an example in which the problem is not seen within the context of universal human rights.

Hobsbawm says that the „previous century did not end in a good manner”, while describing the 20th Century which the author defines as „age of the extremities”. The new international order which was expected to become more stabilised with the end of the Cold War, followed a counter course. The 1990s became a period in which, while slogans of human rights and democracy were more frequently heard on the one hand, wars, ethnic conflicts, political pressures and human rights violations have increased in every part of the world on the other hand. When it is in the midst of the 1990s, more than 50 armed conflicts and civil wars rumble. Conflicts in the Middle East, Rwanda, Yugoslavia, Chechnya or Algeria have become evident with violence and brutality, destruction and refugee problems arising out of them. According to Balibar, the international community never faced so many wars which resulted in loss of so many people within such a short period of time in any period of history; and as a result, „globalisation” of various kinds of extreme violence tends to divide the world into life areas and death areas” may be said (Balibar, 2001).

The right of taking asylum must be recognised as a fundamental human right everywhere, only globally ensuring that not extreme violence but human rights may eliminate the „refugee problem” itself.

Policies of Denial:

Europe and Turkey on the Right for Asylum

by *Insan Haklari Dernegi, Ankara, February 2001*



1. A General Assessment of the State of Refugees in Turkey
2. The Question of Refugees Deported Back to Turkey by European Governments

Foto: 3.Welt Saar

In the context of international human rights law, governments have a duty to grant asylum to those who live under conditions of persecution, to victims of crimes against humanity and to victims of torture or to those persons facing the threat of torture in countries of their "normal" residence, as well as to those sentenced to capital punishment or those under such a threat, and to those sentenced to imprisonment for simply expressing their views. Such persecution is particularly of international concern, thereby falling under the obligations of international law, when such persecution has a background of discrimination on the basis of religious, ethnic, political or such difference.

However, since international human rights law is simply the translation of ethical responsibilities into legal obligations by governments under specific time/space contexts, the norms of this law should be interpreted in such way to avoid protection gaps. This is an acute problem in the context of international protection of refugees. For instance, internally displaced people, even when they are displaced in a context of discrimination, such as Kurds of Turkey, or people who suffer exigencies of an internal or international war as long as they remain in their country, such as Kurds of Iraqi Kurdistan, are usually victims of such a gap in international protection. Such people may face a multilateral policy of denial in the international scene.

Against making people suffer on the basis of such a gap, international refugee law includes a basic tool: the principle of non-refoulement. Governments are, in theory, obliged to refrain from deporting persons back to their country of origin, or even to a third country, unless it is beyond reasonable doubt that this person's life will be under protection in that country. This is a very basic, minimum condition to guarantee the protection of the right to live, and it is beyond question that every government is obliged, theoretically, to guarantee the right to live of every person that happens to live under their jurisdiction.

On the other hand, despite grave problems regarding the practice, another question that results in gross protection gaps is that governments are reluctant to understand the full meaning of the right to live, i.e. their obligations regarding the protection of a person's physical and mental integrity. In normative terms, this concept covers all fundamental rights of the person, and this is what distinguishes fundamental rights from other human rights.

1. A General Assessment of the State of Refugees in Turkey

According to the Turkish Regulations on the Status of Refugees (1994), only the refugees of European origin are acknowledged to have the right of asylum.* To non-European refugees, only temporary protection is granted. In some cases they can proceed to a third country which is organized by UNHCR. As a neighboring country to Iran and Iraq, in particular, Turkey is a primary transit country for refugees from these countries, and such refugees, entering Turkey for applying to the UNHCR, have been facing considerable risks and other problems.

The refugees of non-European countries are obliged to display their identity cards and have themselves registered by the nearest Security Directorate and the legal authorities within 10 days. The refugees IHD interviews usually say that they learn this rule when they already get into trouble with the police or gendarma.

The refugees are not provided with legal and social assistance or interpreters in the course of these procedures. They reserve the right to appeal to the court about the decisions by the security authorities pertaining to the refugees. However, in order to be aware of or enjoy these rights, the refugees must come into contact with well-informed lawyers, which is very rare. On the other hand, it has been observed that the treatment of the refugees by local security forces might be flexible about the official procedures occasionally. In other words, the IHD interviews with refugees suggest that some officers might make exceptions in practice to help asylum-seekers. However, the normative difficulty stays there.

The most fundamental problem regarding the protection of refugees in Turkey is the practice of refoulement. Practices of deportation and extradition of the refugees to the country in which they are exposed to oppression are practices carried out under the coordination of the Ministries of Interior and Foreign Affairs. Such practices which lead to the violation of the right to live are presumably based on the Security Agreement concluded with, for instance, Iran. These bilateral agreements supposedly cover provisions related to the mutual extradition of refugees. Another source of the Turkish government's violations of the right to live results from pressure that European governments impose on the government in order to prevent the refugee flow into Europe.

There are several examples that refugees who were given the permission for proceeding to a third country after a UNHCR procedure were deported to their home country by the Turkish authorities, although they had protection status.

Abdülkerim Abbasi, who was recognized as a refugee by Finland, and four refugees named Kamran Bahrami, Ali Orakshan, Omar Aref and Tafik Dad Goush, who were under international protection and accepted by the USA, were detained in Kayseri for extradition on the 12th of March, 1997. On the 13th of March, a refugee named Ahmed Poor Mübareki and his wife together with their two children of 12 and 8 years old were detained in Ankara for extradition. Forty-four Iranian refugees (as far as the IHD knows, they were within the UNHCR procedure) were also taken to the borders to be extradited on the 14th of March. Those who were taken to the border consisted of six members of Kerim Rahman Poor's family, three members of Ferhat Cehangiri's family, seven members of Ali Ibrahim's family, six members of Muhammed Ali Goftar's family, three members of Kamran Sohabi's family, ten members of Muzaffer Basami's family, three members of Ali Drahan's family, four members of Ömer Arih's family, and two members of Tofig Dadgug's family. There is nothing known about their fates.

In the period 1996-1997, 17,745 "fugitive immigrants" were officially deported. At least 289 people, who were deported in 1997, were internationally recognized refugees. In 1997, at least 383 people died in the course of fleeing from the country for an entrance into a European country. (There are no reliable statistics for the subsequent years).

Security forces reported that they arrested 230,074 "illegal immigrants" (which may include asylum-seekers) within the last 6 years. The figures relating to "illegal immigrants" arrested and deported by security forces under the Security Department (police), Gendarmery General Command and the Army, is as follows: 11,362 in 1995, 18,804 in 1996, 28,439 in 1997, 29,426 in 1998, 47,529 in 1999 and 94,514 in 2000. They also reported that, in 2000, 17,280 of arrested "illegal immigrants" were Iraqi, 8,746 Afghan, 8,290 Moldavian, 6,825 Iranian, 5,027 Pakistani, 4,554 Russian, 4,527 Ukrainian, 4,500 Romanian and 3,300 Georgian.

The lack of protection of the refugees' rights includes non-protection of politically prominent refugees.

* The refugees entitled to the right of asylum coming from countries such as Bulgaria and Bosnia & Herzegovina are not always enjoying the fundamental rights preserved by the right of asylum. Along with the Muslims or those "of Turkish lineage" from European countries, the refugees "of Turkish lineage" coming from Central Asian countries are entitled to the right to residence and the right to citizenship gradually.

es from the regime in the country of origin. A large number of Iranian refugees were killed by Iranian secret services in Turkey in the past years.

More importantly, some refugees were killed by military or para-military border-patrolling authorities. The authorities justified such incidents on the grounds that the victims were "terrorists". For instance, according to the TIHV, 28 refugees were killed near the Turkey-Iran border in October 1996, and 3 refugees were killed on 21 December 1996. In October, 2000, six refugees (supposedly Iraqis) were shot in Hakkari. On December, 13th, 2000, 2 refugees were killed at the Turkish - Iranian border. There is no official data on such cases of death. It is to be assumed that the estimated number of unknown cases is quite high.

Secondly, there are no provisions for protecting other fundamental rights of the refugees. The security officers may even bridge the gap of protection by providing occasional food and blankets on their own efforts, although this is not sustainable. Of some provinces, for instance in Afyon, it has also been reported that a particular provincial governor bridges the gap of protection by utilizing public resources on his own discretion. Such arbitrary protection excludes education of the refugee children. An important problem in this regards are the urgent medical needs of some refugees. For instance, a large number of the refugees from Iraqi Kurdistan have gross medical problems that cannot be solved in that country. The UNHCR does not recognize such refugees even when these medical problems relate to the political situation in that country which involves the UN responsibility. The most urgent of these problems are injuries and anti-body development resulting from land mines or chemical weapons (Halabja). Refugees from this region are also internally displaced for a prolonged time in most cases. While most of such refugees have no political justification for their seeking temporary international protection, given the strict interpretation of the international refugee law, the lack of protection for such cases means a grave gap in international protection. This problem may be solved by developing international medical services for such people in a safe region.

Intisar Muhammed Sameen was 9-years old when Halabja was bombarded by chemical weapons, and she was suffering from leukemia (chronic myeloid leukemia) in 1998. The "government of Iraqi Kurdistan" declared to her that she could not be assisted medically in the region. She was living in Suleimania with her husband and her two little daughters when her sickness was diagnosed. Her husband was a member of a political party in opposition to Saddam Husein's government, and it was banned by Iraqi regime as well as by the

warlords of Kurdistan. He took his family to Turkey to apply for refugee status at the UNHCR Representative Office in Ankara. The UNHCR rejected their application on 24th December 1998 while saying that "after carefully examining your application in this second review you have not been found to meet the refugee criteria under international refugee law. You are therefore not a person of concern to UNHCR." The family think that, like all other families from Iraqi Kurdistan, their plead was not given proper consideration. The UNHCR officer concerned with her file said on her medical problems: "We regard her as an ordinary person on the street suffering leukemia". The point about being a refugee is that she is not a person on the street. She had no state to help her, and she was a stranger for the other persons on the street. She went back to Iraqi Kurdistan alone.

Refugees may have problems with continuing medical treatment because they are forced to live in refugee camps which are practically detention camps.

Mr. Omer Rahim Nadr from Northern Iraq came to Turkey to apply for a refugee status. He belonged to a political party (Hareket Inqaz vu Ihlasi Vatani) reportedly suppressed by different fractions at different times. He applied to the UNHCR on 26 October 1998. He was detained in Haneqin for 15 days in March 1997 when he was tortured. This was certified in a letter of diagnosis by a doctor at Çankaya Poliklinigi on 21 January 1999. His treatment by TIHV started consequently. A letter dated 25th January required Ankara Security Directorate to allow him to stay in Ankara for his treatment. However, the authorities wanted a letter by an official hospital to allow him. His treatment was cancelled, and he was transferred to a temporary asylum center at Kayseri on 9th February 1999.

Thirdly, a significant factor in the low level of refugee protection in Turkey relates to the policies of the UNHCR office in Turkey. Political interpretation of country situations of countries of origin by the UNHCR and the UNHCR's structural sensitivity to the policies of the hosting country are fundamental problems in these regards. Political attitudes of the UNHCR's Turkish eligibility officers pose another problem for refugees from neighboring countries, especially for Kurdish refugees. For instance, it is often reported that the UNHCR officers are not quite receptive to Kurdish refugees from Iran and Iraqi Kurdistan, or that they tend to discriminate between the supporters of the previous regime in Iran and those of the left-winged groups, at the cost of the latter. Furthermore, it is also reported that they are not quite informed of or careful on the conditions of passage to Turkey. For instance, if

a refugee reports that he followed a passage-way from Iran that goes through Iraqi Kurdistan, then the officers may reason that they might reasonably stay in the war-thorn Iraqi Kurdistan instead of crossing the Turkish border.

Hundreds of people from Iraqi Kurdistan have died when the boats carrying them sunk while fleeing to Greece from Turkey. Such incidents are almost a daily occurrence in Turkey. This is a witness of the humanitarian crisis in Iraqi Kurdistan. However, the UNHCR officers think that there is no situation in Iraqi Kurdistan to force these people outside their homes to desperate conditions that they endure in Turkey for years.

A number of allegations of corrupt networks in refugee affairs, involving some UNHCR officers, are reported by refugees.

Ali Gawharee came to Turkey with his wife and two children, after the older son of the family, named Nasser Gawharee. The family lived at a hotel in Agri, rented by the UNHCR. They were subject to forced residence within Agri. A number of refugees, including Ali and Nasser Gawharee, revealed that the hotel owner, together with some UNHCR officers and police officers, was collecting money from refugees, giving to them, in turn, documents to prove their allegations, with the emblem of the Iranian Justice Ministry. Mr. Gawharee stated that they revealed this scandal in order to prevent the "fake refugees' corrupt relations with the officers." A person involved, Musa Salman, was arrested and put into trial with the indictment dated 12 May 1998. There were no investigations against the accused UNHCR officers, and when IHD requested an appointment with officers from the UNHCR for this case, they refused. The UNHCR declared that 60 applicants living in this hotel should go back to Iran in June. Nasser Gawharee attempted suicide on 5th June related to a refusal of his case (Milliyet, 6.6.98). As the case of Nasser was refused by the UNHCR, he was deported to Iran after an official letter from the Security Directorate on 24 September 1998. The family believes that Nasser is in prison in Mehabad. After Nasser was deported, the family was sent to Van. There, a UNHCR officer accused Mr. Gawharee for being responsible for the complaint in Agri. The family believed that they have been refused because of this implication. The police declared to them officially on 12 January 1999 that they had to leave Turkey within 15 days, or, otherwise, they would be deported.

Also in the following case of the tragic odyssey of a refugee, UNHCR has got a quite dubious role in various aspects.

Mahmoud Ben Abdallah Tounakti was an activist of EnNahda Movement in Tunisia. He left Tunisia in 1991. He lived in Algeria and Syria before he was forced to come to Turkey. He reported to IHD that he was not allowed to contact the United Nations High Commissioner of Refugees (UNHCR) office by the authorities when he was in Algeria. In May 1992, he, together with his wife and children, was deported from Algeria to Sudan. The Sudanese authorities allowed him to stay in the country on the condition that he would not apply for refugee status. He entered Syria illegally, hoping to find a way to a European country. He made an application to the UNHCR in Damascus, which was rejected on 26 February 1998. The letter only states that "at the moment you are not in need of international protection" without invoking the reasons thereof. He was reportedly arrested by the Syrian Intelligence Agency on 31 March 1998. In an interview, he said that the information on the basis of which the officer interrogating him there in an underground prison, seemed to come from his file with the UNHCR at Damascus. He stated that he was tortured during interrogation by a Colonel, who was from the branch responsible for Palestinian affairs, three times a day, answering the same questions again and again. The Colonel told Mahmoud that he would not be allowed to live in Syria. He was taken to the Babylheva border gate of Syria on 7 September, and entered Turkey from Cilvegözü border gate. His wife and five children were left in Syria. He filed his application to the UNHCR on 11 September, 1998. He also applied to the Turkish authorities for temporary asylum on 11 September. On 8 February, he wrote a letter of appeal to the Security Directorate, requesting to be allowed to stay in Turkey until he gets an answer from the UNHCR. He was accepted by Ankara Treatment and Rehabilitation Centre for Torture Survivors of the Human Rights Foundation of Turkey (TIHV) for treatment on 11 February. His request for temporary asylum was rejected by the UNHCR, reportedly on the grounds that he might have made his application after leaving Algeria.

The lack of refugee protection in Turkey and the inadequacy of international protection continued to feed into illegal trafficking of persons. In February, a boat carrying about 180 refugees was lost near Otranto in Italy. On 17 February 2001 a boat carrying 910 Kurdish asylum-seekers had an accident near the southern coast of France. On 27 February, a boat carrying 300 asylum-seekers, mostly Kurdish, reached Calabria in Italy. On 4 March, 14 persons, including an army captain, were arrested for organizing illegal trafficking in Seferihisar, Izmir. In 2000, 850 persons were arrested with the accusation of "illegal human trafficking".

IHD has been holding meetings with the Iraqi Refugee Council in Turkey. This organization is involved in monitoring the situation of refugees of various origin from Iraq. They are focusing on problems related to the protection of fundamental rights to integrity of the person, to health, to accommodation, to food and to education as well as the related problems of violence against women and children. The IHD has decided to include them, as well as other groups representing refugees from other countries, in a platform to discuss the issues related to the protection of refugees. This platform will include organizations such as the Turkish Medical Association and the Human Rights Foundation of Turkey.

The Iraqi Refugee Council used to meet the UNHCR Turkey regularly until May, 2000, but the latter decided to stop those meetings. The UNHCR has recently decided to dismiss 38 cases recognized by this Council, giving no explanation whatsoever. These persons are awaiting deportation by Turkish authorities. The IHD asked the UNHCR to provide information on the ground for rejection, but have got no reply as usual.

Recommendations of the Human Rights Association of Turkey

1. The Government should abolish its policy of extraditing asylum-seekers who have either been recognized as refugees by the UNHCR or who have filed an asylum claim with that organization and are awaiting a decision.
2. The government should particularly abide without exception by the principle of non-refoulement and ensure that no person is returned to a country where he or she would be at risk of serious human rights abuses, with due emphasis given to the principle that a refugee has to be protected by the recipient country until her or his grounds for seeking asylum are refuted by the government without reasonable doubt.
3. The 1994 Regulations concerning refugees, and all other regulations and administrative requirements affecting the status of refugees and asylum-seekers in Turkey, should be revised immediately, so that all non-Europeans in Turkey who wish to claim asylum would be able to register with the Turkish authorities and regularize their stay, pending a final determination on their status by the UNHCR.
4. The government should provide immediately clear provisions for allowing recognized refugees to stay in Turkey pending resettlement in a third country.
5. In drafting a new legislative framework for refugee-protection, the government should give the due emphasis to the protection of human rights of refugees, including the right to live, to the security of the person, to health, to education, to food and to shelter.
6. The government should establish immediately an independent advisory committee, charged with reviewing comprehensively refugee protection in Turkey and making recommendations on how the government could better discharge its international obligations towards refugees. This committee should be composed of independent experts with recognized expertise and should include representatives of the UNHCR and NGOs involved in refugee protection and assistance, including the Human Rights Association (IHD). The committee should include in its review the removal of the geographical restriction Turkey applies on the application of the Refugee Convention.
7. The government should make public all security agreements with other governments, or at least all provisions relevant to the protection of asylum-seekers in Turkey. The government should ensure that all such agreements are in line with the principle of non-refoulement and other human rights obligations, and revise or revoke previous agreements accordingly.
8. Governments of other states should refrain from returning asylum-seekers to Turkey on the basis that Turkey is a "safe third country," until when all asylum-seekers are ensured of protection from refoulement in Turkey as well as protection from agents of their country of origin.
9. The government should immediately establish an independent and impartial commission to investigate into allegations of extra-judicial killings along the Turkish border with Iran and with Iraq. The findings of this commission should be made public in full.
10. The government should take concrete measures to ensure that all security personnel patrolling areas near the Turkish border are given adequate training regarding Turkey's international obligations towards refugees and asylum-seekers. This personnel should be given specific instructions as to the referral of people seeking asylum to the UNHCR and to the proper authorities, as well as the provision of guidance to asylum-seekers regarding the Turkish asylum procedures.

2. The Question of Refugees Deported Back to Turkey by European Governments

Some European countries have become a shelter for those people who wanted to leave Turkey for political reasons, especially during and after the 12 September 1980 Military Coup. In the 1990s, the war and the war-caused conditions in South - East Turkey, as well as the government practices in the State of Emergency Region and the military policy of "special security operation" in a wide region adjacent to the officially proclaimed State of Emergency Region, such as evacuations and burning of villages, "extra judicial killings by unidentified perpetrators", torture under detention, arbitrary detention, forced disappearances and forced displacement by the Security Forces and widespread gross human rights violations, led to massive movements of people to European and Middle Eastern countries. Among the people seeking refuge in other countries were also those who, while not necessarily direct victims of such practices, had deep-rooted fear for their own and their children's survival, endorsed by their actual experiences as witnesses or secondary victims.

In response to the massive immigration of Kurdish or other South-Eastern minorities, namely Alevites and Assyrians, some European governments have taken a negative approach when considering cases of asylum-seekers; and many Turkish citizens who had applied for asylum were deported back to Turkey without the due process, which may be in violation of the principle of non-refoulement.

The decisions of deporting such refugees may be based on the misapplication of the due process in some cases, such as the violation of the rule of interpreting any reasonable doubt in favor of the asylum-seeker. For instance, given that only a small part of the political oppression and human rights violations can be documented in Turkey, particularly when experienced in the State of Emergency Region and its adjacent region (the region of the military "special security operation", which may or may not be in the official adjacent region of the State of Emergency where the relevant legislation is actually in force).

Under the still persisting conditions of Turkey in terms of gross human rights violations, the official authorities in Turkey have considered the act of applying for asylum abroad as evidence of "terrorism". Even if there are no outstanding accusations against the person in consideration, the police are automatically suspicious that s/he is involved in "anti-Turkish" political activities during the period of stay in Europe, such as becoming a member of opposing associations and taking part in anti-government demonstrations. Within the period of 1995 -

2000, IHD Istanbul has recorded several hundred applications of people deported or extradited from European countries, who were partly confronted with grave problems upon their entrance to Turkey. Most of the concerned had been deported from Germany.

Hasan Kutgan, who was deported on 20 December 1996, stated that he was accused by a superintendent at the airport police station of being a "terrorist" and of having been involved in a murder that had taken place in his village. It has been learnt that his interrogation started at the airport and continued at the political branch office and that he was subjected to torture. Kutgan said that he had attended two meetings and one Newroz celebration in Germany. Even though Kutgan said in the court that this statement had been taken from him under force, he remained under arrest for some time. He was acquitted on 2 April 1997.

Emin Acar (17), who was detained in Germany on 10 March 1999 and deported back to Turkey on 12 March, was reportedly tortured at the Political Police Center of Istanbul Security Directorate. He was forced to confess that he had participated in protest actions against the apprehension of Abdullah Öcalan in Germany. It was disclosed in a statement made by prisoners Yasar Çelik, Sait Üçlü and Ramazan Morkoç from Ümraniye Prison that Emin Acar had been brought to the prison on 15 March, half-fainted. According to the statement, Acar had been subjected to various torture methods such as "suspending on a hanger, squirting pressurized water, giving electricity, falanga, suffocating in a bag, isolation in a dirty and dark cell lacking of fresh air, mock execution and threatening to death, squeezing testicles." The statement said: "Because of the torture inflicted on him, this friend is now unable to use both of his arms, can hardly breathe, suffers from respiratory infections. There is swelling and ecchymosis on his testicles, and there are widespread ecchymosis and bruises on his body because of the beating, and he is unable to sleep and talks in a delirium in his sleep." IHD lawyer Gülizar Tuncer who met with Emin Acar stated that he had been tortured in the period he had been kept in detention. Emin Acar was reportedly accused of "being a member of the PKK".

It was reported that Hüseyin Ayhancı, who was deported to Turkey from Germany on 24 November 1999, was tortured in detention. Hüseyin Ayhancı who went to Germany together with his 7 children in 1993, said that he was deported to

Turkey upon his asylum demand was rejected and he was detained at Izmir Adnan Menderes Airport just after taking off the plane. Hüseyin Ayhanci said, "I was kept in detention at the Airport Police Station for 7 days, arbitrarily. Several torture methods were inflicted on me, such as beating, not allowing food, swearing." Hüseyin Ayhanci, stating that after his release he was detained again, by the plainclothes police officers in Izmir, said: "They took me to a deserted area. They said 'they would kill me.' Then they put their gun on my head and dropped the trigger. After having been interrogated there for a while, I was taken to a building that I did not know. The torture continued there as well. They asked me with which associations I had contacts in Germany. They tied my feet and used falanga. They beat my back and legs with truncheons and clubs. Then they made me walk on a wet place to avoid swelling of my feet. They connected cables to my arms and shoulders, poured water on me and gave electricity." Ayhanci stated that he lodged an official complaint against the police officers.

Therefore, according to the experience of the human rights lawyers, the first problem a deported person may face in Turkey is detention by the airport police. In 2000, detention of deported asylum-seekers was reported frequently especially to Istanbul Branch of the IHD. Detention, even if not by the political police, means in Turkish conditions at least mistreatment and stress due to the expectation of torture and unfounded further legal action. A person so detained may be kept for a few hours or a couple of months without the due process of law, despite the common myth of improvement in Turkey. If the police has e.g. video recordings or photos on a person's participation in an anti-government demonstration in Europe, this may lead to conviction under "Anti-Terrorist" legislation with a minimum imprisonment term of 3 years and a half. Even if the person is acquitted, the cost for her/him may be torture and several years of detention on remand.

Another problem for a deported refugee arises on the resettlement and reintegration of a deported person if the original habitation of that person is in the State of Emergency Region or another region where the Turkish security forces control under the "special security operation". A person can be considered relatively safe in such a region only if his/her family is part of the village guards scheme, although this is not a guarantee given the large number of persecuted village guard families or members of such families. Otherwise, such a person should be considered an internally displaced person. Although such persons may be able to live in the regions in this category (the provinces of Diyarbakir, Mardin, Van, Siirt, Batman, Hakkari, Sirnak, Bitlis, Bingöl, Mus, Tunceli, Erzincan, and parts of Agri, Malatya,

Sivas, Elazig, Antep, Kahraman Maras, Hatay, Kars, Igdir, Tokat, Urfa and Erzurum), they are not assured against harassment by village guards or security forces, still including risks against life or personal integrity.

On the other hand, forced displacement in Turkey (see reporting on Enforced Migration), involving an estimated population of 3 million, is not accompanied by plans for reintegrating the internally displaced families and persons. Such families or persons are usually entirely dispossessed, and they are not provided with social, legal or health assistance, or food, shelter and education. The shanty-towns of Adana, Mersin, Izmir, Istanbul or some other big cities are monitored by the security forces and classified as locus of internal threat by the National Security Council and the Ministry of Interior.

Another problem relates to those who are deported after seeking asylum on the basis of conscientious objection. In the recent past, a number of refugees were deported back to Turkey when the recipient government reached the conclusion that it would be safe for the asylum-seeker to serve in the military despite conscientious objection. In 1999, at least two such deported persons (Süleyman Aksoy and Savas Cicek, refer to Amnesty International Netherlands for more info) died in the military under suspicious circumstances, and the military declared that they committed suicide and prevented any independent investigation on the cases.

Süleyman Aksoy, an Alewite of Kurdish origin, had gone to Germany in 1995, and sought for political asylum on the grounds that he did not want to do his military service in Turkey. His application was rejected in October 1998, and he fled to the Netherlands, where he was captured. About 3 months later, he was repatriated to Turkey. Süleyman Aksoy was detained at his arrival to Istanbul Atatürk Airport, and interrogated for two days. Subsequently, he was sent to the military unit in Etimesgut, Ankara in order to serve for his military service. Süleyman Aksoy, the whereabouts of whom was unknown to his family for 3 months, died under suspicious circumstances in July 1999. The official version is that he committed suicide by jumping down a bridge in the military unit he was sent to.

Therefore, the IHD's experience with people who are deported back to Turkey after seeking asylum in European countries, as well as its observations on the human rights situation in Turkey, suggest that, despite the common myth, Turkey is not safe for its citizens. And, the responsibility for the violation of rights faced by those who are deported are shared by both the deporting country and the country of origin.

Enforced Migration

Enforced Migration

by Feray Salman, IHD Ankara, February 2001

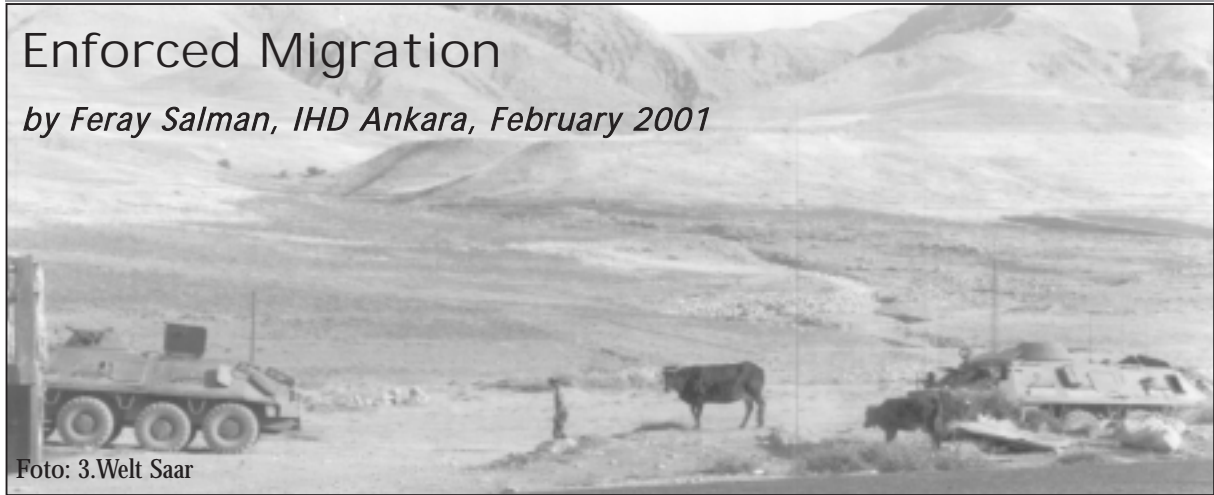


Foto: 3.Welt Saar

Approximately 3 million people were forced to leave their places of living in the violent atmosphere created by the Kurdish problem within the last 10 years. In addition to those who were forced to abandon their settlements to rescue their lives, evacuation of settlements on administrative or military decisions was practiced throughout the 1990s as a systematic policy and a method of an "internal security operation." In the State of Emergency Region and in the other regions of conflict where the state of emergency was applied, at least 3.500 villages and hamlets were evacuated totally or partially. Although fewer villages were evacuated since 1996 (the State of Emergency Region Governorate declared that 121 settlements were evacuated in 1997), practices such as forcing people to become village guards, embargo on food, setting fire to arable fields, gardens and the forests in the periphery of the settlements, ill-treatment and torture imposed during raids on the village continued systematically.

Although the Decree with on the establishment of the State of Emergency Region Governorate numbered 285 empowers the Governor of the Region with the authority "to evacuate the villages and to restrict entry to and/or exits from the villages", the relevant practices were carried out by any military unit regardless of any formal procedure. Enforced migration was applied in all provinces where "internal security operations" were practiced as well as in the State of Emergency Region and "neighboring" provinces. Therefore, the geographical scope of such practices covered all Eastern and the Southeastern Anatolian territories.

As a result of the policy towards evacuation of villages, Kurdish population had to move to the province centers like Diyarbakır, Van, Siirt, to western

cities like Istanbul, Antalya, Mersin, Adana. Some migrated to European countries and sought for asylum.

On 25-26 November 2000, the Conference on the Human Rights Movement in Turkey was held in Kizilcahamam (Ankara) with the contribution of the Human Rights Foundation of Turkey (TIHV) and the Human Rights Association (IHD).

The workshop was chaired by Feray Salman (IHD) and reported by Bülent Peker (IHD) and was participated by Mr. Osman Baydemir (Chairperson of HRA Diyarbakır Branch), Advocate Tahir Elwi, member of IHD Diyarbakır Branch, Members of Diyarbakır Medical Association, Members of Diyarbakır Engineers and Architects Association, Mersin Göç-Der, Izmir Office of the Human Rights Foundation Of Turkey and Mr. Helmut Oberdiek.

Some results of this conference that also dealt with enforced migration were:

- Enforced migration is a complicated and combined human rights abuse that involves many areas of human and civil rights. Enforced migrants are not only the population of evacuated or burned down settlements, but also are large sections from rural and urban areas that were forced to escape from the atmosphere of violence and insecurity and involves civil servants who have been disciplinary transferred from the region.
- The practice of enforced migration in Turkey during the 20th century was usually based on the attempt to create a homogeneous society. The State apparatus and officials tried to cover some of Turkey's political, economic and social problems

through enforced migration. The people subjected to these measures were left to their own destiny.

- The enforced migration of the 1990s that developed on the basis of the Kurdish question unfolded with discriminating policies and measures in Turkey's eastern and southeastern geography the atmosphere of armed clashes and was implemented speedily and without restrictions.
- Besides social, economic and political damage created by the enforced migration more than one ethnic and/or cultural group was negatively affected.
- The enforced migration also resulted in the damage of productive means of the rural population and a loss of productivity.
- The enforced migration particularly affected women and children and darkened the future prospective for society.
- The enforced migration led to radical confusion and widespread damage, not only in demographic and ecological terms, but also in economic, social and political aspects. This is not the result of an error or insufficiency of the authorities but their conscious choice.
- The enforced migration destroyed the ecological and urban structure of places with intense immigration. Larger settlements in the region experienced additional migration because of the social problems created by the migration they had to cope with.
- The enforced migration increased violence in the families, in particular sexual violence. As a result suicide of women increased in the region and might increase even further.

The governmental program of "return to the villages" came up because of the heavy problems of millions of people deprived of their homes and has been discussed since 1997 officially continued in the year 2000. The program was to let migrated population to go back their villages provided that the security was ensured. Victims of enforced migration who applied for the possibility of return were faced with a variety of legal and administrative problems. An important part of the applications was turned down "for reasons of security" and those who were accepted sometimes faced heavy conditions.

The victims of enforced migration did not show much interest in official projects such as the project of central villages or village-town, that were developed by the government in order to present con-

ditions for return. These projects were developed without the wish and intent of the victims and rather than securing an atmosphere of social peace and trust only represented the official ideology. Considering the rural way of productivity they also do not carry much weight for the future. All kinds of criticism and alternative models for solution that either the victims themselves or NGOs developed, were not taken into consideration.

In the report "Human Rights Abuses in 2000" the Diyarbakır branch of the IHD stated that the policy of evacuating villages basically had not changed; it had only changed in appearance. Tens of thousands application forwarded to the State of Emergency Region Governorate or the Ministry of the Interior had not shown positive results.

One of the most serious obstacles for a return is the fact that the land belonging to the evacuated villages has been occupied by village guards. The migrants' association Göç-Der, identified that they had forwarded 17.914 petitions for a return to the villages to the Grand National Assembly of Turkey (GNAT). Adding that those willing to return met with physical obstacles, she stated: "In the first place these are obstacles directly deriving from the state of emergency. The second biggest obstacle are the village guards. The land of many villagers who left their homes has been confiscated by village guards. They are trying to prevent people from returning in order not to lose that land. The village-town project that was developed by Prime Minister Bülent Ecevit did not meet the expectations. Only village guards moved there, but the areas are not suitable for agriculture or cattle breeding and, therefore, the people have problems to make their living." The people who return to their villages are faced with a variety of problems. They have to establish a new order, must repair their homes and need money to buy animals. For all this they have to get compensation. Enforced migration is a problem that deeply affects Turkey's social, political and economic life.

In mid-December 2000, it was alleged by Göç-Der and some Parliamentarians at the Grand National Assembly that villages that had been evacuated had wrongfully be shown as populated during the count two months earlier. According to information Göç-Der gathered from victims of enforced migration the inhabitants of 5 villages in Hizan district, Bitlis province, applied for a correction of the mistake and the possibility to return. The 5 villages, Kunduz (Köklü), Tasu, Os (Kayadeler), Çakeran and Pêrtek, administered from Kolludere town had been "emptied" in 1994 when the inhabitants did not agree to become village guards. It was alleged that Selim Inan who had agreed to become a village guards and subsequently became the mayor of Kulludere, had

come to Istanbul and taken copies of the villagers' ID's. With these he forged the records for the villages, in order to receive more funds for the region. The population of the town that had been 642 during an earlier count increased to 2.400. Göç-Der asked the Ministry for the Interior and the Statistic Institute to investigate this allegation. But received no reply.

From Diyarbakır it was reported by the Diyarbakır Human Rights Association that the victims of enforced migration did not trust the Directorate for Advice on Human Rights in the province that was set up on 5 December 2000, and that the number of applications for return had been limited to 2.000 during the first week of the opening of the Directorate due to lack of trust.

In a speech of 12 December, Diyarbakır Governor Cemil Serhadli accepted the fact that the village-town project had not raised much interest. He pointed out that in Diyarbakır alone the building of 5.864 houses was still continuing and added that out of 23.000 people who had asked to return to villages in Diyarbakır province only 3.000 had been able to do so. The governor did not deal with the criticism on conditions and permission for a return and claimed that the migrants wanted to stay in town. "Some are sending their children to school and other have set up their own work. The youth has become used to life in town." However, the longer necessary steps are not being taken to allow the return of the migrants and as long as they are forced to move to other settlements the problems of them will only increase.

Turkey was frequently convicted by the European Court of Human Rights for the practice of evacuating villages and punished with great sums of compensation to pay to the victims. There is strong evidence that Turkey, therefore, attempts to get rid of the responsibility and the necessity to pay compensation (also see the Annual Report of the TIHV for 1998).

Some information on villages that forcibly were evacuated or people moving to other places during December 2000 and January 2001, is as follows:

In watak district of Van province a central village by the name of Konalga was built in 1999 and finished towards the end of the year. It stayed empty for several months until village guards moved in. According to information received from Göç-Der, the inhabitants tried to sell the houses to villagers who wanted to return for extreme high prices less than one year after they moved in. Similar things can be said for Basagaw village in Sirnak district that was built with the project "return to the villages". Sirnak Governor Hüseyin Baskaya said that the vil-

lage was built for 106 families, but three months after completion only 13 families had moved in. Reason for the governor to say that the people were quite satisfied with their new houses.

Bayrakli village in Erüh district, Siirt province was built in 2000. Starting in September, 115 families were settled here. During a speech of 27 December, Prime Minister Bülent Ecevit said that "one of the most interesting things in 2001 will be the village-towns" and he planned to have many more built during that year.

Ibrahim Akin, governor of Kulp (Diyarbakır) called on the inhabitants of Naderan (Alaca) village to return. This village with 450 houses had been evacuated in 1993. The governor asked the villagers to file their petitions with the headman of Naderan, Vehbi Baser. Villagers who followed that call later reported that they were forced to sign statements that they would return on their own capacity. Earlier allegations said that the villagers were put under pressure to sign statements that the village "was burnt down by the PKK".

Inhabitants from Oymakiliw village in Siirt province who wanted to return inspected the conditions for return together with Siirt Governor Nuri Okutan on 14 December 2000. They met the village headman Mahfuz Yilmaz who asked the victims of enforced migration to build their houses on his soil. The villagers did not agree and returned to Siirt. Later the village chief came with some relatives who attacked the people willing to return with stones and sticks. M. Ali Kowak had to be taken to hospital and the villagers Adil Bestas, Hursit Bestas, Kazim Bestas, Ömer Kizgin, Nezir Bestas and Salih Bestas were detained.

On 15 January 2001, about 10 families who had returned to Gündüzlü (Zirnaqet) and Kalkancik (Mezraxalke) villages in Kozluk district (Batman) were driven out of the villages by soldiers from the gendarma in Kozluk. The villager took the settlement Nawala Emero where nobody lived as refuge, but there was an attempt to drive them out of that place as well.

Tevfik Baz and Cemal Tas went to the gendarma to ask for a permission to stay, but were threatened with death "if they came there again". Tevfik Baz reported that they had appealed to the governors of Kozluk and Batman, but had not received any reply. He added: "We cannot make a living in the places we are in. But in our village we have fields, trees and gardens and could live there without any problem." Baz said that the region reportedly was declared "forbidden zone" and the other villagers added that they only wanted to return and did not ask anybody for help.

Most of the complaints are collected by Göç-Der and Human Rights Association Diyarbakır Branch. This is one of the main reasons that a network among relevant organisations are tried to be established to bring data together and establishing an action program to protect legal and human rights of those victims.

A solution to enforced migration depends on solving the political problems that lead to enforced migration and on an extensive program that solves the social and economic problems in which these measures were taken.

Because the enforced migration was implemented as a systematic policy of the State authorities, it is up to the State to compensate for the damage and other consequences. During the return of those who suffered from enforced migration the ownership has to be granted based on the extract from the land register. An independent commission should be formed to establish the material damage of those who were forced to leave their villages or other settlements.

While the real problem of enforced migration is to secure the possibility of return, the migrants have to be given the choice on where they want to live.

Taking the decisions of the European Court on Human Rights as sample cases, compensation has to be demanded for all enforced migrants. The Council of Ministers in the Council of Europe has to be informed on all cases in which the government did not fulfill the obligations imposed on it.

The State of Emergency (OHAL) that is the political and judicial frame for the practice of enforced migration and the actual source of it has to be removed with all provisions and effects. The region has to be cleaned from landmines and any other elements that are a risk for human rights and the practice of village guards, that poses a psychological obstacle against return has to be lifted. All those who were forced to be village guards have urgently to be furnished with rehabilitation measures to secure their return to civil life.

Women have to be given an important role for the initiative to repair and refresh the life conditions. Production techniques that require intense labor and are adequate to ecological conditions of rural and urban life have to be developed.

Settlements of minorities have to be restored by further developing the cultural and ecological conditions and special efforts have to be made to allow their return.

NGOs working in areas of migrations should develop joined efforts to inform the Turkish public of the reasons and effects of enforced migration, in order to secure that the society is made aware of the problem and a contribution is made for social peace and a living together. They should also agree on a memorable day for joined activities.



Foto: NFR

Documentation

From Germany to Turkish Torture Chambers

On the returning risk for Kurds

by Lower Saxonian Refugee Council, Hildesheim, Spring, 2001

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Introduction

Every year, thousands of people are fleeing from Turkey to the Federal Republic of Germany. Since the seventies, the group of (mainly Kurdish) refugees from Turkey belongs to the biggest groups of asylum seekers. Only some of these refugees are recognised as politically persecuted or protected against deportation according to §§ 51, 53 Foreigners Act (AuslG). In 2000, that part amounted to about 15%.

The majority of refugees, however, are rejected, asked to leave the country and deported to Turkey, often with the questionable argument that they could live safely in Western Turkey. Refugee initiatives and human rights organisations in Germany and Turkey, however, receive many reports of torture and political persecution of refugees who had been expelled from Germany.

In the beginning of 1998, the Refugee Council of Lower Saxony started on collecting and working-up current reports of imprisonment and maltreatment of refugees expelled or deported, respectively, from Germany. We have been investigating escape routes and backgrounds and the course of the asylum proceedings, secured evidence and provided and trans-

lated judicial documents. A large part of the cases was investigated in close co-operation with the Turkish Human Rights Association IHD (Insan Haklari Dernegi) and the help of confidential lawyers. Thus, it was quite often possible to make contacts with the persons concerned and, when it came to trial, to inspect the records.

Since May, 2000, the investigations are being conducted in the project "Turkey and refugees" of the Lower Saxonian Refugee Council, in co-operation with the IHD and PRO ASYL, supported by the European Union.

In a number of cases we could give watertight proof of persecution and maltreatment after deportation. These are the 35 cases we have added here.

In view of the investigated cases, the situation of human rights in Turkey as well as the asylum jurisdiction in Germany appear in a dim light. In most of the cases we have investigated, torture, arrest, and sentences of imprisonment could have been prevented if the applications for asylum of the concerned applicants would have been studied conscientiously and taken seriously.

All cases documented here show typical patterns of persecution. Almost all of the Kurds claimed in their first application for asylum to be escaping from reprisals of security forces and / or from military service. They stated that attempts were made to force them to work as village guards, and since they refused to co-operate with the government they were maltreated and their villages were destroyed.

Reasons for rejection

In all cases, the Federal Office for the Recognition of Foreign Refugees (BAFl) and courts turned down the applications for asylum with stereotypical arguments. They denied a group persecution, minimised the cases as "customary" and "mere molestation" and referred to the supposed possibility to live safely in Western Turkey, the so - called inland flight alternative. The "threshold that separates mere molestation from political persecution" is put almost insurmountably high. Arrest and torture were not sufficient, at least in the cases investigated here, to convince the BAFl and courts that political persecution had taken place.

Confidence in Turkish authorities

In many cases, German authorities expect the Turkish security forces to act in conformity with the rules of law. Thus they diminish the persecution fate of the refugees or label them as incredible, respectively. E.g. Menduh Bingöl's application for asylum was refused by the BAFl, arguing that the stated apprehensions were probably "completely imaginary". For the BAFl it was not plausible "that an arrested person was kept for days without any proof of a criminal act." A few days after his deportation, Mr. Bingöl was arrested, tortured, and due to his testimony under torture he was accused of being a member of the PKK.

In some cases, e.g. the case of the Kurd Mehmet Ö., the BAFl cynically took over the argumentation of the Turkish government in its fight against the Kurds. The impending imprisonment for alleged support of the PKK was not recognised as political persecution by BAFl but as "punishment for criminal behaviour". That identification of the interests of the countries of origin and resort and the neglect of persecution and investigation methods of Turkish security forces is as frightening as it is characteristic for the latest practice of decision making by the BAFl.

Allegedly faked documents, desertion and exile political activities

In some cases, e.g. in the case of Abdulmenaf Düzenli, genuine documents were classified as faked by the responsible administrative court without exami-

nation. Moreover, it was falsely assumed that desertion would, in Turkey, "only" lead to criminal and not to political persecution. Two proceedings were started against Düzenli: in a military court because of conscientious objection and in a state security court at Diyarbakir because of separatist propaganda, for Düzenli's public objection was incompatible with the doctrine of the centralised state of Turkey. Usually, no further proceedings were made in Germany, arguing that the asylum seekers were "mere followers" whose exile political activities were not interesting for Turkish security forces. In the majority of the cases we have investigated, the real or alleged political commitment of the concerned persons in Germany formed the pretext for political persecution after their return. We noticed that the assumption of German asylum authorities that exile political commitment would not be politically and judicially persecuted in Turkey and would, especially in the case of "fellow-travellers", not evoke any interest, obviously does not fit the facts: Any commitment for the Kurds, wherever it takes place, is punishable according to Turkish law. The profile of the support is irrelevant. Most of the Kurds had not been active in exposed (exile-) political positions, but were rather "mere" fellow-travellers - at least according to the findings of German authorities during the asylum procedures. However, participation in a demonstration for peace and freedom in Kurdistan is being persecuted as well as exile political actions in exposed positions. This is shown by several cases (e.g. Ahmet Karakus, Ahmet Angay, Hüzni Almaz).

Chain deportation

The case of the Kurd Ibrahim Toprak confirms all concerns advanced by critics concerning the threatening risk of chain deportations made possible by the actual abolition of the right to obtain political asylum in 1993: Applying the Third Country Regulation, the Kurd was deported back to Austria and from there brought back to Turkey, without any examination of his application for asylum. No government felt responsible for the conduction of an asylum procedure. Although that case has been published already in March, 1998, the responsible German and Austrian authorities did not react yet. Toprak has finally been sentenced to 18 years of imprisonment because of his participation in a violent demonstration that was, according to the inquiry report, plotted by Turkish secret service and anti - terror - police.

Dubious behaviour of German Border Police

Obviously, the BGS (Federal border protection police) also played a dubious part in some deportations: Some of the Kurds accuse the BGS very seriously. E.g., 17 - year - old Emin Acar is reported to have been kicked and insulted during his deportati-

on and called "separatist" in front of Turkish policemen. Acar was heavily tortured, and due to his "confession" he was accused of supporting the PKK in the State Security Court (SSC) Istanbul. Oguz C. and Abdulhalim Nayir told the human rights association IHD that officials of the BGS had, against their will, handed over incriminating material to Turkish policemen and thus surrendered them to torture.

Incidents after deportation

In most of the cases documented here, the extradited Kurds were arrested and interrogated upon arrival at a Turkish airport. Partly they were handed over to the Anti-Terror -Department (ATA), where they were tortured. Several Kurds were, after a preliminary release, apprehended again in Western or Eastern Turkey, interrogated under torture and in some cases brought to court. In some cases, people were kidnapped by plainclothes policemen, usually in order to gain information by use of force and to recruit the concerned as agents. Abdurrahman T., Ferit M. and Hüseyin Ayhanci e.g. were kidnapped in the street by plainclothes officers and interrogated under torture. The security forces accused them of having worked for the PKK in Germany and asked for pertinent information and names. In some cases, the apprehension took place days or weeks after entering Turkey, e.g. in the case of Abdurrahman Kilic and Hüznü Almaz. Such cases are especially hard to be documented, since they usually have disappeared from public consciousness.

In almost half of the cases, criminal proceedings have been initiated against the extradited Kurds, mostly because of alleged support of a terrorist association according to Art.169 TPC (Turkish Penal Code), in several cases also on the grounds of alleged membership in a terrorist association according to Art. 168 TPC. Usually the concerned were accused of political activities abroad. Among other things, this follows from interrogation records of the anti - terror - department and court records. In almost all cases, the reproaches are based on confessions made under torture, partly also on incriminating material submitted by the German BGS, and/or on denunciation.

Denunciations and family detention

Denunciations play an important role in Turkey and are taken very seriously. The concerned persons incur preliminary suspicion, no matter whether it is a case of completely baseless defamation, of a testimony within the scope of the chief witness rule, or of a denunciation made under torture. This is shown e.g. by the case of Ferit K.. The rural police commander's office of Karliova received an anonymous phonecall from Germany in February 16th,1999. It was said that K. was a courier of the

PKK. As a result, the police arrested K. the same day. Under torture they extorted a confession on which the Department of Public Prosecution based its accusation in the SSC Diyarbakir.

The sisters K. were seriously incriminated by statements of a defector. After the referring documents have been categorised as faked by German authorities, the sisters were deported, and within the framework of an investigation procedure in Turkey they were interrogated and maltreated.

In several cases, the Kurds have been arrested due to their family members (living abroad) and questioned under torture on the political activities and places of stay of those. In this connection, two women were forced to gynaecological examinations in order to find out if their husbands were staying near to them. (Ayse T. and Mrs. Ö.).

Renewed flight

In some of the cases documented here, the Kurds succeeded in fleeing to Germany a second time. In 14 cases, the persons affected had been recognised as refugees after their deportation by new decisions of the Federal Office or of administrative courts in accordance with the Geneva Convention, or obstacles precluding deportation had been stated. In these cases, the incidents in Turkey after deportation were not investigated by us because BAFI and courts did check the cases and believed in the credibility of the persons concerned.

We are convinced that there are several comparable cases of returned people which simply do not become known. The BAFI does not keep any special statistics for that.

To other deported refugees, deportation obstacles had been awarded or they had been allowed the re-entry into the Federal Republic of Germany. That is partially little useful for the individuals affected, since they had been prevented from leaving Turkey or had to serve high custodial punishments. Only in one single case, the Foreign Office considers, at the present stage of examination, the torture and maltreatment reproaches of a deported Kurdish refugee against the Turkish authorities as dubious.

Women-specific reasons for flight

The cases of Ayse T. and Z. and L. S. which are documented here show how difficult it is, especially for women, to claim reasons for asylum. After their deportation they were tortured and sexually abused. After fleeing to Germany for the second time, BAFI and VG considered the women's statements as credible but not relevant for asylum. In the case of the women S., the BAFI believed that the endured rapes were a matter of "official excess". There was no rea-

son to assume that the Turkish government would tolerate such behaviour by security forces. Thus, it was not accepted as a matter of political persecution which, according to the interpretation of the BAFI, became even clearer by the failure of the husband's application for asylum. The women are only tolerated because the Centre for Victims of Torture in Berlin diagnosed a massive trauma according to § 53 / 6 AuslG. Nor did the persecution of Ayse T., who was subject to gynaecological examinations in order to find out if her husband was around, qualify her for asylum. Her husband's place of residence was known now, as the judge in VG Freiburg argued, consequently the Turkish authorities would see no more reasons for taking such "measures".

German country report on Turkey

Because of our investigations, the Foreign Office corrects its present assessment of the endangering return situation of Kurdish refugees in its latest country report on Turkey of June 22, 2000, in some relevant points. For example, a reassessment of the dangers resulting from political activities of Kurdish refugees in exile is carried out. The Foreign Office does not longer stick to the opinion that Turkish security forces are merely interested in persons responsible for such activities and that fellow travellers are not endangered. Also the danger of penal liability of the family is no longer negated by the Foreign Office in principle. On the subject of family detention, for example, it was stated literally in the last report of September, 1999: "There is no family detention". Although family members could be summoned for interrogations, sometimes with force, the right to refuse to give evidence would be granted. Now the Foreign Office admits that "infringements" can happen during interrogations of relatives as well as during interrogations of the accused. Family detention is only being denied in connection with the criminal field: "There is no family detention in a way that relatives, for example of alleged or actual PKK members or PKK sympathisers, were criminally prosecuted and sentenced for the actions of their relatives.

Nevertheless, the country report still remains clearly behind the dramatic human rights situation in Turkey: The Foreign Office still cannot see a group persecution for not-assimilated Kurds, although completing now that "Kurds ... are frequently affected" from criminal prosecution due to suspicion of supporting the Kurdish Worker's Party.

For BAFI and courts, the presented cases are insufficient for deriving a general risk of returning. The official tenor was that the number of referential cases was too small. The Refugee Council of Lower Saxony is convinced that the present cases are only

the tip of the iceberg and that the estimated number of persons politically persecuted after their expulsion and deportation is very high. Often the concerned persons do not appeal to independent institutions like the Human Rights Association IHD, because they are afraid of continuing persecution.

Turkey's human rights situation

In the beginning of November, 2000, the European Commission published its report on "Turkey's progress on its way to joining the EU". Besides economic and social aspects, the Commission also takes a closer look at the situation of human rights. The Commission acknowledges that, although within the country the realisation of the necessity has grown that "the situation of human rights has to be improved", there has been little progress only when it comes to what has been put into practise. According to the report, there have been almost no changes of the situation concerning torture and maltreatment. Torturers would hardly have to fear any judicial consequences, what caused a "climate of immunity" among prison officers. In the field of civil rights and protection of minorities, the Commission still sees serious problems and hardly any improvement. Various legal instructions "encourage interpretations which harm (...) the right of freedom of expression". Also detention conditions and the procedure of detention pending trial would be alarming. In the Commission's conclusion it is stated: "The overall situation of human rights keeps being alarming. Torture and maltreatment have by far not disappeared yet." (Turkey 2000, periodical report 2000 of the Commission on Turkey's progress on its way to joining the EU; November 8th, 2000.)

According to the answer to a question of the German PDS parliamentary party, dated October 25th, 2000, the German government regards the situation of human rights in Turkey as being stuck far behind international standards and in urgent need of improvement.

Especially recently it became very clear that one cannot talk of an improvement of the human rights situation. The Human Rights Association IHD and the pro - Kurdish party HADEP are being exposed to intensified pressure, members are being arrested and accused. Various branches of the IHD were searched by security forces and partly closed down. The IHD headquarter in Ankara has been raided, and several documents and all hard disks were seized. In February, 2001, the public prosecutors office in Ankara initiated proceedings aiming at a prohibition of IHD. In December, 2000, Turkish security forces made a run on cells of detainees on hunger strike. During this incident, at least 32 people

lost their lives. The Anti-Torture Committee of the Council of Europe criticised the police action as disproportionately.

Human rights violations such as torture in police custody are still on the agenda. "Disappearances" are increasing. In the beginning of 2001, various new cases occurred: In Silopi, two board members of HADEP "disappeared" after their apprehension on January 25th, 2001, several HADEP members from Istanbul and Mardin are being missed.

Pogrom-like riots against Kurds in Susurluk in April, 2001 are examples for the non-existence of a safe inland flight alternative. When a Kurd was reproached of having killed an 11 year old girl, followers of the ruling party MHP destroyed all Kurdish shops and drove all residents of Kurdish origin out of the town.

However, these insights do not change anything regarding the policy of deportations to Turkey. Despite the imminent danger to the concerned people, deportations to Turkey continue.

Responsibility of German authorities

The investigated cases of persecution and deportation raise doubts that efforts of German and Turkish politicians will succeed in easing the situation in Turkey and in qualifying it verbally for the EU. In view of the described background one still has to expect maltreatment and political persecution of non-assimilated Kurdish refugees being deported from Germany who are, correctly or not, suspected of supporting the issues of PKK.

The cases investigated by us, make clear that, again and again, refugees attract the attention of Turkish prosecution authorities, even if they had no exceptional position, but, e.g. due to denunciation or incriminating testimony of another victim of persecution for example, are suspected of supporting the PKK or appear suitable to work as informers. The Foreign Office is still under duty. It cannot be left to non-government organisations only to worry about the fate of deported persons. The Foreign Office knows well enough how difficult investigations are for Turkish human rights organisations, for it is writing in its situation report: "Turkish human rights organisations are often impeded by government authorities", and it states that the security forces often direct their actions against human rights activists. If, however, Turkish human rights activists are impeded, threatened, and arrested themselves, then the Foreign Office must make use of all means to stand up for the concerned persons and the preservation of their working conditions. Orientation of German foreign politics by human rights and protection of politically persecuted people are two sides of the same medal.

As long as human rights are not being respected in Turkey, political opponents and ethnic minorities are persecuted, and deportation practices are continuing as before, further victims of torture must be expected.

Documentation of individual cases

1. Ahmet Karakus

Deported - tortured - accused - sentenced

The Kurd Ahmet Karakus was deported from Germany to Turkey on August 20th, 1997, with his family after the valid rejection of his application for asylum. After arriving in Izmir, officials of the BGS delivered a suitcase to their Turkish colleagues which, according to the family, had been taken along in spite of their vehement protest. The suitcase contained incriminating material against Mr. Karakus, among other things photos of a Kurdish mass demonstration, a copy of the family's application for asylum, and receipts for donations to the ERNK. The family was immediately turned over to the anti-terror department. Mr. Karakus was separated from his family, blindfolded, and questioned for 30 hours without interruption about his political activities in Germany. During the interrogation, he was beaten. Mrs. Karakus and her children were released after some questioning.

Mr. Karakus, however, was brought to the public prosecutor at the state security court, interrogated again, and then turned over to a judge who decided to have him arrested. On August 25th, 1997, the office of the public prosecutor brought an accusation against him. The office of the public prosecutor asserted that Karakus had by his activities, i.e. the participation in a demonstration on April 26th, 1997, at Düsseldorf and donations to the ERNK become guilty of "assistance to members of the gang known as separatist and regionalist (...)".

In the court, Karakus revoked all confessions he had been forced to make under torture during the interrogation by the police. Mr. Karakus stated that he had to sign his 'confession' blindfolded. The court, however, did not accept Karakus' justification that he had been active in politics only on behalf of his asylum proceedings. The judges, in opposition to the German asylum authorities, gave more credence to Karakus' hand-written application for asylum which had been made available to the court by the BGS.

On November 6th, 1997, the sentence against Ahmet Karakus was passed. For his political activities in Germany the state security court at Izmir sentenced him to 3 years and 9 months of severe prison according to article 5, anti-terror law no. 3713. Ahmet Karakus was imprisoned at Maras.

2. Abdulmenaf Düzenli

Deported - tortured - accused twice - sentenced for desertion

The Kurd Abdulmenaf Düzenli deserted from the Turkish army on March 8th, 1992, shortly before the end of his military service. After hiding in Istanbul with his wife for three years under a false name he escaped to Germany in July, 1995, where he applied for asylum. This application was immediately refused giving as reason that desertion did not qualify for asylum. At that, in Düzenli's case it was not accepted as credible. None of the appeals and legal remedies entered were successful.

In the beginning of 1997 Düzenli refused military service in public. He sent a corresponding telefax message, among others to the Turkish Ministries of the Interior, Foreign Affairs and Defence, the general staff, and to his military unit at Midyat, stating his complete personal data. In this message he denoted Turkey as a fascist country which he, being a Kurd, did not want to serve.

This letter put the office of the public prosecutor at Midyat into activity. On August 19th, 1997, Düzenli's uncle, Sabri Düzenli, was interrogated about the whereabouts of his nephew. According to the interrogation protocol, he gave them Düzenli's address in Mutterstadt. After examining the case, the office of the public prosecutor decided to forward it to the state security court (SSG) in Diyarbakir, since it implied a political offence, i.e. "defamation of the ideal personality of the state, aiming at terrorism". On December 10th, 1997, Düzenli was accused of separatist propaganda on the basis of article 8, anti-terror law no. 3713.

Meanwhile, Düzenli's application for asylum was refused. The family took refuge with a protestant church in Mutterstadt. The authorities responsible for the decision neither believed his desertion nor did they think that he would be politically persecuted. The evidence by which the process before the state security court in Diyarbakir might have been proved, was classified as faked by the VG Neustadt without examining its authenticity.

On July 14th, 1998, Mr. Düzenli was, together with his pregnant wife and three young children, deported from the church asylum back into Turkey. Having arrived in Istanbul, the police arrested him for desertion and, on July 15th, 1998, turned him over to the anti-terror department where he was questioned under torture for 24 hours. After the interrogation he was brought back to the airport police. On July 21st, 1998, he was turned over to the military unit in Izmir where he was arrested and taken to the military prison on July 22nd, 1998. On November

23rd the military court in Izmir sentenced Abdulmenaf Düzenli to 2 years and 6 months prison for desertion and fleeing abroad. After having served his imprisonment Düzenli will again be drafted to military service.

Meanwhile the state security court in Diyarbakir decided on September 15th, 1998 to inform the military headquarters in Izmir on his indictment for separatism and ordered them to question him. Thereupon the military put Mr. Düzenli into solitary confinement. In the military prison he was victimized and humiliated as 'traitor' and terrorist and forced to take part in military exercises.

After having been deported, Mrs. Düzenli was at first separated from her children, also questioned and beaten, and turned over to the anti-terror department. She was kept in police detention for 2½ days. Then she travelled to her husband's family in Midyat. In the beginning of December 1998, before and after the birth of her fourth child she was repeatedly taken to the police station at Idil for questioning, and once to the public prosecutor's office. Abdulmenaf Düzenli's father was also repeatedly questioned. In November 1998 he died after questioning by the police. Since the family was too much afraid of the security forces they did not risk to have an autopsy conducted. Thus it could not be made clear whether he died as a result of maltreatment. The Foreign Office has got into touch with the village mayor in order to find out the circumstances of this death, as the Ministry of the Interior of Rheinland-Pfalz has confirmed. Thereupon the village mayor got into touch with the police station, which in turn put massive pressure on the family.

Even the Foreign Office should know meanwhile that village mayors are often directly cooperating with the Turkish government. Thus the family was again endangered by this insensible inquiry conducted in a careless manner. On February 11th, Mrs. Düzenli reported to the German consulate in Izmir, and on February 12th, to the IHD what had happened.

In the beginning of February, 1999 the sentence by the military court against Düzenli became valid. Thereupon he was transferred on February 11th from the military prison to the Buca prison in Izmir. On February 12th his wife was allowed to visit him. He told her that he had been heavily tortured in Istanbul, among other things using electro-shocks. He had not been able to speak to anybody else about the tortures he had suffered. He said that he had initially not trusted his lawyer Ercan Demir (member of the board of the Turkish human rights association IHD) since he had not known him before. At

that, every conversation had been supervised by the military. He said that in the military prison he had been beaten and continuously been humiliated.

On March 9th, 1999, the state security court Diyarbakir acquitted Abdulmenaf Düzenli in the proceedings pending in parallel. The suspicion of separatism, however, will stick with Mr. Düzenli, all the more so as the documents concerning the proceedings will remain in his personal papers.

The reapplication for asylum by the Düzenli family which is still resident in Turkey has been treated in absence of the applicants by the administrative court at Neustadt. The judges have again refused the application. Düzenli was declared to be unreliable. The court stated that even if the applicant's assertion of having been tortured should be true, they would not justify to grant him asylum since in Turkey "beating in police custody and rude questioning methods are, unfortunately, an everyday occurrence. Such measures, however, do not exceed the threshold of asylum relevance." And, secondly, there were no plausible reasons for the assumption that Düzenli, after having finished his military service, would have to fear further reprisals.

3. Mehmet Ö.

Deported - tortured - disappeared

On September 9th, 1997, Ö. fled to Germany and applied for asylum giving as reasons that he had been heavily tortured in police custody for 29 days in 1993, and later been kept in prison for 17 months. He said he had been sentenced to a yearlong imprisonment for alleged support of the PKK - he was accused of having built a "hideout" for PKK members.

The Federal Office for the Recognition of Foreign Refugees, however, did not believe him and refused his application for asylum on June 19th, 1998. They stated that a possible legal prosecution would not be a political persecution but "only requital for a criminal offence".

On February 10th, 1998, the decision of the state security court at Diyarbakir was confirmed by the court of appeal and thus became valid. Mehmet Ö. was sentenced to 3 years and 9 months of prison.

On September 9th, 1998, Mehmet Ö. was deported. The decision of the Federal Office had become valid, because Mehmet Ö. who, being an asylum seeker, disposed only of vouchers instead of cash for his subsistence, could not pay the advance his lawyer claimed who in turn had failed to bring action.

In Istanbul, Mehmet Ö. was first questioned for several days but then released, since no warrant for his arrest based on his conviction of February 10th,

1998, had been issued yet. After his release Ö. contacted the human rights association IHD where he made the following statement:

"I was deported... from Hannover to Istanbul. I had only my identity card. The airport police detained me at the police station for one night and the following day. I was repeatedly beaten and hit using fists and feet. Then I was taken away in a police car. My eyes were blindfolded. I was tortured for five or six days... They asked me what I had done in Germany and whom I had met... They squeezed the soles of my feet, and applied electro-shocks to the soles of my feet, my armpits and my ears. I could not stand the torture..."

Mehmet Ö. is presently living in Istanbul under deplorable conditions as garbageman, and hiding from the police. His wife was, in January and February, 1999, at least twice forced to undergo a gynaecological examination in order to find out whether she had any contact to her husband.

4. Abdurrahman Kilic

Expelled - denounced - tortured - accused

On November, 29th, 1997 Kilic departed "voluntarily" into Turkey since his application for asylum had been refused and he was in dread of being deported.

After his arrival in Istanbul he was taken into custody at the police station for 36 hours and questioned, later temporarily released. Few days later, on December 6th, he was again arrested in Diyarbakir. From December 6th to 14th, 1997, he was kept in custody at the Bingöl police station. According to his lawyers Fırat Anlı and Mehmet Sirak Anık, Kilic was so heavily tortured during that time that he could not stand upright when he was presented to the public prosecutor on December 14th.

On December 31st, 1997, the office of the public prosecutor brought a charge of "assistance and support of the illegal terror organisation PKK" and "membership in the organisation" against Mr. Kilic. The charge was based on his confession extorted under torture that he had transacted business with drugs, books, and periodicals for the PKK.

In the bill of indictment Kilic's activities are listed in detail, among them the participation at PKK meetings in Berlin, money transfers to the HADEP at Bingöl, and phone calls with the chairman of the HADEP in Bingöl. Besides the confession extorted under torture, the charge was based on tapped telephone calls and the deposition of the informer Mehmet Dörtyama. Besides against Kilic, Mehmet Dörtyama is known to have informed against several other persons. That follows from reports of the Özgür Politika dated February 7th, 1998, and Fe-

bruary 6th, 1998. Kilic himself is supposed to have informed under torture against two of his political fellow combatants, both applicants for asylum in Germany. The chairman of the HADEP in Bingöl, Nyazi Azak, and Kilic's lawyer Firat Anli have confirmed the above facts at the German Embassy in Ankara.

Mr. Kilic was being kept in prison in Elazig. After his release, the contact to him was interrupted. We do not have any information on the courts' decision and on his present stay.

5. Hüzni Almaz

Expelled - denounced - tortured - convicted - renewed flight - small asylum

On June 5th, 1998, the Kurdish refugee Hüzni Almaz was expelled from Germany after the refusal of his application for asylum. At first he could enter into Turkey without being molested, and go to the village Sürekli in the district of Kiziltepe.

On July 19th, 1998, Hüzni Almaz was arrested in Bozok near Sürekli by the rural police of Derik, on the basis of an anonymous information. He was taken to the police station, interrogated under torture, and questioned about his activities in Germany.

During that interrogation Mr. Almaz "confessed" that he had been politically active for the PKK in order to obtain a residence permit. He said he had taken part in demonstrations and meetings, distributed leaflets, and stuck posters. He said he had been forced by "members of the terrorist organisation PKK", including his wife. The names mentioned by Almaz are contained in the interrogation records of the lower district court at Derik dated July 20th, 1998. After the interrogation Almaz was taken into pre-trial detention because of the "weight of his offences".

On July 21st, 1998, Hüzni Almaz entered a formal appeal against the decision to arrest him. He said that during his arrest he had been exposed to inhumane practices and intense pressure, and that he had made and signed his confession only under torture. He said that he was threatened with further maltreatment in case he should revoke his confession in court.

Almaz's appeal did not succeed; he remained in arrest. The proceedings were transferred to the state security court in Diyarbakir because of its political background. On August 10th, 1998, the office of the public prosecutor made an accusation. Almaz was charged with having demonstrated and stuck posters for the PKK and taken part in PKK meetings in order to obtain a residence permit since his application for asylum had been denied. The bill of indictment states:

"The accused has committed the offence of supporting and assisting the illegal organisation PKK with the ulterior motive to be allowed to stay in Germany. This is evident from his own statements and the documents of the judicial inquiry."

September 29th was determined as the first day of hearing. In the course of a strike of the political prisoners Hüzni Almaz refused to appear at that and at the following appointed dates, arguing that the state security court had no legitimacy to proceed against him. On February 9th, Hüzni Almaz was sentenced to 3 years and 9 months imprisonment. Until the decision on the appeal, Almaz has been released.

Hüzni Almaz succeeded in fleeing to Germany again. He applied for asylum again on June 28th, 1999, and was granted the "small asylum" on November 25th, 1999, by the Federal Office. The decision became final on January 10th, 2000. In March, 2000, the Turkish Cassation Court confirmed the judgement of the first instance.

6. Hasan Kutgan

Deported - tortured - accused - acquitted for lack of evidence - renewed flight

The Kurd Hasan Kutgan was deported to Turkey after his application for asylum had been refused on December 19th, 1996. He was arrested after his arrival at Istanbul airport, held in custody and beaten for one day. Although the office of the public prosecutor had ordered to release him, Kutgan was held in custody and questioned for four more days at the police station. Under torture, he finally confessed that he had been politically active in Germany. On January 6th, 1997, the following charge was brought against him:

"The accused knew the nature of the organisation but supported them during the period from December, 1992, to March, 1993, taking part in demonstrations in Freiburg organised by the separatist terror organisation (...) where many slogans were shouted to win new supporters and to motivate the existing supporters. The confessions by the accused during police detention and the statements by the direction of the border police at the airport confirm that he had committed the actions with which he is charged."

Before the state security court Kutgan revoked his confession but he was nevertheless kept in prison at Gebze.

Apart from the extorted "confession" there was no evidence of any political activity, and Mr. Kurgan had finally to be acquitted.

The lawyer Eren Keskin who had acted as a defender in that case is convinced that Kutgan was arrested after his deportation only because his place of birth (entered in his ID) was Pazarcik.

Hasan Kutgan fled again from Turkey . According to his lawyer, his reapplication for asylum was being denied by the BAFl in April 2000. The action against this decision is still pending, according to our knowledge.

7. Iman Genlik

Deported - tortured - escaped again - granted asylum in Romania

The Kurd Iman Genlik escaped to Germany a second time, after his cousin had denounced him under torture to be a member of PKK, and two of his relatives had been arrested, based on that statement made under torture. The Federal Office refused his application as evidently unfounded. Because of a temporary suspension of deportations, Genlik was tolerated until 1995. During that time he was politically active. After the end of the temporary suspension, the aliens registration office in Hamburg asked the Turkish embassy, according to the agreement on consultation, whether Genlik had to expect persecution when returning to Turkey. The embassy said no in November 1995, but at the same time asked to inform them on the date of deportation. After the representative of the Nordelbische Kirche (Lutheran Church in the provinces around Hamburg) for problems of aliens had intervened, the aliens registration office checked once more the documents of Mr. Genlik and decided to start the deportation, since the decision on circumstances preventing a deportation came under the competence of the Federal Office.

A reapplication for asylum, based on the unusual inquiry about the date of deportation and several exile political activities, was refused. Iman Genlik was deported from Germany on February 23rd, 1998.

Upon his arrival at Istanbul he was arrested, beaten and humiliated. Three days later he was dismissed. Soon later, on March 23rd, 1999, Genlik was again arrested and tortured so heavily for 6 days that he had to be taken to a hospital. Again he was released. On April 15th, Genlik contacted the human rights association IHD and reported the maltreatments he had suffered. The IHD took photos of Genlik's injuries. The human rights foundation treated the results of his tortures.

On May 29th, he was arrested for the third time, on the airport of Izmir, where he had tried to escape from Turkey once more. Again he was arrested, beaten and insulted. He was taken to the offic of the public prosecutor, where he was

instructed that he was not allowed to leave the country. On June 12th, 1998, he reported his latest experiences to the IHD.

In June 1998, Genlik finally succeeded in leaving Turkey illegally and to escape to Romania. Since the German Ministry of the Interior refused to let him have the documents replacing a passport necessary for re-entering Germany, Genlik applied for asylum in Romania. The Romanian authorities issued a conventional passport to him. In Hamburg, the administration of the interior was courageous enough to ignore the obstruction by the GMI and enabled Genlik to re-enter, by sticking into Genlik's passport a permission to stay in Germany for one year.

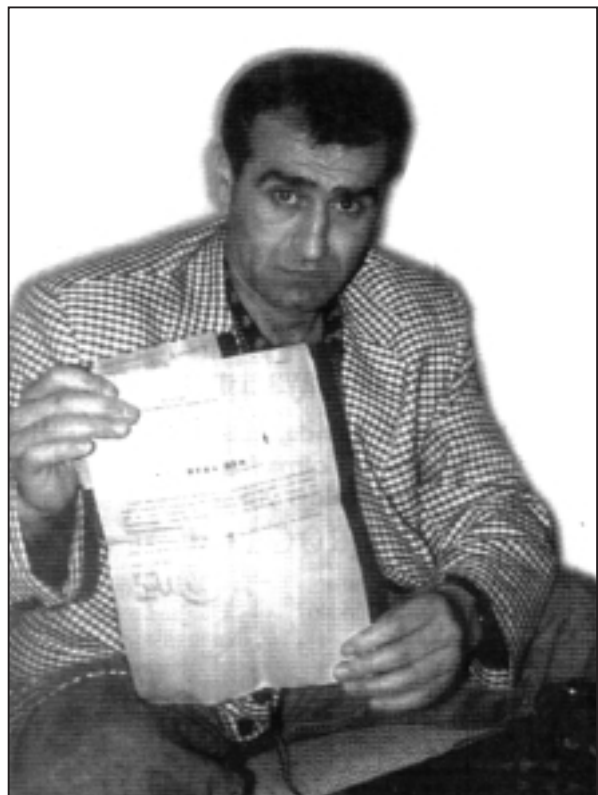
8. Mehmet Ali Akbas

Deported - tortured - released as informer - application for asylum granted

On January 15th, 1998, the Kurd Mehmet Ali Akbas was deported to Turkey, after the refusal of his application for asylum had become valid. After his deportation to Istanbul he was kept in custody and questioned for 9 hours. He was then released under the condition that he should immediately leave Istanbul.

Thereupon Mr. Akbas went to the bus station, in order to go to S. Urfa, where he wanted to visit his relatives. There he was arrested again by plain clothes officials.

He was intensively questioned and tortured for 8 days. Among other things the security forces held a pistol to his temples and threatened to press the



trigger. Akbas was asked for the structures of the PKK, his commitment for the PKK and the activities of his brothers who were active for the PKK. The torturers were in particular keen on names of Kurds active in Germany. After returning Akbas stated "they wanted names, names, names". He said the torturers had detailed knowledge about the Kurds active in Germany. E.g. he was asked for the name of the regionally responsible person of the PKK in Nienburg. When he gave a wrong name, he was kicked and insulted, threatening that he should not lie because they knew exactly who was the regional responsible person.

During the interrogation Mr. Akbas was charged with having taken part in an occupation of the Turkish consulate in Hannover. Mr. Akbas had indeed taken part in that occupation of the consulate on June 24th, 1993. His personal data were then recorded by the police. On demand of the consulate the office of the public prosecutor at Hannover opened a judicial inquiry against the demonstrators, which was later stopped. It is unknown how the personal data of the participants came to the knowledge of the Turkish authorities. Possibly the consulate has demanded and obtained permission to inspect of the files. It is, however, also possible that the consulate has obtained the personal data of the persons concerned by own investigations.

Perhaps the exchange of penal data between German and Turkish authorities may also have played a part. From the letters by the Ministry of Justice dated August 8th, 1997, and by the Chief State Prosecutor dated June 27th, 1997, to the administrative court Gießen it follows that penal data on completed punitive proceedings and opened judicial inquiries are being regularly exchanged between Germany and Turkey.

Finally Mr. Akbas was released, after having agreed in pretence to cooperate with the Turkish authorities. After having been released, Akbas contacted the public health office in Viransehir, in order to have a medical examination. The public health officer Mustafa Vurgan attested numerous injuries, abrasions, and bruises, caused by the previous tortures, and certified Akbas to be disabled for 15 days. Mr. Akbas sent photos to his wife, which showed his body full of scars.

The German consulate in Istanbul, which has studied the case in presence of a representative of the Federal Office and in co-operation with a medical examiner, became finally convinced that the statements by Mr. Akbas concerning torture and persecution were credible. After having received the corresponding statement, the Foreign Office, the Federal Ministry of the Interior, and the Lower Saxon Ministry of the Interior agreed to permit Mr. Akbas to re-enter Germany.

The attempt to let Mr. Akbas to re-enter with a visa for the BRD in connection with a re-entering permit and an exemption from the requirement to present a valid passport, was initially unsuccessful since the Turkish authorities refused to allow Mr. Akbas to leave the country without Turkish travelling documents.

Finally, M. Ali Akbas succeeded in escaping illegally across the Greek border. From there he re-entered Germany on May 12th, 1998.

On October 10th, 1998, Mr. Akbas obtained the final information that he was granted asylum.

9. Ibrahim Toprak

Chain deportation - tortured - accused - sentenced in prison

In June 1996 the Kurd Ibrahim Toprak was arrested and questioned by the federal border police, when he tried to cross the border between Austria and Germany. On November 19th, he told his lawyer Erin Keskin that in the course of his arrest he had been hit by a BGS vehicle. He said the officers had stripped him to the skin and kept him waiting all night, and that they had insulted him and not given him any food.

The next morning, the Kurd was deported back to Austria, according to the third-state rule. There he was not accepted as an asylum seeker. Although Toprak stated that he was wanted by the Turkish authorities and asked for protection from threatening political persecution, he was, without his application for asylum having been examined, deported two days later, on July 31st, from Vienna to Istanbul, with preliminary personal documents supplied by the Turkish consulate.

In Turkey, Toprak was arrested immediately upon arrival and taken to the airport police station, which turned him over to anti-terror department at midnight. There he was arrested, and, according to his own statements, heavily tortured. Against him, a judicial inquiry had been opened, on behalf of his participation in a violent demonstration on March 14th, 1995, in the Gaziosmanpasa district of Istanbul. Under torture, Toprak finally signed a "confession", according to which he had taken part "in the above mentioned demonstration, ... thrown around explosives" and had expressed "sympathy for the illegal organisation PKK". On August 9th, 1996, he was taken to the prison at Sakarya. On August 13th, 1996, he was accused in the state security court in Istanbul. In court, Toprak revoked the extorted confession.

On July 15th, 1998, the state security court condemned Ibrahim Toprak to 18 years prison for membership in the PKK, although the public prosecu-

tor's office had pleaded for three years only and although a witness testified that Toprak had not taken part in the violent actions. The witness had then driven the car onto which a Molotov cocktail had been thrown. His step mother and his grandmother lost their lives at that occasion, he and his step father were hurt. The witness stated that he would at any time recognise the people who had thrown the Molotov cocktail. Mr. Toprak is currently arrested in Bursa.

10. Menduh Bingöl

Deported - tortured - accused - acquitted - renewed flight

Menduh Bingöl fled to Germany in 1996 and applied for asylum, on the grounds that he had been arrested and tortured in Turkey five or six times, on behalf of his contacts to the PKK. After one member of the group had been arrested and had under torture given away his name, he had fled to Germany.

The Federal Office turned down the application for asylum on November 26th, 1996, on the grounds that the "vague and non-substantial" statements gave the impression that at least parts of them were "pure invention". They said it was inconceivable e.g. "that an arrested person was kept in custody for several days without any practical proof of his offences". They said the releases pointed to the fact that Bingöl had been politically active at most to a degree not relevant for asylum. The BAFI finally suspected that Bingöl had left Turkey only "in order to evade the conscription to military service". When the VG Minden also classified him as untrustworthy, the asylum process was finally concluded in December 1998, with a negative decision.

On February 25th, Mr. Bingöl was arrested on the way to his work, detained in Büren, and deported to Turkey on March 16th. After having been questioned by the airport police he was at first set free on March 17th, at 5 o'clock in the morning. After staying in Istanbul for a short time, Bingöl went to Edirne. There the security forces arrested him on March 19th, after checking his identity papers in a café. As Bingöl has stated, he was questioned at the police station under torture and beating, and was asked for the reason of his stay in Germany:

"I told them that I had gone to Germany in order to work there. They said, I should tell the truth, otherwise they would kill me. They charged me with having been a member of the PKK in Germany, helping the PKK and having taken part in actions, that my brother was president of an association etc. ... They took me into another room where they attached cables to my feet and applied live electrical voltage. While I was screaming they insulted me and

laughed. I was permanently threatened with being killed." (Letter dated April 12th, 1999, from the prison in Ümraniye).

After the questioning Bingöl was forced to sign a "confession". Then, on March 22nd or 23rd, 1999, a judge ordered him to be imprisoned in Edirne. About 2 weeks later he was transferred to the prison Ümraniye in Istanbul. On April 19th, 1999, the office of the public prosecutor accused him of having been a PKK member according to article 168 TStGB. In the bill of indictment, he was charged with having taken part in PKK events in Germany, such as demonstrations, festivities and rallies. He was further charged with having contacted PKK members after his deportation, "in order to leave Turkey illegally, with a view to complete his training for that organisation". Thus he was accused of having been a member of the PKK.

In a hand-written letter dated April 12th, 1999, Bingöl has described his torture during his detention by the police. Of course, he is denying that he had been politically active in Turkey: If that letter should be known to the security forces or be published otherwise, that would be equivalent to a voluntary confession of his guilt. The proceedings against Bingöl are being continued.

Bingöl is back again in Germany. His reapplication for asylum is being denied by the BAFI. The BAFI assumes indeed that Bingöl was subject to "violations of his interests in a manner relevant for asylum". After his acquittal by the state security court, however, the danger of being persecuted did not exist any more, as the Federal Office states in its decision of May 17th, 2000. In May 25th, 2000, a legal action was brought up in the VG Minden.

11. Oguz Ciftci

Deported - reproaches against BGS - tortured - released as "informer" - renewed flight - small asylum

According to his own statements, Oguz Ciftci fled into the Federal Republic on July 17th, 1996, and applied for asylum on the following grounds: After having refused to accept the office as a village guard in May 1993, other village guards had threatened to kill him. In 1995 his house was forcibly taken away from his family, so they had moved to another town. There he had repeatedly been questioned again by soldiers. He said he was afraid to be killed by the counter guerrilla.

The Federal Office refused his application by a decision dated December 10th, 1996. The BAFI said that for refusing to become a village guard, nobody would have to expect political persecution, since the acceptance of that office was of a voluntary nature. In case of doubt, they said, Oguz Ciftci had still the choice of the inland flight alternative. He filed an

appeal against that decision but the VG Chemnitz stopped the appeal proceeding on September 15th, on behalf of his (alleged) failure to pursue it.

On March 23rd, 1999, Oguz Ciftci, to his surprise and that of his family, was arrested and deported from Berlin-Tegel to Istanbul. He reported to the IHD that on his departure a BGS official had given an envelope containing incriminating material to the pilot. On his desperate request not to do that, the official had laughed and said that he did not think any harm would be done to him. During the flight, he had asked the stewardess to destroy the envelope, and she had talked to the pilot. Then the stewardess declared to him that the envelope must not be destroyed because it had an official stamp. At the airport police station Ciftci was turned over to the police. The stewardess had told the police that because of Ciftci's remarks during the flight she was convinced that he was a separatist.

From the airport he was taken to the anti-terror department where he was tortured. Later he was released, under the condition that he would work as an informer for the Turkish government. During the torture he had witnessed that two other Kurds were tortured, i.e. Hüseyin Öztürk, deported from Germany, and a deportee from Sweden whose name he had not heard. Thereupon his lawyer Yoleri, member of the board of the IHD, made inquiries in prisons in Istanbul. It was confirmed to her that a man named Hüseyin Öztürk was being kept in the Ümraniye prison (see case14).

Since his release, Oguz Ciftci is being treated by the human rights foundation. Even 10 days after his deportation and the tortures traces were still visible, probably stemming from the torture, and incisions from the handcuffs applied by the German police.

On July 24th, 1999, Oguz Ciftci succeeded again in fleeing. On August 10th, 1999, he applied once again for asylum, and obtained a positive decision on December 10th, 1999, according to §51 AuslG. That decision became valid on January 12th, 2000.

12. Emin Acar

Deported - reproaches against BGS - tortured - arrested - accused - acquitted - arrested and accused again

Emin Acar, assumed to be then 15 years old, came to Germany in June 1997, and applied for asylum. He stated that his family, having supported the PKK by giving them foodstuffs, had since 1996 been harassed, raided, and beaten by soldiers. During a raid, his father had been arrested and is missing since then. After that event, he had decided to flee.

On February 18th, 1998, the Federal Office refused Acar's application for asylum, on the grounds that his statements were non-substantial. At that, his descriptions gave the impression that he had got into

locally customary "conflicts between the Turkish state security forces and militant PKK groups". Strict controls and temporary arrests should be "considered as attempts of intimidation", and not as persecution.

He objected against that decision by the BAFI, but the proceedings were stopped on December 29th, 1998, on behalf of his failure to pursue it. According to Acar's own statements, he was arrested on March 8th, 1999, and on March 12th, 1999, he was deported from Stuttgart to Istanbul. In his letter dated April 7th, 1999, from the Ümraniye prison Acar reproached the German BGS heavily. He said he had been beaten and insulted during the deportation.

"When I asked them why they had taken me to that place (i.e. to Stuttgart airport) they answered that Kurds were undesirable in their country, and that they were all terrorists anyway. (...) First they hit me with their fists on my nose. After I had tumbled down they kicked my back and legs."

He said that he was turned over to the Turkish police on Istanbul airport, with the words "take him, we have brought you a separatist. You will know what to do with him". On March 13th, the airport police sent a telex to the anti-terror department, asking whether Acar was wanted. The answer received on the same day was, that there was no charge against him. At that time, however, a police bus had already taken Acar to a police headquarter called "Vatan" (i.e. home, fatherland). He said he had there been questioned under heavy torture and forced to sign a "confession". In this connection, Acar's fellow-prisoners made a statement, part of which was printed in *Özgur Politika* on March 19th, 1999.

"As a result of the torture our friend had to suffer, he has no control over his hands. He has trouble with breathing, his genitals are swollen, and his body is covered with hematoma effusions as a result of strokes from a stick."

Not before May 6th, Acar underwent a medical inspection on the request of his lawyer. The prison doctor stated a cracked eardrum. Acar was, however, denied the necessary otolaryngologic treatment. After three days of police detention, Acar was presented to the public prosecutor. He said that he was called a separatist by the public prosecutor.

On March 15th, 1999, a judge ordered Acar to be arrested. Two days later the office of the public prosecutor charged him in the state security court in Istanbul, according to article 169 TStGB, with having supported the PKK. Acar was charged with having taken part in a protest demonstration in Mannheim against the arrest of Abdullah Öcalan, having shouted slogans and borne a PKK flag.

On May 27th, 1999 the court acquitted Emin Acar for lack of evidence. The charge was based merely on the "extorted confession"; no other evidence was available. According to Acar's lawyer, Mrs. Bayir, the court acknowledged the attest by the public health officer as evidence for an enforced confession. At that, the legally permissible duration of police detention had been surpassed.

Emin Acar was again arrested on August 20th, 1999, and accused before the SSG Diyarbakir on October 7th, 1999. Now he is charged with being a member of a terrorist association, according to § 168/2 TStGB and § 5 of law No. 3713. Allegedly, he had joined the guerrilla forces. The bill of indictment states that he was arrested unarmed, one day after a conflict between guerrilla and military. Acar is presently under arrest in Diyarbakir.

13. Ferit K.

Reproaches against BGS - denounced - tortured - accused

Ferit K. entered the Federal Republic in December 1989, and applied for asylum. The accompanying documents, however, can be found neither with the Federal Office, nor with his lawyer of those days. Thus, no documents seem to be left concerning his stay in Germany.

K. lived together with his lady friend Mrs. Y. for about two years, presumably without a legal residence. In order to prepare marriage and to obtain documents K. planned to travel to Turkey. On February 7th, 1999, his lady friend Mrs. Y. drove him to Frankfurt airport. K. had planned to fly to Turkey with Öger-Tours, on a plane scheduled to leave at 11.45 h. At 20 h Mrs. Y received a phone call from the airport. K. reported that he had been held for almost 4 hours by the BGS, that his luggage had been searched, and that measures for identification had been taken. He had to strip to the waist. Then he had to spend all his money for another ticket and for excess luggage.

Later Mrs. Y was informed that Mr. K. had flown to Istanbul without any money, and stayed there until February 11th, 1999, with an acquaintance. Then he travelled to his brother in Erzurum, where he stayed until February 14th, 1999. On February 15th, 1999, he went to his village to meet his father and his son.

On February 16th, 1999, Mr. K. was arrested at the registry office of Karlioiva/Bingöl, when he tried to collect his birth certificate. The records of his interrogation show that K. was denounced:

"On February 16th, 1999, at about 01.00 h, the rural police station at Karlioiva/Bingöl received a phone call from a male person in Germany who did not

disclose his name. This person declared that you were a courier for the PKK....and that you have been sent to Turkey by the PKK, in order to carry out ... activities..."

On the same day, the house of the family was searched. According to the bill of indictment, the Kurdish periodical Serxwebun, which is banned in Turkey, Newroz leaflets and photos were found.

According to the records of his interrogation, the police had thoroughly investigated K.'s stay in Germany and in Turkey. Evidently the police have also investigated where K. had made purchases after his entry, and which were the connections of the respective shop owners with the PKK. We do not know from which sources the police has found out that K. was said to have been the deputy president of a Kurdish association.

After the questioning, K. was turned over to the criminal court in Bingöl. There he revoked his statements and declared that he had been forced to make a confession. He said he had nothing to do with the found periodicals and the other allegedly found objects.

On March 11th, 1999, the office of the public prosecutor brought an indictment against K., on behalf of his membership in the PKK, according to §168TStGB. April 20th, 1999, was the first date for hearing. He was charged with having worked for the PKK as a courier between Germany and Turkey, with having taken part in activities of that organisation, and with having collected money.

"The defendant ... has sent money to the families of killed terrorists, using Germans who had been sent, for the purpose of provocation, to the Newroz festival prohibited in Turkey and the elections."

According to our sources of information, K. is said to have been set free until the next date of hearing, presumably in July 2000. We lost contact to K. do not know how the proceeding ended.

14. Hüseyin Öztürk

Deported - tortured - arrested - accused - motion for the death sentence - acquitted - disappeared

The case of the Kurd Hüseyin Öztürk became known only because the Kurd Oguz Ciftci who had also been deported from Germany, was tortured at the same time with him at the anti-terror department, and thus was able to draw attention to this case, which he had witnessed when he made a complaint at the human rights association IHD (case No. 13).The lawyer Gülseren Yolery succeeded in finding Hüseyin Öztürk in the prison Istanbul-Ümraniye.

Further investigations yielded that Öztürk had fled to Germany presumably in November 1996, and applied for asylum on November 21st, 1996, on the grounds that he had been forced by the PKK in 1992, when he was 16 years old, together with two other youths, to go into the mountains to fight and to help to provide the guerrilla with supplies. He said that then, in September 1995, he had flown from the PKK. He said that he had mutilated himself, in order to be no longer forced to fight. After having been denounced, he was wanted by the Turkish government. He said that he could not live anywhere in Turkey, because he was persecuted by the government as well as by the PKK.

The BAFl did not believe him and refused his application on May 13th, 1998, on the grounds that Öztürk's statements were evasive and confused, as any "objective observer and reader" of the hearing records would easily understand. According to the opinion of the BAFl, Öztürk left Turkey without having been persecuted.

The VG Regensburg followed this argumentation in its decision dated May 13th, 1998. They stated that Öztürk had not been able to convince the court that, after returning, he had to expect torture or any risks for his life or freedom. Further, inquiries for the whereabouts of a person in South-Eastern Turkey were normal and did not indicate an individual persecution:

"Thus the court concludes that ... any inquiries for the whereabouts of the applicant may simply be based on a general suspicion of separatist activities, a suspicion which Turkish security forces may generally have against young Kurds living in the distressed areas."

On July 7th, 1998, the sentence became valid by a decision of the Bavarian VGH. On March 9th, 1999, Öztürk, meanwhile in deportation arrest, applied once more for asylum. He stated that he could on no account return to Turkey, because he would be arrested on the spot, because of his activity for the PKK. The repeated application was refused on the same day.

Öztürk was deported from Germany to Istanbul on March 25th, 1999, and arrested at the airport immediately upon his arrival. The court records prove that Öztürk was wanted since 1995 - just as he had stated when applying for asylum. According to the statements of the witness Ciftci, he was heavily tortured for two days by the anti-terror department Istanbul.

On April 28th, 1999, the office of the public prosecutor brought an indictment before the SSG Malatya, according to article 125 TStGB for separatism. A sentence according to article 125 TStGB may re-

sult in the death sentence. In the bill of indictment, Öztürk was charged with having fought with the guerrilla from June 1992, until September 1994, thereafter having fled from the organisation and having gone to Germany, where he had applied for asylum. The case was opened on May 27th, 1999, and continued on June 24th, 1999.

On February 24th, 2000, Hüseyin Öztürk was acquitted from the charge of separatism. He stated before the SSG that he had been forced to join the organisation against his will. He said that he had not taken part in any armed conflict, and that he had left the organisation (guerrilla) of his own accord. He said he wanted to do his military service and to make use of the remorse law. After his acquittal, Öztürk was arrested, beaten and threatened for at least two times. Currently he is hiding in Istanbul.

15. Ilhan O.

Deported - maltreated - renewed flight

In May 1996, the Kurdish woman Ilhan O. travelled to Germany with a visa accompanied by her two children, in order to visit her husband. Her husband is living in Germany since January 1995, having obtained a residence permit according to § 51, section 1 AuslG.

After having arrived, Mrs. O. applied for a permit for her, too. The city of Göttingen, however, refused her application on October 7th, 1996, according to § 7, section 1 AuslG, on the grounds that they were welfare recipients, and threatened them with deportation. Mrs. O.'s lawyer raised a protest against this decision and made an urgent petition to the court.

In January, 1997, the VG Göttingen decided that this petition had a suspensive effect. The OVG, however, invalidated this decision on April 7th, 1997, on the grounds that the reception of social welfare was a reason for refusing the petition and stated that the deportation could be executed.

In May 1997, Mrs. O. applied for asylum. The procedure was unsuccessful for her and her children. A repeated application made in January, 1999, for a residence permit was denied, based on the OVG decision, and no appeal was accepted.

On March 30th, 1999, Mrs. O. and her meanwhile three children were deported. The three - year - old child had high fever at that time.

After having arrived at Istanbul, Mrs. O. and her children were kept in custody at the airport for 30 hours. She reported that during that time she was intimidated and beaten. The police suggested that Mrs. O.'s husband should work as an informer for the Turkish government. They said that an Apo po-

ster was found in the school bag of one of the children, which had not been there when they were deported.

The governmental hospital for psychiatry has attested that, as a consequence of the deportation procedure and the maltreatment at the airport police station, the children suffered a shock. The medical specialist diagnosed a generalised state of anxiety for the youngest child (22 months) and "acute stress disorder" for the 10 and 12 years old children. After her release, Mrs. O. complained at the IHD. She was hiding herself and the children due to fear of further maltreatment.

According to her lawyer, İlhan O. is back in Germany. She has reapplied for asylum.

16. Mustafa E.

Deported - denounced - tortured - accused - acquitted

About 1992, the Kurd Mustafa E. entered Germany illegally from Rumania, where he had stayed for an extended period, and applied for asylum. This application was refused on August 10th, 1994, on the following grounds:

"If the applicant had really been wanted for his alleged involvement in a military conflict between the Kurdish guerrilla and Turkish security forces, and was still wanted, then this cannot be regarded as a political persecution."

When the refusal of his application for asylum by the VG Gießen had become valid, E. applied again for asylum through his lawyer Fresenius, on the grounds that he had taken part in two hunger strikes. The Federal Office refused to open another procedure. The alleged "minor political activities", even if his participation could be accepted as credible, would not raise the interest of the Turkish security forces, and would consequently not lead to inquiries and persecution. At that, E. had the option of the inland flight alternative.

Late in 1996, the connection with the lawyer broke off. He withdrew the appeal against BAFI, but cannot remember whether this was done on his client's request, or whether his client had already been deported. According to E.'s statements at the anti-terror department Konya, he was expelled from Germany in September 1997, when he intended to marry a German woman.

One thing only is certain, that E. was arrested on February 15th, 1999, at 2.30 p.m., at the passport office in Konya. The arrest was based on an anonymous letter from Germany, dated October 14th, 1996, which contained a receipt by the ERNK for a contribution of 1000 German marks and the reapplication for asylum E. had entered in 1995. It fol-

lows from the letter by the police headquarters Konya to the office of the public prosecutor at Konya, dated February 16th, 1999, that the police, after having received this letter, made inquiries on the whereabouts of Mr. E., located him, followed him when he entered the province, and then arrested him when he was applying for a passport.

Mr. E. was taken to the anti-terror department where he was questioned. According to the statements of his lawyer, Mr. Islambey, E. was heavily tortured. According to the records of February 16th, 1999, E. gave evidence at the anti-terror department, among other things for his activities in Germany, and "confessed" that he had, among other things, taken part in PKK events as a steward, and that he had made financial contributions to the organisation. The records say that he had made his statements from a feeling of remorse and not under pressure. The police, however, had not recorded that he had said he had been forced to be active for the PKK.

Several persons whom E. had mentioned as "members of the organisation" are named in the records with their code names. After having examined the records the office of the public prosecutor at Konya declared themselves incompetent and forwarded the case to the state security court at Adana. There the office of the public prosecutor brought an indictment on February 25th, 1999, legally based on article 169 TStGB in connection with the antiterror law, charging him with having supported the PKK.

In court, Mustafa E. revoked his "confession". On April 15th, 1999, he was acquitted for lack of evidence, presumably as a result of diplomatic intervention by the German general consulate. The consulate had been informed on this case by the Refugee Council.

17. Abdulhalim Nayir

Deported - reproaches against BGS - tortured - released as "informer" - accused - acquitted - renewed flight - small asylum

The Nayir family fled to Germany in July, 1992, and applied for asylum on the grounds that Mr. Nayir had been an active member of the party Mala Gele Kurd (MGK). He said that he had been arrested for having taken part in the Newroz festival in 1992, that he had been kept in custody for 4 days, and had then hidden in the mountains together with his uncle. He said he had decided to flee after his uncle had been shot and killed by soldiers. Mrs. Nayir said that she had twice been taken to the police station on behalf of her husband's activities.

On July 18th, the Federal Office refused the application for asylum, on the grounds that in the present case "the threshold separating mere molestati-

on from political persecution had not been exceeded". The first proceedings were validly closed with a negative result in September, 1996. Two later applications based on exile political activities, among others his function as a speaker for the MGK in the Osnabrück area, did not succeed.

An application for legal protection on the grounds of the continuing inquiries by the security forces for Nayir's whereabouts was refused on January 29th, 1999, by the VG Osnabrück. According to judge Niermann such inquiries are often made, because of the suspicion that the person concerned had joined the guerrilla forces. Nayir could, however, easily refute that suspicion "by pointing to the fact that he had been living in the Federal Republic of Germany since 1992".

On February 4th, 1999, Mr. Nayir was arrested at the aliens registrations office Osnabrück and, together with his family, deported to Izmir on February 5th, 1999. According to Nayir's statements made at the IHD, the BGS has handed over to the Turkish police officers a suitcase containing incriminating material, among others Nayir's telephone register and photos of a demonstration. The search records made out by the airport police contain a list of the materials found in Nayir's suitcase.

Nayir stated that he was arrested at the airport and taken to the anti-terror department. He said that he was tortured there and questioned about his activities in Germany. He had denounced members of his family as being PKK members, likewise the persons listed in his directory. He had confirmed and repeated, in presence of the public prosecutor in the state security court, the statements he had signed under torture. He said that he had been threatened by his torturers that he would be killed if he would retract his statements. He would be released only if he agreed to work as an informer. After having been released, Nayir and his family hid from the police.

On March 22nd, 1999, the IHD wrote to the Refugee Council: " We are convinced that the German authorities are jointly responsible for the situation of Abdulhalim Nayir and his family and for his having been tortured. We ask you to cooperate in this affair and to inform us on the results."

Based on his statements, the state security court brought an indictment against Nayir, according to article 169 TStGB, charging him with having supported the PKK. Surprisingly, the SSG Izmir acquitted Abdulhalim Nayir on April 27th, 1999. Lawyer Türkan Aslan, a board member of the IHD, is convinced, based on her experiences in similar cases, that this acquittal was a "reward" for Nayir for having acted as an informer. Another equally probable explanation is that Nayir was acquitted after

an intervention by the German general consulate. The consulate had also been informed on this case by the Refugee Council.

After his renewed flight to Germany, Mr. Nayir and his two sons were immediately arrested in Büren for deportation. His wife and the other children were free. Nayir has made a statement to his lawyer, concerning further persecution after his release, and repeated his application for asylum. He was recognised in July 3rd, 2000, by the VG Osnabrück according to §51 section 1 AuslG. The court stated that he had given credible evidence of "having been maltreated in serious manners". Despite his acquittal in the proceedings in the state security court, a repetition of persecuting measures could not be excluded with sufficient certainty, for Nayir had revoked his co-operation with the security forces as an informer by his flight abroad. The application for asylum for the rest of the family was being rejected.

18. N.B.

Deported - tortured - re-entered - "small asylum"

The Kurd N.B. fled to Germany in 1993. He applied for asylum on the grounds that his native village had repeatedly been raided by village guards, and that he had been maltreated at such occasions. The Federal Office and the VG refused his application.

On November 13th, 1998, N.B was deported from Hanover to Turkey and turned over to the Turkish officials. For nine days, he was kept on the airport police station, tortured, and questioned. He was charged with having demonstrated for the PKK in Germany. After his release, he went first to his native village, but it had been destroyed in the meantime. Thereupon he searched for his mother in the district town Idil and hid himself at her place.

Early in the morning of January 20th, 1999, security forces stormed the apartment and arrested him. He was kept for 27 days, tortured, and questioned. The security forces charged him with having been active for the PKK in Germany. They said one of the village guards had recognised him, in a television broadcast by the Kurdish TV station MED-TV. Indeed, N.B had appeared in a MED-TV broadcast, a short time before he was deported. Further they objected that his brothers allegedly had joined the PKK.

He was finally released, under the condition that he had to report twice a week to the military unit. At first he did report as he was expected to do, but then he was warned by an acquaintance: In similar cases the persons concerned had again be arrested and then killed by the security forces. Finally the PKK had been made responsible for the murders.

N.B. went underground and hid himself at his sister's place. When he was told that his mother had twice been taken to the barracks and been questioned for his whereabouts, he decided to flee again.

His renewed exit from Turkey was organised by escape agents, and he could re-enter Germany in May, 1999. At first, the Federal Office refused to open the renewed proceedings because it did not accept his story as credible. Especially the duration of the police custody without a warrant of arrest was not accepted. The VG Osnabrück corrected that decision by its judgement dated October 25th, 1999, and ordered the BAFI to grant N.B. protection against deportation, according to §51, section 1 AuslG. The statement of reasons states:

"Even if it is assumed that the alleged duration of the police custody is unlawful, it cannot be excluded that the applicant's statements are true. Maltreatment and torture of arrested people are also prohibited by Turkish law, but the court knows from many asylum cases of Turkish citizens that such things are occurring on a large scale."

19. Ahmet Angay

Deported - tortured - accused - arrested - sentenced

Ahmet Angay entered Germany in September, 1994, and applied for asylum. He said that he had fled from massive reprisals by the Turkish security forces, to which he and other villagers had been exposed, and that he had deserted.

The first application was refused with reference to the inland flight alternative and to lack of collective persecution. A repeated application on the grounds of extended exile political activities, confirmed by a corresponding statement of a witness, was refused on May 4th, 1998, on the usual grounds that it was not probable

"that Kurdish applicants for asylum who have taken part in demonstrations or other activities by Kurdish associations and groups in Germany, had to suffer any reprisals for such reasons when returning to Turkey. The mere participation in events dealing with the situation of Kurds in their homeland and their behaviour abroad does not constitute an offence for the Turkish penal law which might be prosecuted by Turkish authorities."

In September, 1998, Angay was deported to Istanbul. According to his own statements, he was arrested by the police immediately after leaving the plane, and kept in custody for 9 days. He said he was insulted and charged with having taken part in PKK activities. After having been presented to the public prosecutor he had temporarily been released. Thereupon Angay went to Enez in the Edirne province where he was arrested again on December 6th,



1998, and questioned under torture in the anti-terror department. He was forced to admit that he was a PKK member, that he had taken part in many actions and had undergone political education in Germany.

In a letter recorded on August 13th, 1999, by his lawyer Eren Keskin in the Kırklareli prison, Angay describes how he was tortured during the interrogation:

"Every kind of torture was applied against me. I was splashed with cold water, stripped to the skin, constantly beaten, and insulted. During the night, they took me to the bank of the Maritzs river, pointed a gun to my head and said they would kill me. My eyes were blindfolded all the time."

On December 25th, 1998, Angay was accused at the SSG Istanbul, on behalf of his PKK membership, according to article 168 TStGB. Angay was charged with having supported the PKK since 1989, having taken part in activities in France and especially in Germany, having collected contributions and sold publications. He was further charged with having tried to leave Turkey again after his deportation, in order to proceed to a "camp of the organisation" in Greece. The charge was mainly based on the statements Angay had made at the police station and the office of the public prosecutor, and on the statements of three witnesses who were accused together with him.

In the bill of indictment and in the records of the police headquarters, the time of his apprehension is dated as December 8th, 1999. According to the arresting authority, however, he had been arrested already two days earlier. This discrepancy indicates that an extension of the pre-trial detention beyond the permissible 4 days (in cases of more than one suspect) had neither officially been asked for, nor been granted.

In a letter to the president of the 4th chamber of the state security court in Istanbul, dated June 30th, 1999, Angay revoked his statements. He said he had to sign a prepared protocol of evidence, without

knowing its contents. In May 10th, 2000, he was sentenced to 12 years and 6 month of detention because of alleged exile political activities. No evidence was submitted, except for a confession made under torture and some denunciations.

The German Federal Office reversed its decision of May 4th, 1998 in July 20th, 2000 and stated the prerequisites for § 51 section 1 AuslG. In the case of a return to Turkey, it could be assumed with the necessary probability that Angay would be exposed to persecution measures. Ahmet Angay, however, does not gain much by this decision: He is still being kept in prison at Kirklareli in Turkey.

20. Murat Polat

Deported - "picked up" by a special team - tortured - accused - acquitted

The Kurd Murat Polat fled to Germany in August 1998 and applied for asylum. The reasons he stated were mainly as follows: He had been sentenced to three months arrest by the Gaziantep military court for refusal during his military service to obey the order to take part in the evacuation of houses. He had to serve this arrest in the Gaziantep military prison after having finished his military service. In 1996 the local commander had suspected that terrorists were staying in Polat's village because there the HA-DEP had obtained 15 votes in an election. Thereupon the male inhabitants were forced to serve as village guards. He said that after one attempt to flee he had been ordered to report every day at the Gürüz police station which is seven kilometres away from his village. When he was once unable to follow this order, he said he was beaten and threatened to be killed. Thereupon he had decided to flee.

The Federal Office refused his application for asylum on November 4th, 1998, as evidently unfounded. The VG Darmstadt decided on November 30th, 1998, that this refusal was legally correct and denied any suspensive effect of the appeal. The court stated:

"According to the relevant regulations of the Turkish laws for villages the acceptance of the duties of a village guard is (...) voluntary."

In particular cases, the court declared, harassments and arrests may occur, but there was no persecution in the sense of the penal law. The Turkish government, the court declared, dissociates itself regularly from any encroachments of the local executive organs.

On July 5th, 1999, Polat was deported to Istanbul. Upon his arrival he was picked up by a special team from Ankara. According to the statements of an official of the Istanbul Airport police, a warrant against Polat had been issued all over the country

charging him with having supported the PKK. This warrant was evidently based on a letter he had sent by telex from Germany to various government authorities in Turkey, in which he had called Turkey a fascist state.

On July 19th, the anti-terror department of the police headquarters in Ankara informed an IHD lawyer that Polat had been released after one day. Further investigations showed, however, that this was a lie. It can be proved that Polat was questioned by the anti-terror department on July 7th, 1999, arrested on July 8th, 1999, and placed under detention in the Ulucanlar prison in Ankara. According to his lawyer, Polat was tortured in detention. On July 12th, 1999, the office of the public prosecutor brought an indictment to the Ankara state security court, according to article 8 anti-terror law, on behalf of separatist propaganda.

On August 19th, 1999, Polat was acquitted. Polat had stated in defence that the letters "containing statements relevant for the organisation" had been written for him by a member of the organisation, and that he had no knowledge of their contents. A graphological examination of the letters ordered by the court did not yield clear results. Finally the judge acquitted Polat, following the principle "in case of doubt in favour of the defendant", although there was some residual suspicion left.

21. Hüseyin Genc

Deported - tortured - escaped again - granted right of asylum

Hüseyin Genc fled to Germany and sought asylum when he was 24 years old. The reasons he stated were that he should be forced to accept the duties of a village guard after his military service. When he, like the other men in his village, refused to do so, he had been maltreated and beaten. The application for asylum was refused. The VG Stuttgart stated in its refusal that Genc "had not suffered any political persecution". Genc repeated his application, submitting a confirmation by the previous village manager of Nusaybin, but was refused again.

On December 12th, 1997, Genc was deported to Istanbul. Upon his arrival the airport police received him and questioned him for his (alleged) activities for the PKK in Germany and for names of and information about some of his acquaintances. During the questioning he was massively beaten and splashed with cold water. After 48 hours, he was released. Since his native village had been destroyed long time ago, he went to his mother in Girmeli near Nusaybin. Already a short time later, he was asked by the security forces to work as a village guard.

On December 29th, 1997, the military arrested him and kept him for six hours at the military station:

"I was threatened and attempts were made to intimidate me. At that, I was beaten. Evidently, they wanted to clarify my position definitely. I was not only urged to accept the duty of a village guard, but also to spy on the villagers. They wanted to use me as a tool, in order to suppress my activities." (Statement dated April 28th, 1998)

Two weeks later, Genc was again taken to the military station, and, according to his statements, this time "really tortured". When, one month after his release, a conflict between the military and the PKK broke out close to his village, he was afraid of renewed trouble, left the village, and fled to Germany. His appeal against the refusal of asylum proceedings was still pending in the VG Stuttgart. In the oral hearing the court came to the following conclusion:

"...that the defendant was not only a victim of the general expulsion pressure exerted by the security forces, but also was suspected to be a sympathiser and supporter of the PKK. (...) The request to become a village guard and to serve as an informer served evidently the purpose to test the loyalty of a person to the Turkish government who had come into the field of view of the security forces."

Hüseyin Genc's right of asylum was recognised on December 8th, 1998.

22. Duran Y.

Illegally deported - tortured - renewed flight

Duran Y. fled to Germany in 1992. He applied for asylum essentially on the following grounds: Since he was a Kurd, his military service had been a perfect hell to him. He said he had been beaten, insulted, and humiliated. After having returned to his native village he had supported the guerrilla. When the security forces performed strong military operations in 1992, he had fled.

The Federal Office refused Y.'s application for asylum late in 1992, Y. was deported to Turkey. There it came to his knowledge that many of his acquaintances and friends had been arrested and tortured. Out of fear he refrained from any political activities for two years, but then the PKK put moral pressure on him, and he resumed political activities. 1996, he returned to his village where he worked in a committee for the support of the guerrilla forces, until one fighter named Seko was hurt, found and arrested by the security forces. He gave evidence under torture, Y.'s house was searched, and several video cassettes and periodicals were confiscated. Duran Y. was taken along, questioned under torture and threatened to be killed. He was urged to work as an informer. Since he was very much afraid, he pretended to accept this proposal. After having been released, he fled again to Germany.

After his arrival, he tried to make another application for asylum with the Federal Office in Deggen-dorf. This application was refused, and he was instead arrested to prepare for his deportation, in inter-authority assistance for the aliens' registration office at Rottal/Inn. His lawyer contacted the BAFl and renewed his application. On September 12th, 1997, Duran was deported to Turkey, although the Federal Office had at that time already agreed to open the renewed proceedings. After his deportation Duran Y. was kept in custody and tortured for four days. Mr. Y. has made a complaint about this to the IHD at Izmir.

From June 28th to July 3rd, 1999, the security forces made extended raids on the villages in the district of Pazarcik and in the province of Mardin. Duran Y. was arrested and questioned under torture about his relatives in Germany. The traces left by the tortures are visible on photos which have been made available to the Refugee Council of Lower Saxony. Y.'s father and uncle, both about 70 years old, were also arrested and maltreated.

When Duran Y. applied for a visa to re-enter Germany, it was denied because the competent aliens' registration office refused to cancel the consequences of his deportation. Thus he was unable to attend several dates for hearings the Federal Office had fixed. A corresponding decision was not made until June 14th, 1999 to be effective on September 1st, 1999. At that time, however, Y.'s passport had become invalid, and he could not leave Turkey.

After Duran Y. had to keep hiding for years, he succeeded in fleeing to Germany again in spring, 2001. His asylum procedure, in the course of which he had been illegally deported in 1997, is still pending.

23. Mustafa Boylu

Deported - denounced - tortured - accused - acquitted

Mustafa Boylu entered Germany in 1994, at Christmas time, and applied for asylum. He stated that he had been arrested during an operation of the security forces and been beaten and tortured at the police station for 15 days. He was charged with having supported the guerrilla forces. When he refused to assume the duties of a village guard, he was arrested for 20 days, beaten, and tortured. At first he had fled to Istanbul but when he got to know that he was wanted he fled abroad.

The BAFl refused his application for asylum, on the grounds that his experiences did not exceed the extent which all inhabitants in comparable situations had to accept, and that they were "mere molestation" but not political persecution. They said that, in case of doubt, there was still the inland flight alternative. The VG Stuttgart confirmed this decision on October 15th, 1997, and added:

"The court does especially not believe that the defendant is wanted in Turkey, especially that he is repeatedly asked for at home. (...) It appears that his departure to Germany had purely economic reasons."

A repeated procedure was denied. He had based his reapplication, besides his exile political activities, on the statement that his wife, who had stayed in Turkey, continuously harassed by the security forces.

In 1998 Boylu was deported to Turkey. The documents show that after his deportation, Boylu was arrested and questioned by the public prosecutor in the Istanbul state security court. Evidently, he had admitted in a hearing that he had been a PKK member. He had then, however, been acquitted for lack of evidence. We have no further information in this connection.

On June 21st, 1999, Boylu was arrested for a second time. The arrest was based on the statements of two persons who had themselves been accused of having been active as couriers and militia for the PKK. They stated that Boylu had tried to defame Turkey and to recruit persons for the guerrilla forces. Boylu was questioned by the Bingöl anti-terror department and forced under torture to make extended confessions. In the lower district court, Boylu denied the accusations. He said that he had to sign his statements without having been permitted to read them, and that he had neither contacts with the PKK nor recruited any persons for them. The judge decided on June 23rd, 1999, that Boylu should be arrested because of the "weight of his guilt", the available evidence and the fact that his offences were aimed at threatening the security of the state.

On July 2nd, 1999, the public prosecutor's office brought an indictment in the state security court at Diyarbakir, charging him with being a PKK member.

Boylu was charged with having taken part in meetings and demonstrations in Germany, having shouted separatist slogans, having recruited one person for the guerrilla forces and having defamed Turkey.

In the state security court at Diyarbakir, Boylu pleaded not guilty:

"I revoke this statement. When I was in police detention, I was tortured. I was forced to sign several papers. I do not know whatever I have signed" (August 17th, 1999).

On August 17th, the court ordered the arrest to be continued because of the "weight of the guilt". Meanwhile, Boylu has been acquitted by the state security court at Diyarbakir.

24. Abdurrahman and Ayse T.

Deported - tortured - renewed flight - "small asylum"

In 1993, the family T. fled to Germany for the first time and applied for asylum. Mr. T. stated that he had repeatedly been taken along and kept in custody for several days by special units, plainclothes police and political police. He said he had supported the guerrilla forces and refused to accept the duties of a village guard.

The application for asylum did not succeed. In January 1994, the family was deported to Istanbul. On the airport, the T.'s were stopped at the passport control, and Mr. T. was questioned separately. He was charged with having supported the PKK. The next day, the family was released, and they took a taxi to the bus station. There a car stopped and three plainclothes officials got out.

"Then they said: >Come along, we have some questions to ask<. I said, I am just coming from the airport where I have been questioned. They said I had to come along all the same, and that the matter was not finished yet." (Hearing records of the VG).

They pushed T. forcibly into their car and blindfolded him. For two weeks he was kept in detention and tortured. He was charged with activities in Germany such as taking part in demonstrations. They suggested that he had been sent to Germany by the PKK and that he had been active there. They said they had information from a village guard named Kamil Atak.

14 days later T. was put into the car again and dropped in Bayrampasa. At first, Mr. T. went to Adana where he stayed for two weeks; then he looked for his family. Together with his wife he went to their former home in Cizre, which meanwhile was in the hands of village guards. There they were insulted as terrorists. Ayse was hit with a rifle but by a village guard until she fainted. When the police appeared, Mr. T. fled to Northern Iraq.

At first, Mrs. T. stayed with her parents after the events in Cizre, until their village was destroyed because the villagers had refused to work as village guards. She fled with the children to an uncle in Adana. In Adana, Mrs. T. was taken along by the security forces for four or five times in the early morning, and was subject to forced gynaecologic examinations.

In August 1995, Mrs. T. decided to flee again. Her husband followed her half a year later. At first, the reapplication for asylum was refused in May, 1997, by the BAFI.

Finally the VG Freiburg acknowledged on October 18th, 1999, that in the case of Mr. T. the preconditions for §51, section 1 AuslG were satisfied. It was

stated that political persecution was to be expected "with considerable probability" if he would again return to Turkey. The VG declared that it considered Mrs. T.'s statements to be believable, but not relevant with respect to asylum. She had been subject to the forced examinations only in order to get a hold of Mr. T. Since Mr. T. was living in Germany now, Mrs. T

"could now make statements about her husband's whereabouts and, if necessary, prove them. Thus, even if Mrs. T. would live in Turkey again, the Turkish authorities would no longer require such methods to investigate the defendant's contacts with her husband."

25. Ferit M.

Deported - tortured - renewed flight - arrested for deportation - "small asylum"

Ferit M. fled to Germany for the first time in 1986, when he was 19 years old, and applied for asylum because he wanted to escape military service and had been committed for Kurdish interests. The application was refused because of doubts about his credibility. After being denied a repeated application, Ferit M. left Germany in 1992, presumably "voluntarily".

In November 1994, he fled once more to Germany and applied for asylum, on the grounds that he had been urged to accept the duties of a village guard, that he had been maltreated, and his house had been burned down. Thereupon he had fled to Istanbul with his family. There he had been arrested, kept in custody and beaten for three days, after having been checked for identity papers on a bus.

The application for asylum was dismissed as unfounded, with reference to the inland flight alternative. The administrative court at Hamburg stated at the end of its decision dated June 23rd, 1997:

"The defendant can be expected to return to Turkey. He does not have to fear any serious infringements of an individually concrete nature."

On June 25th, 1998, Ferit M. was arrested at the aliens' registration office, and deported to Turkey one day later. After checking his papers on Ankara airport, he was set free. From there, M. went to a bus station by taxi. When leaving the cab, two plainclothes police officers asked him to come along. They took him to a private car with darkened panes, put handcuffs on him and blindfolded him. They took him to some place where he was questioned and tortured for 10 days. He was repeatedly charged with having been a member or supporter of the PKK and having taken part in raids against Turkish consulates and businesses. They said they could prove this. When M. answered that in this case they

should bring him to trial in a regular court, they said that he would be taken to a court only as a dead body. He might be taken to a court only after having confessed.

M. was beaten, subject to Falaka and electro-shocks, and splashed with water at high pressure. He fainted several times.

"I have repeatedly implored the men to kill me finally. Thereupon they laughed at me loudly and were amused because I had implored them to kill me. They said 'Yes, yes, we shall kill you, but slowly like a dog'." (Hearing in the BAFI)

M. refused to confirm the accusations. Finally the torturers threw the unconscious Ferit M. into a forest. After having regained consciousness he crawled to the nearby road. A car-driver picked him up and took him to his sister in Istanbul. There he lay in bed unconsciously for two days. The doctor whom he addressed to in a hospital recommended him to contact the Human Rights Association. From there he was sent to the Human Rights Foundation, where they cared for his medical and psychic welfare. M. was examined by several doctors and treated in the hospital of the University of Istanbul.

Helped by escape agents, Ferit M. succeeded in leaving the country by land. On his way to Hamburg, he was arrested on the railway station at Cologne on August 13th, 1998, and put under arrest for deportation. His reapplication for asylum was not accepted, although he could produce many certificates confirming his injuries, and statements of Turkish witnesses. The date of deportation was fixed on August 28th, 1998, without informing his lawyer.

One day before the intended deportation, the lawyer succeeded in suspending the deportation by an interim order. Ferit M., however, stayed under arrest and was heard by the Federal Office not before one month later. A lawyer succeeded in obtaining the forensic report by the Medical Faculty of the University of Istanbul, dated August 18th, 1998. This report states among other things:

"The findings of the patient (...) agree with the torturing anamnesis he has reported". Evidently it was considered necessary to have Ferit M. examined once more by the public health office at Hamburg, although the above mentioned certificates from Turkey were available. In January 1999, the public health office arrived at the conclusion that Ferit M. had been arrested and tortured "in all probability". On February 26th, 1999, the Federal Office granted the "small asylum" to Ferit M. This decision is valid.

Ferit M., however, did not come to rest yet. Based on errors in the sending of documents by the aliens' registration office, Ferit M.'s name was not cancel-

led from the "wanted" list, and thus he was repeatedly arrested by the German police, even after his recognition.

26. Z. and L.S.

Deported - tortured - repeated flight - impediments precluding deportation

Z.S. entered Germany in April 1988, with her daughter and her son. Her husband was living in Germany already since 1979. His application for asylum was refused. Then the family made an application in common which was refused through all instances.

On November 8th, 1995, Z.S. was deported to Turkey together with her children. Already at the passport inspection the family was kept and questioned for six hours. After their release, they went to relatives, but they were, again and again, found by the security forces and asked for the husband's whereabouts. Mother and daughter were arrested and tortured separately.

On July 26th, 1996, the family succeeded again in fleeing to Germany. The treatment centre for torture victims stated in its report, dated March 11th, 1997, that another deportation might lead to a re-establishment of a traumatic state, and that a sexual maltreatment trauma was most probable.

The Federal Office recognised the women's story as credible, but insufficient to justify asylum. According to the BAFI, the sexual maltreatment was a matter of an "excess by office-holders". There were no signs that the Turkish government would tolerate such excesses by single office-holders. "Moreover, this experience of the defendant happened in connection with a 'normal' passport inspection, the course of which is unpredictable on principle".

Thus, according to the BAFI, there is no case of persecution by the government. This follows already from the fact that the husband was unsuccessful with his application for asylum. Only because of the psychic state of the women, the BAFI decided on July 7th, 1997, that there was a temporary impediment to deportation according to §53, section 6 AuslG. The Federal Commissioner appealed against this decision but retracted this appeal in the beginning of 1998. The family is presently being tolerated.

27. Sinan Sicak

Deported - repeatedly arrested and tortured - renewed flight

Sinan Sicak fled to Germany in April 1993, with his wife and two children and applied for asylum. The application was refused with a decision dated June 12th, 1997 by the VG Arnsberg and finally by the

decision by the OVG NRW, dated September 16th, 1997, not to admit an appeal. An application to open renewed proceedings was also unsuccessful.

Sicak was deported to Turkey on October 27th, 1998. He was already arrested at Ankara airport and subject to examination for three days. He was beaten and charged with having supported the PKK and with having taken part in corresponding actions in Germany.

After being released, Sicak went to his native village Nergizli in the district of Viransehir. One week later he was picked up from his mother's home, taken to the police station in the near town of Karakuzu, kept in custody for three or four days and constantly suspected of being a terrorist.

During a raid by the security forces on May 28th, 1999, Sinan Sicak was insulted, threatened and heavily beaten. After the raid, Sicak contacted several physicians in the neighbourhood asking for treatment of his injuries and for having them attested. They refused to do this, on the grounds that, in case of injuries caused by the security forces, an order by the office of the public prosecutor was required. At first, Sicak was afraid of to ask for such an order, but one and a half weeks later, he finally applied to the office of the public prosecutor at Viransehir. But there he was warned not to pursue the matter further. Finally, Sicak's persistent demands led to an examination by the public health office.

After the examination Sicak left Viransehir and went to Sanliurfa. There he contacted the newspaper Bakis, reported what he had experienced and had photos of his injuries taken. He took up telephonic contact with his relatives. His uncle told him that the office of the public prosecutor wanted him, since he had failed to appear there after the medical examination, although he had been asked to do so. At that, the Muhtar of the village had incriminated him heavily, with respect to the suspicion of terrorism, and he should immediately appear at the office of the public prosecutor. Sicak decided to flee. In Istanbul he contacted the IHD hoping that they might be able to help him to leave the country. The IHD could not do this, but they promised to write a certificate in case his statements were true. When Sicak appeared again one week later, he was told that the inquiries by the IHD had confirmed that his statements were correct.

On August 2nd, 1999, Sicak succeeded again in escaping to Germany using a forged passport. The Federal Office refused his application for asylum as evidently unfounded, although Sicak could even present a certificate issued by the public health office of Viransehir. They stated that he was not "a reliable source of an authentic case of persecution" and not able to "present his own case in a detailed

and realistic manner". On December 21st, 1999 the VG Arnsberg declared the suspensive effect of his appeal.

28. Hüseyin Ayhanci

Deported - abducted - tortured

The married couple Ayhanci fled to Germany in 1993, and applied for asylum, on the grounds that they as Kurds had been oppressed and harassed.

The application was refused effectively by the Hessian VGH on June 3rd, 1998. A petition to the state parliament remained unsuccessful.

On November 24th, 1999 Mr. Ayhanci was arrested at the aliens' registration office of the district Main-Kinzig and was immediately deported to Turkey. His wife and the seven children stayed in Germany. Upon his arrival at Istanbul airport he was held in custody, insulted and threatened for seven days. After his release, he first went to Mardin. Because of his constant fear of the police, however, he continued to Izmir in Western Turkey. There he was pulled into a car and abducted by three plainclothes officers of the anti - terror department on January 28th, 2000. On a deserted field they insulted him and threatened to kill him by holding a pistol to his temple. Later Ayhanci put on record at the public prosecutor's office: "A policeman pulled the trigger and I heard a clicking sound. In this moment I thought I would die out of fear."

After having been massively intimidated, he was taken to a building, where he was systematically tortured and questioned for his alleged activities and the structures of the Kurdish opposition in the German exile.

"Later they clamped my feet into a clamping device. Still later they set me upright and hit my back, my legs, and my arms repeatedly. To prevent my feet from swelling they let me run on a wet floor. They applied electric voltage to my arms and my shoulders."

Under torture, Ayhanci "confessed" all reproaches and told the names of persons with whom he had cooperated. The officers of the anti-terror department urged him to work for them as an agent and to inform them on the activities of the Kurdish cultural centers and associations in Germany.

On January 29th, 2000, at about 4 p.m., the Kurd was released. Although he was frightened of renewed persecution, he did not want the torturers to be spared. He contacted the office of the public prosecutor in Izmir and reported what had happened to him. He was sent to the forensic department of the Ministry of Justice for a medical examination. There it was stated that he had numerous effusions of

blood in his shoulders, in the muscular parts of his arms, and in his palatal hole, and he was declared unfit for work for seven days.

On February 9th, 2000, Ayhanci, accompanied by a representative of the Refugee Council, contacted the German consulate in Izmir, described his abduction and presented his certificate. He was verbally reassured that his story appeared credible.

On March 3rd, 2000, the Özgür Politika reported that the homes of Ayhanci's relatives in Turkey had been searched. It was reported that nobody was arrested, but the security forces had searched for Ayhanci.

According to his lawyer, Ayhanci meanwhile succeeded in a renewed flight to Germany.

29. Can I.

Deported - tortured - accused - acquitted

The Kurd Can I. fled to Germany in March 1999, and applied for asylum. She stated as reasons that she had repeatedly been arrested and maltreated, because of her commitment for the HADEP. In June, the BAFI refused her application, on the grounds that her statements were inconsistent and "lacked substance". No appeal was lodged.

On December 8th, 1999, Mrs. I. was arrested and deported to Istanbul. According to her statements, she was kept in custody for two days, questioned about the reasons given for her application for asylum, and checked her personal data. After having been presented to the public prosecutor, she was released. Few days later, Mrs. I. contacted an acquaintance in Antalya and visited her. On January 6th, 2000, she planned to go back to Istanbul by bus together with a friend. Before their departure, however, the bus was stopped and controlled by the police. The policemen arrested purposively Mrs. I. and her friend Nurhayat - probably based on some denunciation - and took them to the police station. The women were neither told why they were arrested, nor were they allowed to contact a lawyer. They were taken to the anti-terror department. There they were blindfolded and separated from each other. They did not see each other again.

Mrs. I. was questioned under torture. The security forces charged her with being a PKK member, having taken part in PKK activities in Germany and having visited Kurdish associations. She was specifically asked about certain persons alleged of having taken part in "church actions". Later Mrs I. reported from the JVA Usak the tortures applied to her:

"Since I did not admit the accusations made against me, I was slapped and beaten at my head, my eyes and various other parts of my body. At that, they

did things which are beneath human dignity. (...) At the same time they said repeatedly that, unless I admitted the charges made against me, I would die again and again, and then be revived again, and that I would wish to be dead". (Report dated March 9th, 2000).

Mrs. I. had to strip to the skin, and she was insulted with sexist slogans, threatened with being raped and splashed with cold water at high pressure.

At that, she was forced to write a letter to the EJAK in Europe, in which she had to declare herself for the PKK. The security forces said they wanted to do everything in order to send her to prison. They said that even in case of her being released from custody, she should not feel safe: "They would follow me like my shadow and kill me when I would expect it least of all."

On January 24th, 2000, the office of the public prosecutor brought an indictment in the state security court of Izmir charging her with supporting the PKK. Besides the reasons given in her application for asylum ("in Turkey Kurdish compatriots are oppressed and harassed") she was charged with having taken part in activities of the PKK and having visited a Kurdish cultural center. Her letter to the EJAK was used as evidence for her thinking.

On March 9th, 2000 Mrs. I. was finally acquitted "for lack of evidence". Before the court she revoked the extorted "confession" and declared she had been forced to write the letter to the EJAK.

30. Yüksel Küçük

Deported - tortured - renewed flight - "small asylum"

In 1992, Yüksel Küçük fled to Germany for the first time and made an application for asylum which was in 1997 finally refused by the VGH Baden-Württemberg. A renewed application, based on exile political activities, was also refused in 1998. According to his lawyer, K. was regarded as not credible, and he was referred to the inland flight alternative.

On May 5th, 1998, Küçük was, together with several other Kurds, deported to Turkey. He was arrested immediately on arrival at the airport and turned over to the anti-terror department. He was told that an investigation had shown that in 1992/3, he had been a HEP member and that he had failed to do his military service. Further he was said to have taken part in meetings and demonstrations organised by the PKK. Küçük was questioned and tortured for one week. At last he was presented to the public prosecutor and then escorted to Elazig by police.

There he was again taken to the anti-terror department. He reported later that he was questioned and tortured under cruel conditions for the following

three days. Again he was asked about his exile political activities. Küçük was asked for the names of persons in Germany who were cooperating with the PKK. Finally he was asked to work as an informer. In exchange he was promised to be exempted from military service and to live in luxury. When Yüksel refused, he was tortured again.

On the seventh day he had to sign a prepared protocol which he had not been allowed to read. Then he was released and admonished to register for military service. His father who had been waiting for him in front of the building told him that he had bribed a commissioner with a considerable amount of money. The commissioner, whom Küçük knew, advised him to leave the country, since he was no longer safe, and organised his departure.

Küçük hid himself for several days, and then fled again from Turkey, at the end of June 1998. His repeated application for asylum was at first refused by the Federal Office, because he was considered not to be credible. After an oral hearing in February 2000, however, the VG Stuttgart arrived at the conclusion that Küçük's story was credible and consistent:

"He has satisfied the court that the Turkish security forces have persecuted him in the assumption that he had supported Kurdish PKK separatists and that he would do the same in Turkey, especially since he has refused to cooperate with the Turkish security forces and work as an informer for them."

Further the VG stated that not only members of organisations such as the PKK are persecuted in Turkey. Persons "suspected of supporting them must expect not only to be arrested and questioned but must also be prepared to suffer arbitrary acts of deprivation of liberty as well as maltreatment and torture by police and military". The court stated that the defendant could not be referred to an inland flight alternative.

Mr. Küçük was granted the "small asylum", according to §51, section 1 AuslG.

31. Kemal Ö.

Deported - tortured - renewed flight - "small asylum"

The Kurd Kemal Ö. and his family have been deported to Turkey in February 1998 after a negative final decision on their asylum proceedings. Upon arrival, Mr. Ö. has been arrested at the airport for eight hours and questioned on the reasons for his stay abroad. After his release, he went to Mersin province and started running a tea shop.

Due to the political activities of his brother who had been killed by the counter guerrilla after his release from prison in 1997, the whole family was sus-

pected of supporting the PKK. Several times, the tea shop has been searched and Mr. Ö and his guests have been molested. Finally, the guests stayed away because of permanent controls, and the shop had to be closed in early 2000.

In March, 2000, the family went back to their village within the framework of an initiative by the Turkish government. They began to restore an old house and to cultivate fields. About two weeks later, Kemal Ö. was arrested on the fields by task forces and dragged into a jeep. After a long drive, he was brought to a room where he was interrogated. First he was approached of having joined the guerrilla. When Ö. denied that and stated to have lived in Germany, he was accused of having worked for the PKK there.

"They told me that they knew about my family's political activities. In case I would help my country they would reward me. When I did not answer, they dragged me to the ground. My legs were tied up and lifted. After some beatings my feet were somehow stunned. A little later I was unconscious."

When Ö. regained consciousness, he was again asked to collaborate. Fearing further torture, he made incriminating statements against some persons. One day later he was told that three of the denounced people had been arrested and that he would be released now. He would have to collaborate in the future, though.

Ö. decided to flee again, since he regarded the Turkish state and relatives of the people he denounced as a threat for his life.

In the beginning of May, 2000, he arrived in Hanover and asked for asylum again. On August 15th, 2000, Kemal Ö. was accepted according to §51,1 aliens act. The Federal Office took the view that Ö. had been tortured by Turkish security forces on the grounds of being suspected of being a PKK sympathiser.

"Also the fact that the applicant was released after giving some names and that no further criminal prosecution took place does not alter the fact that he was regarded as a potential PKK sympathiser or informer, respectively, due to his family membership or due to other aspects which are not known to the applicant."

32. Mrs. F.C.

Deported - tortured - renewed flight - "small asylum"

The Kurd Mrs. C. fled from Turkey to Germany in June, 1996, for the first time and applied for asylum. The Federal Office stated that the preconditions for §§51, 1 and 53 aliens act were given. The Federal Commissioner brought a legal action against this

decision which was finally granted in September, 1998. The existence of obstacles precluding deportation, according to §53 Aliens Act, was denied in September 1999 in a final decision. In January, 2000, Mrs. C. was deported to Turkey.

Directly upon arrival at Istanbul airport, Mrs. C. was arrested and brought to a nearby building, where she had to strip.

They grabbed my hair and beat me to the wall, while I was screaming. The more I was screaming, the more they enjoyed it. (...) They held on to my nipples and pulled."

For 14 days, Mrs. C. was detained, sexually abused, tortured and interrogated over and over again: about the reasons for her departure, why she did not have a passport, about her membership to an organisation, her siblings and other persons she did not know.

After her release, Mrs. C. could stay with a friendly family in Izmir. Upon her release, she had to inform the security forces about her whereabouts. Shortly before the first of May, she was again taken to the police station by two officers, beaten and maltreated.

After her release, Mrs. C. consulted a physician who ordered her to stay in bed for 20 days. When Mrs. C. fainted on the street shortly after that, she was brought to hospital. Due to marks of the use of violence, the police was consulted. The physician made out a medical certificate, while an official was present.

After her examination, Mrs. C. was caught by two policemen who took her to the police station and forced her to sign a paper without reading it. By her signature, she "confessed" that she had been beaten up by her father because of her reluctance to marry a certain man. However, her father had died already in 1990, as a consequence of maltreatment.

In June, Mrs. C. finally succeeded in a renewed flight to Germany. On September 1st, 2000, the Federal Office stated obstacles precluding deportation according to §51,1 Aliens Act.

33. Seyhmuz R.

Deported - tortured - renewed flight to Germany - "small Asylum"

Seyhmuz R. fled to Germany in 1993 and applied for asylum: He and his family had been harassed by security forces, because they were suspected of supporting the PKK. His father - in - law had been arrested repeatedly, and after the last apprehension he died as a consequence of torture. His own parents had disappeared and the village was burned down.

During a raid in Istanbul, Mr. R. was arrested in a hotel, brought to the anti-terror-department, detained for one week and beaten.

The application for asylum was rejected, as well as the conduction of a follow-up procedure. The Federal Office stated that Mr. R. could not give plausible evidence for political persecution, neither in his first application nor in the following one. By his exile political activities, such as being a steward for demonstrations and distributing leaflets and newspapers, he, as an "unimportant hanger-on", probably did not get into the sight of the Turkish secret services. After this decision, the family R. with its eight members went into hiding and applied for asylum again with an alias name.

On November 2nd, 1998, Mr. R. was deported to Turkey. After an interrogation by the airport police, he was picked up by plainclothes policemen and brought to a far-away police station. Under serious torture he was asked about his contacts in Germany. Five days later, when he agreed in co-operating with the authorities and working as an agent, he was released. Then he went to his sister in Viransehir where he was hiding for some time, before he contacted HADEP. In spring, 1999, he was apprehended several times, interrogated and tortured, for the last time in April, 1999. He was asked about his activities for the PKK in 1993 and in Germany. "They made an important person out of me", Seyhmuz R. stated.

In April, 1999, Mr.R. fled to Germany for the second time. His upper body was littered with burns. A physician certified on 20.04.1999, about three weeks after the torturing, more than 40 bruises with third-degree burns. Additionally there were hints on a grave psychic trauma which urgently needed psychological treatment.

On 06.05.1999, Seyhmuz R. applied to the centre for treatment of torture victims in Berlin. There, the essentials of his statements were regarded as authentic. A self-damage was excluded. Mr. R. had to be categorised as massively traumatised, the centre stated.

The Federal Office stated on 03.08.1999 that the prerequisites according to § 51,1 Aliens Act were given. The Federal Commissioner brought an action against this decision. Due to "illegal" behaviour, such as alias name, going into hiding, illegal departure and entry, it would be appropriate to have "legitimate doubts", if the claimed persecution did happen against a background relevant for asylum. And if so, there was possibly an internal flight alternative.

After three oral procedures, the administrative court rejected this action. Mr.R.'s presentation was logical

and not contradictory, the court said. A repetition of persecution measures could not be excluded. In January, 2001, this decision became valid.

34. Hakkan T.

Deported - tortured - accused - renewed flight

Hakkan T. fled to Germany at the age of 15. During his hearing at the federal Office he stated that after his brother's flight in 1993, soldiers had come to his house frequently. After the death of his mother who was shot by soldiers on the field, the family had migrated to Antalya and lived there in a tent in the woods. The authorities sent them back to Mardin, though. After their return to the destroyed villages, he and his father were, under beatings and threats, urged to become village guards.

The Federal Office rejected the asylum application on the grounds that it was completely untrustworthy:

"Since the applicant can never have been urged to become a village guard, it is not possible to understand why he was afraid of being killed by the PKK. (...) Why the applicant fears to get arrested and killed in Turkey in case of his return, will probably stay the applicants' secret as well."

In 1997, T. was sentenced because of an offence against the asylum procedure law and the association law, which was probably the reason why the Alien's Office conducted the consultation procedure. It cannot be excluded that on this occasion the Turkish security forces gathered certain information T. was approached with during his interrogation after deportation. The conduction of a consultation procedure was confirmed by the Central Alien's Office in Giessen, later it was denied by the Hessian Ministry of the Interior, though. An enlightening answer of the Federal Ministry of the Interior is still pending.

In September, 1999, the Federal Office rejected the conduction of a follow-up procedure. On 14.08.2000, Hakkan T. was apprehended at the Alien's Office in Dillenburg and deported to Turkey the same day. Upon arrival at the airport, he was handed out to Turkish officials who brought him to the police station nearby the airport. He was calmed down by stating that if he was not charged with anything, according to a request in his home province, he would be released.

About two hours later, two officials in uniform came who grabbed and insulted him and dragged him to the basement, where he was locked into a cell. A little later, five persons appeared, three of them plainclothes, who insulted him as a PKK member and approached him with having been arrested at the Dutch border and having been sentenced for

PKK membership in Germany. Since the approaches were true, Hakkan T. was scared. For the present, he was willing to accept all approaches and to collaborate with the security forces. He was urged to write down names of PKK members he knew. He had to repeat this procedure several times, in the end on a very tiny piece of paper. Later on it was claimed that this piece of paper had been found in his shoe. After the security forces had obviously checked the names, they offered him to lay claim to the chief witness regulation.

Then, Hakkan T. was brought to the Anti-Terror-Department. There he was asked to participate in operations in Istanbul and to show the security forces apartments of persons he knew, probably in order to test his loyalty. "When I told them that I did not know any apartments, they blindfolded me and brought me to a torture chamber. They tied my hands together hung me up somewhere. (...) They maltreated me by permanent beatings with their fists. Later they took me down and beat me with truncheons. (...) due to the torture I finally accepted to collaborate with them.

Hakkan T. made an extensive statement by which he denounced people he knew. "When I was tortured, I had to give them names. I was hoping that I would not be tortured any more when I gave them names. ...I did not want to denounce anyone, but I could not stand the torture."

On August 16th, he was brought before the public prosecutor. There he revoked his confession and stated to have been tortured and put under psychic pressure. On inquiry of the public prosecutor, the officials denied this. After a talk with the public prosecutor, the officials took him outside and told him that he would be released. At the same time, they threatened him seriously.

The lawyer Eren Keskin got to know after his release that, according to §169 TPC, a charge of supporting PKK was brought against him. The bill of indictment said that in Hakkan's shoe a piece of paper had been found, containing the names of PKK couriers. Additionally, the public prosecutor told Mrs. Keskin that T. had given important information. An examination of the records was not recommendable, because T. had to be protected from the organisation (i.e. PKK) now, she was told.

After his release, T. was in the state of panic, he was afraid of a renewed apprehension. He left Istanbul and went to Ankara. There he applied to IHD and had his statement recorded. He was sent to the Human Rights Foundation, where he was medically examined.

In autumn, 2000, Hakkan T. succeeded in a renewed flight to Germany. The decision in the proceeding

on his legal action is still pending. However, the Foreign Office declared, as a consequence of own investigations in February 2001, that the lawyer Eren Keskin had confirmed the facts as they were described. Therefore, a positive decision of the court is to be expected.

35. The sisters K.

Deported - preliminary proceedings - maltreated - recognised - renewed flight

The K. sisters fled to Germany in December, 1993, and applied for asylum. As reasons they gave, among other things, that the military had come to their house several times to ask for their brothers. The application was denied as well as follow-up proceedings.

On April 4th, 2000, the sisters filed an application again, on the grounds that a defector had denounced them and their brothers as PKK members. The public prosecutor's office in Diyarbakir had instituted preliminary proceedings against the K. sisters and their brothers. The sisters could present several documents as a proof for the imminent persecution, with the denouncement and a lawyer's statement being two of them.

On 10.04.2000, the Federal Office rejected the conduction of another asylum procedure. There were no hints that the presented documents were authentic, as the Federal Office stated. Besides doubts on the content of the documents, the Federal Office mentioned as "characteristics of forging":

It is hardly credible and understandable that a lawyer in Turkey uses official sheets of paper which cause the impression that the stamp stems from a children's post office. Moreover, the typewriter, allegedly used by the lawyer, is defect and useless to such a degree that a lawyer would never use it for his official letters."

The administrative court rejected an application for legal protection, as well without a closer examination of the documents. "The court cannot overcome its doubts regarding the authenticity of the presented documents or regarding the correctness of the statement of M.V. (i.e. of the lawyer)." The documents were folded in different ways, so they could not have reached the applicants at once, the court argued. A further indication for forging was that the documents partly did not have a date on them nor a reference number.

In April, 2000, the K. sisters were deported to Turkey. There it should turn out that the documents were authentic, indeed: On 15.05.2000, the public prosecutor's office at the state security court Diyarbakir ordered the regional police authority Viransehir to find out the personal data of the K. siblings

which were by name mentioned in the defector's statement, and to interrogate them. In its answer, dated 25.05.2000, the police told the public prosecutor that it was not possible to present the brothers, on the grounds that they were staying in Germany. The sisters, however, could be interrogated.

On 25.05.2000, the sisters were brought before the public prosecutor. There they were, according to their statements, interrogated under beatings and (sexual) threats and forced to make statements about actions and activists in Germany.

Meanwhile, the sisters' asylum procedure in Germany went on. On 11.09.2000, the administrative court in Hanover belatedly recognised the sisters in their absence as qualified for asylum and corrected thereby its former decision made in the urgent proceeding:

"The plaintiffs were able to convince the chamber of their exposure to political persecution in Turkey in the sense of article 16a, phrase 1 of the Constitutional Law or the preconditions of §51, phrase 1 Aliens' Act, respectively, on the grounds that they are exposed to the danger of being maltreated in the course of police interrogations there, since they are accused of being (alleged) supporters of separatist efforts of the PKK."

This decision is final. The sisters succeeded in a renewed flight to Germany in December, 2000. Their family in Turkey now has to face repression of security forces.

Press release by PRO ASYL, April 11th, 2001

Death in the minefield

Kurd deported from Germany and tortured afterwards died in attempting to flee from Turkey again

The crew of a Greek military helicopter found in a minefield at the Greek-Turkish border two ragged corpses on March 29th, 2001. From the documents found with the dead bodies followed, that they were the Turkish nationals Adnan Cevik and Yusuf Isler from Nusaybin.

The 26-year old Adnan Cevik had claimed for asylum in March 1999 in Coburg. After the Bavarian Administrative Court in Wuerzburg had turned down his application on 4 October, 1999, Mr. Cevik was deported on 3 October from the detention centre in Augsburg. Interventions of relatives living in Germany remained unsuccessful.

The father of Adnan Cevik living in Turkey told the newspaper Özgür Politika, that his son had been detained and tortured for 20 days upon return. Arriving at home he had suffered from pain everywhere.

Abbreviations

| | |
|---------|--|
| ATG: | Anti Terror Gesetz (Law against terrorism) |
| AuslG.: | Ausländergesetz (Aliens Act) |
| BAFl: | Bundesamt für die Anerkennung ausländischer Flüchtlinge (Federal Office for the Recognition of Foreign Refugees) |
| BGS: | Bundesgrenzschutz (Federal border police) |
| EJAK: | Eniya Jinen Azadiya Kurdistan (Union of Free Women of Kurdistan) |
| ERNK: | Eniya Rizgariya Netewa Kurdistan (National Liberation Front Kurdistan) |
| HADEP: | Halkin Demokrasi Partisi (People's Democratic Party) |
| HEP: | Halkin Emegi Partisi (People's Labour Party) |
| IHD: | Insan Haklari Dernegi (Human Rights Association) |
| IMK: | International association for the Human Rights of the Kurds |
| NEK: | Nordelbische Kirche (Lutheran Church in the provinces around Hamburg) |
| OVG: | Oberverwaltungsgericht (High Administrative Court) |
| PKK: | Partiya Karkeren Kurdistan (Kurdistan worker's party) |
| SSG: | Staatssicherheitsgericht (State Security Court) |
| TStGB: | Türkisches Strafgesetzbuch (Turkish Penal Code) |
| VG: | Verwaltungsgericht (Administrative Court) |
| VGH: | Verwaltungsgerichtshof (Administrative Court of Justice) |

He had tried to establish himself in Istanbul later and had remained in contact with his relatives by phone. During his last call he had been deeply afraid and told, that he ought to flee immediately.

In the opinion of PRO ASYL is the tragic fate of Adnan Cevik a new proof for the fact, that Kurds, who are deported from Germany to Turkey regardless of the degree of their acquired political status, are exposed to greatest danger of torture. Cevik isn't only victim of the German asylum policy, and a jurisdiction not wanting to take note of this fact, but also of the situation, that the borders between the two Nato states Greece and Turkey are strewn with minefields. Refugees become victims of this martially safeguarded borderline every year. Within the last ten years at least altogether 29 individuals lost their lives there in this way.

Workshop on Refugees in Turkey

22-25 March 2001, Ankara

Excerpts from workshop contributions

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Foto: NFR

Preface

The purpose of this workshop organized by NFR and TAV was to share information and experiences between European and Turkish human rights activists with a view to enhance the capacity of the human rights activists in helping refugees in Turkey, and to improve cooperation between Turkish and European organizations in helping refugees of Turkish origin in Europe. A secondary purpose of the workshop was to train the human rights activists involved in the protection of human rights of refugees.

About 30 HRA activists, as well as activists from People's Democracy Party (HADEP) and Association for Solidarity with Forced Migrants (Göç-Der), as well as professionals from Diyarbakır and Ankara Bar Associations, the Association for Solidarity with Asylum Seekers and Migrants (ASAM), Mazlum-Der, Social Research Foundation (TAV), Human Rights Foundation of Turkey (TIHV) and the UNHCR Turkey.

Opened with a welcome address by Human Rights Association Chairperson Hüsni Öndül, the workshop covered problems and new trends in international and European protection of refugees as well as the right to asylum in Turkey, social problems of refugees in Turkey, human rights violations against Turkish and Kurdish refugees deported from European countries, origins of refugee flows from Europe to Turkey, particularly forced displacement, and the role of NGOs in the protection of refugees. Speeches made by the participants were generally well-prepared and informative on various aspects of international and regional protection of refugees. Most of contributions were transcribed to be distributed to participants.

After the presentations, the last day of the workshop was devoted for discussion on the effective collaboration among NGOs at European and Turkish levels. It has been agreed by all participants that the most important issue in collaboration was to

establish confidence among NGOs. As it is very much related with human life, the verification mechanisms of the violations should be made more efficient. Collection of information and verification of the information are vital. The workshop also showed that the NGOs in Turkey are in need of technical and financial support to deal with issues concerned in a wider level.

The workshop has not only enabled the exchange between European experts and Turkish human rights defenders, but also made Turkish human rights defenders from different organizations to know each other and be aware of their activities on the issues discussed in the workshop.

Excerpts from workshop contributions

On the attitude of the UNHCR, the social situation of refugees in Turkey and transit

By Vahap Ertan

Vahap Ertan is the chairman of IHD Van

As we know, at least meeting basic needs of refugees does to a minimum belong to the duties of the countries which accept refugees. This is also regulated by a directive. However, the UNHCR does not have any concrete demand from the state. On the contrary, it even has got the following approach: Actually, it is saying that it is also not able to solve the problems of these refugees. But where would it lead to if it would solve the refugees' problems by providing accommodation, food, health services and school fees? The provision of those services would increase the tendency of asylum seekers to choose the route over Turkey. Then of course, Turkey would be right to blame the UNHCR of having made the country a centre for asylum seekers. This is one point of view. However, on one hand, very important human rights and their potential violations are being discussed, while on the other hand, this support (for refugees) is being rejected on the grounds of this potential criticism. We should altogether discuss to what extent this amounts to consequent acting. The UNHCR is basing itself on its good relations to the state, instead of acting in favour of asylum seekers and their rights. I have already mentioned from which point of view I am saying so. First of all: the UNHCR neither reminds the state of its duties regarding refugees, nor does it fulfil these duties itself. Secondly: in case of violations of rights, the UNHCR does not stand on the side of refugees. The third point is concerning those persons who are not included in the refugee procedure, i.e., who fall out of the mandate of the UNHCR. Indeed, one can state that nothing is being done for those people.

I want to give an example of a Kurdish family. The wife of this family went to the police station to give her signature because of some administrative directive. There she was subjected to torture due to reasons she did not want to explain to us. I saw her 10 days later. She said to me "Okay, you have been at our home now and you know about the incident. But you shall not say anything to anyone. Otherwise, we will be tortured again and deported the next day". When I asked what they had undertaken after the incident, they said they had taken photos to prove the torture allegation and went to the UNHCR, where nothing could be done for them. The only thing they requested from me was that I should not tell anybody in order not to cause more harm for them. It is true that if we would have made a publication about the case, they would face serious problems. This example shows us that the UNHCR could not fulfil its obligations completely.

Local problems which are created by the existence of asylum seekers, like problems of cheap labour, create conflicts between local people and asylum seekers. Asylum seekers, in order to sustain their life, sell their labour for almost nothing as they are not allowed to work. The other problem is related to the attitude of local people towards asylum seekers. Local people do not know about and consider asylum seekers as criminals for several reasons. We can observe that an implicit hostility grows towards these people.

The other observation is related to the danger of losing identity, as the cultural and societal control

was removed. This reflects itself on children involved in criminal actions and women working as sex workers. These problems are all arising from keeping asylum seekers in the region for long terms. How can we overcome these problems? There were some ways found in the past. For example, establishing new areas where these people can live, with shelter, health services and education facilities being provided. Thus, official or civil organisations can have a better access to provision of services for these people. The societal control which is needed for these people to keep their cultural and societal values could be ensured.

Finally, I would like to touch the transit problem, i.e. the problem of taking enormous risks to go to Europe. When we look at Van and Hakkari, we see that there are dams constructed in order to block further passages. People, before coming, are collecting information on what sort of problems they are going to face after their arrival. When they know that they will have to stay for two years in Van, they do not make this preference. Especially Kurdish people

who have been involved in politics on the opposition know that they won't be welcomed in Turkey, since there is a problematic area in Turkey similar to the one in their country. Therefore, they look for ways to escape. One of the ways is to come to Turkey and to get organised to go to Europe without applying to the UNHCR at all. The second is, as a last chance after applying to the UNHCR and not fulfilling the conditions to be recognised as refugees, to find ways to proceed to Europe. Of course, passing all obstacles on the way to Europe cannot be successful only with their own ability or skills. When I travel on the routes that are used by asylum seekers, I am subject to checks by security forces for three times. Regarding these circumstances, it is not possible to think that these people travel only by themselves. The existing smuggling network also covers these people. In addition, it may be possible to say that officials do tolerate these networks for their interest of getting rid of these refugees.

Testimony of a soldier who did his service at military base close to the Turkish-Iranian border

Soldier: First of all I would like to say that I am grateful that such an event on the question of refugees is being conducted in Turkey. I would like to report on incidents I experienced during my military service in connection with refugees. I did my service two years ago, at the military base Hazine in the district of Dogubeyazit in the province of Agri. It was a company's headquarter. The area of the military base is called Cetenli and is located at the Turkish-Iranian border where I experienced the following: They brought refugees to our base who had tried to cross the border. Altogether there were 40 to 50 people who did not form a group but were rather individuals who all had tried to go across the border in this area. Among them there were people from Iran, Iraq, Afghanistan and even Africa. Of course, I can only report on what I witnessed myself. Within the group, there were one or two persons of whom I assume that they belonged to the police headquarters. They were commanding the refugees. Those had to wait for 1 to 1,5 hours at the base. It was at night and the temperature was at almost minus 20°C. During this time, they were beaten without any interruption and their belongings were taken away from them. They took the women's necklaces and earrings. At the same time, the refugees were being informed about their extradition by the local officials.



Foto: 3.Welt-Saar

After this waiting period was finished, those people were deported, while behind them, shots were fired into the air. From other soldiers who had started their service before me I learnt that those shots were fired in order to scare those people and to draw the Iranian border authorities' attention to the refugees, so they could apprehend them more easily.

During my military service, I experienced only this single incident. However, I know that similar incidents occurred as well in the military service age group before. But I did not experience them personally.

Question: Did you experience any violence or rapes against female refugees, while you were present?

Soldier: No, I did not experience something like that. But, as I already said, they were on the one hand beaten and on the other hand looted, while they were there. The meaning of all this was to prevent their return. The looting should deter them.

Question: Were the people not asked about the reason for their flight to Turkey, or if they wanted to apply for asylum in Turkey?

Soldier: No, as I said, some police officials were with them. They were not asked at all, only rounded up and instantly extradited. By the beatings at the base, they should be intimidated and prevented from entering again. Because, during the beatings, they were threatened in this sense.

UNHCR in Turkey

By Gönenç Bilge

(...) I have detailed information about what kind of practices are in place in Turkey after the 1994 Regulation has become effective, and towards what consequences the developments evolve. I shall try to give an approximate idea about such questions as what the problems are, what must be done, what the tendencies of the officials are on this matter.

(...) We have problems mostly related to the procedure. First of all, I want to explain definitions of "asylum seeker" and "refugee". (...) "Asylum seeker" refers to asylum seeking persons from outside of Europe, since Turkey signed the Geneva Convention with a geographical reservation. Persons coming from Europe may be perceived as asylum seekers at first, but after their application is accepted they are given refugee status, and this status means that contractual rights, granted by the Convention, must be recognized by Turkey. (...)

When a person seeking asylum enters Turkey illegally, s/he has to make an application to the Governor's Office of the province of entrance. Those persons who enter Turkey with their passports may submit an application to the Governor's Office of any province within ten days, starting from the day after the actual entry date.

(...) After an application has been received, police officers of the Foreigners Department of the Security Directorate carry out the interviews on behalf of the Ministry of the Interior. In order to investigate into asylum applications, a file is opened, interviews are made and identities are determined. Then the file is sent to the Ministry of the Interior. The

Mrs. Gönenç Bilge is working for the UNHCR Turkey for 9 years. She was dealing with applications of asylum seekers and was involved in decision making processes. She is now in a position of contacting the authorities, trying to find solutions for the legal problems of refugees at UNHCR.

Ministry of the Interior concludes the file as decision making authority after obtaining the opinion of the Foreign Ministry. (...)

The Foreign Ministry makes an application to us, i.e. UNHCR, regarding the file before giving its opinion about the issue. The ministry learns about the status of the concerned by us regarding the file. The ministry is adding its opinion to our opinion and informs the Ministry of the Interior about the opinion regarding the file. As a result, a common decision is taken. The final decision is made by the Ministry of the Interior, however, both Foreign Ministry and UNHCR are involved in this decision. During the conclusion of a file for which a procedure has been initiated, I may admit that statements by UNHCR are accepted to about one hundred percent. If a person has no obstacles in procedural context, I mean if s/he abides by this 10 days period or has no identity problem, or s/he is not stuck in the procedure for whatsoever reason, if s/he has a regular file and if we say this person is a refugee, the Ministry of the Interior extends the residence permit till it concludes the file of such person as a refugee and a resettlement is carried out.

Consequently, if everything is OK in the procedural context, we may say we have a person who keeps the right of temporary asylum without being stuck in any problem till the end of the resettlement. What kind of rights does such person have? This person may send his/her children to school. S/he has all rights granted by Turkey to the foreigners with residence permit. Here, general provisions are applied. S/he has no right to work normally, however, if such person obtains a working permit, s/he may most probably work. In the various provinces, authorities have different practices, such as some authorities ignore their working permission, some other do not allow it. After the refugee status is granted, some social assistance is provided by UNHCR to the extent such person needs it, and their

health care needs are met. As for the needs of asylum seekers whose application is being investigated, we are trying to provide assistance if we face urgent needs of the foreigners, e.g. maternity fee, a lonely women with children etc. Either we place them in a hotel or provide some financial assistance till the investigation is concluded. And we are expediting their file. We have this style of practices that minimize their difficulties.

(...) We cannot provide assistance to the persons whose files we are investigating except for some exceptional situations since we have very limited resources. Priority is given to those persons who are granted refugee status and have to stay in Turkey for a limited time (before all necessities are carried out settle down a third country). We can provide assistance within that period, however we prefer not providing assistance in any manner to those persons whose files are closed with a negative decision. Regarding travel fares, only when we invite them to an interview, we pay the travel fares.

Question: Do you have any office outside Ankara?

Answer: We have a branch office at the border. We have an office in Van, and a small office in Silopi. We have a lawyer in Aärx. However, those persons who are in Istanbul have to come to Ankara for application.

People first come to us before going to the authorities. There are very few people who say "I submitted my application to the authorities and opened my file and came to you now." After the Foreign Minister has asked for our opinion, we give three answers; rejected, accepted, file closed.

Question: Are you limited to documents and information provided by the person? Or can you make any investigation as an institution?

Answer: We have a library in the institution. We have colleagues who work every month on Iraq and Iran and present developments in these countries in form of monthly reports and forming an archive. We are referring to those sources. If we cannot find anything, and we have to verify something regarding that country, we are getting in contact with our office in the concerned country and try to obtain some information. But the basic thing is the testimony given by the person, and its consistency. Otherwise, we have no other types of sources. Asking the government of the relevant country for the information cannot be expected due to asylum seeking.

Question: Do you have any authority and power to examine and inspect the refugee camps where refugees are accommodated and determine whether conditions prevalent in these places are suitable?

Answer: First of all, I would like to emphasize that there is no camp in Turkey. There is only a guest house in Yozgat. This guest house accommodates only those people who the officials do not prefer to stay in free residence due to their security problems since they are either members of senior management, soldiers or in political positions, or since they are stating that they have serious security problems. Its capacity is below 100 beds. All people other than those people are in free residences.

Question: Is there any in Silopi?

Answer: There were some camps in Silopi. This camp served to those persons who came from Iraq in masses. It is currently not operating.

Question: We know that Africans are staying there.

Answer: This happened for a certain period of time. This camp is currently empty. The camp in Silopi is a place where the people who returned from Northern Iraq to Turkey and abandoned their village stayed for a very short period of time when they first entered Turkey, till their documents were completed. They have been sent to their villages from there. There are no refugees in this camp.

In Kærklareli, there is a place where Bosnians and Kosovans from Europe stay. Currently this is the only place. It is operated by the governor's office.



Foto: NFR

We are not related to it. Bosnians, last year Kosovans, and perhaps this year Macedonians shall stay there. We are visiting houses. Our social workers, when sent to these provinces on duty, carry out both home visits and interviews with the people over there, and they are trying to find solutions together with officials, by notifying the situation to the governors and officials over there and determining what kind of needs arose and what can be done within the legal framework.

Question: A moment ago, you mentioned those people who previously went to Iraq from Turkey and have returned now. Why do you think there happened such a movement?

Answer: As you know, Turkey is one of the refugee generating countries. I mean, during the village evacuation process which started years ago, some of those people living nearby the border crossed the border. They stayed in Atruç camp. Then Atruç camp has been closed. Since 1996, returns to Turkey continue in groups. We are also monitoring them. Sometimes we are paying visits to the families. Now they are under the control of the Turkish Government. However, when they have some problems, we are informing the officials.

Question: According to the procedure, those who applied for temporary asylum according to the 1951 Convention are not under protection.

Answer: No. These persons are under protection by the regulation. Because if these people have a file in the Ministry of the Interior regarding their asylum applications, this person is under protection in Turkey with a temporary residence permit till the end of the procedure. We never witnessed a person who submitted an application and was deported from Turkey while his/her file was investigated. Only if all procedures are completed, the file is closed, we do not interfere with the deportation process. (...)

Question: Is there anybody, who was deported after his/her status was recognized by UNHCR?

Answer: I know there are 4 persons who were deported after their status was recognized according to last year's figures. Of these, 2 are Iranians, 1 is Tunisian, and 1 is Iraqi. (...)

Question: We know that in 1997, more than 100 were deported...

Answer: No, impossible. I was only talking about those persons whose refugee status is recognized. I mean, the number of persons who were deported while their application was investigated is 12 files and 19 persons.

The existing system makes it difficult for those persons who did not make their applications within 10 days to be taken under protection. And what about their proving their identities. I never mentioned this issue. Those persons who make an application have to present their identities within fifteen days. They have to come and make an application with the ID card of the country whose nationality they bear. This might be a driver's license, a school ID, diploma, etc. They may act flexibly on this issue. Photo and seals are prerequisites. This period is not related to the date of entry. The person shall make an application within ten days, after this period of time, s/he is given fifteen days. If s/he has no ID card, the application is suspended for that period of time. They discontinue the file of the person who has no ID card. That file is never referred to the General Directorate of Security Department. (...) In fact, there is no provision that stipulates that an application of a person who has no ID card may not be received. This process is completely implemented by means of communiqués.

Question: Were those 4 persons deported after your acceptance?

Answer: Yes. One of them failed to prove identity, the other three were refugees who were taken under custody in Istanbul, a total of four persons were deported last year.

Question: What did you do about this issue? Does UNHCR have no sanctions for this?

Answer: We wrote a letter of condemnation. This is the only thing we may do. However, these cases are included in the annual reports and sent to Geneva.

Question: Do you have any information about the number of the refugees who came to Turkey in 2000? How many of them are known to you?

Answer: (...) I estimate that we have received roughly five or six thousand applications in 2000. The most fundamental difference between those included in the procedure and those not included in the procedure is this: We know one of them does not face any deportation problem till the end of the procedure and is completely under protection. If authorities notice in any way that the other is illegal, we know this constitutes the adequate grounds for deportation. However, our relationship with the authorities goes on very well in this regard. The Ministry of the Interior does its best to prevent deportation of those people who are granted refugee status. When we look at the 1999 data if any refugee was deported, the situation is brighter. There is no deportation of refugees in 1999. In 2000, one of 4 persons was deported due to absence of an ID

card, the other three were deported while under custody in Istanbul. The demand of the authorities is that we must directly give information, there must be no lack of communication and they shall do their best. We do not have to deport these people to the country of their origin. If you find a visa, we may deport them to the country of this visa within the shortest possible time. Consequently, the authorities act very clearly with respect to cooperation. However, in connection with those persons whose asylum application is not investigated for whatsoever reason, we cannot reach them (i.e. the authorities). We sometimes learn that they are in some way deported. They are arrested by the gendarme and deported before they are submitted to the authorities. Then we get a fax from abroad about the deportation. I mean, if the case is brought to our attention on time, it is not very difficult that we obtain a positive result on this matter. It is only important that we have adequate time. When it is considered how many and how diverse officials are on duty in Turkey, the events are somewhat in the initiative of the individuals. Some officials want to give information, some others do not. However, if we have the time for sending one of our colleagues to the relevant place and meeting the officials over there face to face, it always leads to a positive result.

(...) Approximately 20 persons applied to Administrative Courts via lawyers, because they had no residence permit although they have refugee status. In such a case, first of all, a motion has to be submitted for preventing deportation. When this motion is granted, a notice is given to the Ministry of the Interior which sends an instruction to the Foreigners Department of the Security Directorate of the province where such persons are located, to receive an application of the relevant person and start a procedure. Consequently, from the very moment when such a procedure is started, the risk of deportation of such a person is eliminated. With a judgement for preventing deportation, main trials continue at the same time. The process of determining whether the concerned person is an eligible refugee or not, whether the application was correct or not, continues(...). Consequently, a judgement for the prevention of the deportation as well as opening a file are adequate for the person to obtain protection. This is a way that we use with respect to protection of these people in Turkey. The second way is the attitude of "please do not deport this person, we are resettling him", which is not legally stipulated and troubles all officials very much. Because in Turkey it is not possible to legalize this situation under the current legislation. Consequently, either they keep the person under custody or locate him/her at a certain address. In this case, when the visa is ready and there is a court judgement that there is no obstacle for exiting Turkey, the person is taken to the airport and deported under the custody of police officers. For those refugees who are not covered

by the procedure, we are ensuring that they are not extradited to their country of origin. Authorities allowed the settlement of four persons out of those with refugee status who were taken under custody in 2000 due to their illegal position, and fact that they were not covered by the procedure. Eight persons are kept under custody and their resettlement process continues. At least the risk of deportation is eliminated for finding a solution. Seven persons' status has been legalized and they were given residence permits. I mean, when you compare this figure with the number of the other group (consisting of the persons who are deported), I may say the number of positive results is higher than that of negative results. In fact, I may also say from my personal experiences that direct contact, individual interviews, and following the cases on file basis always lead to positive results. Some negative events happened, however statistics indicate that the number has progressively decreased. When the regulation became effective, i.e. in 1994 and in the following year, the data were disastrous. The number of those persons who were deported without their applications being investigated was very high. However, I mean, the procedure was not very well known at that time (...).

Question: How many people applied to you in 2000? Can you give us information about the distribution of the eligible refugees?

Answer: Approximately applications of fifteen to twenty five percent of the Iraqis are accepted, and I may say there is sixty five percent of acceptance for Iranians. The number of applications we have in 2000 is about five or six thousands. (...)

Question: What is the relation between you and the Turkish government? Does your institution put pressure on the Turkish government regarding laws or legislation? Or do your superiors, Geneva, put pressure on the Turkish government? For example, several speakers here concluded that the legislation related to these issues is not adequate and proper for human dignity regarding refugees or foreigners. This is a problem.

Answer: This is not a question related to my personal involvement. For this reason, I shall give an answer with my general information. I think, refugee legislation is one of the issues just like the other laws which must be changed within the process of accession to the EU. And I think, as UNHCR, we shall most likely present a report giving opinions, making criticism, indicating which provisions are in violation of the international standards, and which ones must be changed and how they must be changed. I guess a technical cooperation study shall be conducted. (...) However, the pressure put on the Turkish government is as much as other pressures placed with respect to other issues. Nevertheless,

the abolishment of the geographical reservation, when the borders of the European Union extend to here, and some legal amendments should be made in order to ensure residence of the people not in European countries but in Turkey. For the refugees, camps are recommended for their settlement. However, Turkish government always rejected this recommendation. The government does not support this idea very much since they think it is a development that shall lead more people to come to Turkey and this is also related to limited economic means of the Turkish government. I mean, this should become feasible with some funds from EU. They (Turkey) really have no money. At least they have no money to allocate for this, this is very clear. I do not know, they may prefer some other places due to various policies. This is an issue which they cannot venture to open up. Why not? Turkey is a neighbor of two refugee generating countries such as Iran and Iraq. The changes carried out have become the paradox of "a chicken from an egg, or an egg from a chicken". I mean, while the Turkish government does not change the legislation, it also keeps the illegal immigration option open. What are the different links of the chain? This is a chain which extends to even Canada. Who obtains how many shares from this, what happens to whom? The legal regulations are very inadequate. Now they are working on this matter. I mean, they are trying to figure out if heavy punishment of smuggling of human beings shall prevent these events. I think, all of this are links of a chain. (...)

Question: I wondered how the principle of no refoulement works?

Answer: The authorities, in fact, shall apply the no refoulement principle to everyone. I mean, if a person whose file is closed makes an application, such person obtains an immigrant visa by means of safety, family support etc., or there are some other refugee programs in various countries, such as women under risk, etc. If such person receives a visa, the Ministry of the Interior allows this person to travel to Canada or Australia even if his/her file is closed. I mean, once it is decided on a rightful basis that there is no risk of persecution for the person, the file is closed. Such person may not make his/her claim to us. When such person comes to us, we do not believe that s/he is under risk even if s/he is deported. Certainly there is some other reason for such person wanting to flee that s/he does not tell us. For example, s/he may issue false checks, may have a lot of debts. At least from the reasons such person told us, we concluded that such person is under no risk. Consequently, we do not make any attempt regarding this. However, when there arises a risk of deportation for a person whose asylum procedure is concluded for some other reasons, we immediately intervene with the case. I mean, we are saying "please wait, his/her investigation is not con-

cluded, we are interviewing him/her". And officials show tolerance and allow him/her to stay in Turkey till this procedure is completed.

Question: In the opinion of the EU, Turkey is only a transition country. It bears importance not only with respect to being a refugee accepting country but also to illegal immigration. And the EU wants to prevent this illegal immigration towards Europe. For this reason, for example there are these kinds of action plans: there are plans for establishing arresting centers or surveillance centers in Turkey and keeping the refugees in these centers. Can you explain role of UNHCR within the framework of the relations between Turkey and European Union?

Answer: I have no adequate information on this matter. One of my colleagues is more involved in the process of accession to the European Union. Consequently, please do not expect me to give more information on this matter. However, we are working very directly with the authorities on the asylum seeking process. We have training programs continuing for the last two - three years. This training has been provided for prosecutors and judges, gendarme, police officials. Consequently, we have already started this process a few years ago. Training was provided on such matters as what kind of information an official has to have regarding this matter, what s/he must do, when and whom such official must inform, etc. Very interesting events happened. After judges and prosecutors attended this training, they asked questions like "there are three Afghans in Bitlis. They seek asylum. Where shall I send them?" Or a gendarme called us and asked "There are five foreigners here. Where shall I send them?" I mean, a change in their point of view has started with this program three or four years ago. However, I believe that the issues such as making some radical changes in these laws, abolishing geographical reservation at all and providing some possibilities to the persons in order to ensure them to find permanent solutions in Turkey instead of rushing to Europe are such solutions that shall only be solved on the long run. Because, Turkey is a country that strives to feed its sixty five million population. (...) If Turkey creates a permanent solution to this problem, it is very clear that Europe shall have great benefit out of this. I mean, the asylum seeker shall not go to Europe but stay here. Europe has to support this process financially in any manner. In fact, this is my personal opinion and I know several people think like me. It is a long process, there are several criteria which must be fulfilled to include a country with such a huge population as sixty five million. However, I think that within the context of our compatible relation with the relevant authorities, such authorities shall not burn the bridges regarding exchange of opinions if there are amendments to various laws and regulations, i.e. asylum seeking related laws, such as the regulation, settlement law, law on residence permits, etc.

Problems resulting from the 1994 regulation

By *Riza Torun*

I shall touch some concrete problems resulting from the 1994 regulation (see study by TAV, 2.1.3.). As a result of this regulation, UNHCR has been bypassed and government agencies have become the notification body. Therefore, the asylum seekers are forced to testify at the police department.

The policemen doing the interrogation are not at all educated in these matters. (...) It is quite interesting though, what kind of questions they ask, for example: "Which political party do you belong to? What is your position in the party? How strong is this party in Iran? What does this party intend to do in the future?" In other words, none of the issues designated by the Geneva Convention are being mentioned. All that matters are the political circumstances in the country of origin, in order to gather more information.

Upon the decision by the Ministry of Interior, the case is submitted to the Ministry of Foreign Affairs in order to learn about its opinion. The bilateral agreements and conventions between Turkey and Iran, Iraq or other countries overweigh the opinion of the Ministry of Foreign Affairs during this process. Personally speaking, I believe that the Minister of the Interior is always under the influence of the Minister of Foreign Affairs. Foreign policy greatly dictates the domestic policy. In 1993 as well as in the 1994 and 1995 Özal years, several bilateral security agreements between Iran and Turkey, so-called "collusive" agreements, have been signed. In this context, the return of certain individuals has become an issue. Approximately two thousand Iranians were sent back to Iran in 1993 and 1994. A part of them was handed over to Iranian border authorities. A number of them is still in jail, and 4 people were sentenced to capital punishment and executed.

Question: Do you have any information about the case of the ones who were extradited in 1997?

Answer: It is true, a part of them had to return at the border. A group of them was directly delivered to Iranian security agents. Very important people the Iranian government was searching for were directly sent back. A group of approximately 56 Bahais were returned similarly in 1997. They were transported from Istanbul to Doäubeyazıt, and from there to Iran.

As I have stated before, the policemen have not had any training in investigation, nor particularly in human rights. They use violence and they insult. Think for a moment, a cop, sympathizing with the Turkish

- Islam synthesis, interviewing a member of the Iranian Communist Party! You can guess what may happen!

The places of resettlement are especially very important. The refugees enter the country from Yüksekova, Van or Doäubeyazıt. The border of entry is Aärx, the ultimate transit road of Iran along Syria. This route is swarmed with Iranian secret agents. A lot of kidnapping and injuries occur there. Several people were killed in the recent years as far as we know, and several people are missing. It is very important to move the places of resettlement and places of admission towards the center, more to Ankara or Istanbul.

Another point, which Ms Gönenç Bilge (UNHCR) has not expressed, is that there is no lawyer present, neither during the process of UNHCR nor during the process of Turkish authorities. Therefore, the refugees are deprived of legal aid. It is for this reason that they make some technical mistakes during the investigation. Their knowledge on the procedure in Turkey stems particularly from hearsay, and therefore they are forced to conceal certain things. Because they conceal, the decision mechanism works against them during the decision process.

Illegal immigration and trade of humans have been seen more often after the 1994 Regulation. In my opinion, the main factor for this fact is this regulation. It is especially the police investigation. The investigation mechanism has to change as well as the agency of admission. The refugees should be able to trust in the part that is investigating into their case and should disclose and describe their problems. For instance, if this issue is taken up by the Ministry of State in charge of human rights and the agency of admission agrees, the refugee will feel safe. Otherwise, he/she sees the police in Iran, then comes to Turkey and meets the police or Security Department again, i.e. he/she meets the same thing.

An interview is a very important and single chance for a refugee. Therefore, proper weight should be given to the interview; there should be a translator and a lawyer present during an interview. (...)I would like to hereby reiterate an article of the 1951 Geneva Convention: the Article 35. The investigation, i.e. the interview, is indicated as a very important concept in this article. The interviewer should have a good knowledge on human rights as well as on the refugee's country of origin. In addition, he should

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be fully aware of torture and maltreatment. Because, as I have stated before, the interview is very important for the refugee: his admittance or refusal, thus his future, is determined by the interviewer. For example, Kurdish refugees coming from the Kurdish regions of Iran are forced to enter the country from zones where war still continues. These people never trust the security forces they encounter upon their entry to the region. Therefore, they never disclose their problems. We have witnessed that some have even concealed that they were Kurdish. This influences the decision mechanism. Hence, people are facing risks of being refused. As a result of this, the confidence in this mechanism is eroded, and as I have stated before, illegal immigrant trafficking and illegal immigration increase. Almost all cases, with the exception of a few, are subject to the control of the National Intelligence Agency (MIT, Turkish secret service) in addition to the Ministry of the Interior and the Ministry of Foreign Affairs, which is indicated by the regulation. In other words, MIT investigates as well. When we have talked to the refugees, they have declared that they have gone through 3 investigations. When MIT conducts this investigation, the content of the interview becomes more political. Thus, the Geneva Convention is violated once again. (...) Upon the completion of these interviews, a notice of admittance or refusal by the Ministry of Interior is sent to the people concerned. If they are admitted, they will be transported from their province of residence to the pilot provinces and stay there. These pilot provinces are Konya, Kayseri, Nevşehir, Kırşehir, and others. During their stay, the UNHCR comes into play. When a third country is found, the refugee goes there.

I disagree with our friend Gönenç on one issue. The refugees have no rights, even when they are admitted to Turkey. For instance, they are not allowed to work, their children are not allowed to go to school. All refugee and asylum - seeking children are deprived of education for 2 - 3 years without exception, in this process. And they are unable to adapt to the country they go to. For instance, there are illnesses/diseases resulting from migration and asylum - seeking in North America, in the United States and especially in Canada, because they feel themselves as aliens and are unable to adapt themselves. They come especially from Iran, fleeing from oppression. They experience the stress of their parents. In the meantime, women feel the most pain, and domestic violence is aggravating. (...) These people are not allowed to work and earn their living, or if they work, 99% of them work illegally. Their fields of work are construction, cafes, tailor shops and barber shops. They certainly are prone to exploitation in these fields. They are subject to hard labor and paid less. They work in unhealthy working environments. They get financial assistance from the UN in cases of emergency such as birth and certain operations

(...) As mentioned above, domestic violence among refugees has aggravated to a large extent, even though they are entitled to asylum. Women have especially been battered. They are continually looked down upon or ill - treated. They are forced by their husbands to work in terrible conditions or to go house-cleaning.

A new regulation is about to be drafted. However, UNHCR; and human rights organizations are excluded from this drafting process. (...) This regulation to be enacted soon is very important for the protection of refugee rights. However, in conclusion, I should add this: the problems of refugees cannot be solved by the new regulation. I am living among refugees for 18 years. I help them for free or for a minimal fee. The problem of refugees should be addressed at its root. As long as the New World Order is maintained, this globalization and privatization continue, the number of refugees will continue to increase. Many ships shall depart from the Turkish ports.

Question: On what issues do you offer counseling for refugees?

Answer: The most important assistance we give to refugees is with regard to their departure (to a third country). (...) Some people cannot leave the country, even though they have proper visa, because they do not have a passport. In other words, this becomes a big problem. We assist them in this regard and provide legal aid. Besides, we help them in their marriage, divorce. We give financial support for certain families. We do not interfere in any other issues such as their admittance or refusal. These areas are beyond our scope. Additionally, we file their cases to the Regional Administrative Courts in order to cease the implementation (of deportation). Lastly, we have filed a case to the European Human Rights Tribunal. We are still waiting for the court's decision.

Question: How many Iranian refugees are there in Turkey? Admitted, newly applied?

Answer: We have three statistical data resources. One is the UNHCR statistics, the other is the one issued by the security department, and the last one is the actual figures by the independent resources. For instance, our friend Gönenç mentioned that 4 people (with refugee status) were deported (in 2000). I do not believe in this. This is similar to the data provided by the Security department for non - existence of torture in Turkey. The attitude towards refugees is a perfect mirror for this state. With foreigners, the state can do whatever it wants to.

Therefore, a lot of refugees do not apply to the police and stay here illegally. Those who were sent by their organizations have been the outcome of the

methods generally used by the political organizations lately. It is correct for them to send their very influential friends or those who are under a threat (to third countries) by their own means (i.e. unofficially, by avoiding the UNHCR procedure), because there are a lot of Iranian secret agents among those who file an application. In other words, 10 of the people gathering in front of UNHCR are secret agents, in my opinion.

If we count all these, the figure is about 200 - 250 thousand. But not all of these file an application to the UNHCR. A part of them stay here illegally and

work illegally. They stay in Istanbul. A part of them try to go overseas by ship. A part of them stay here for longer periods. It is hard to get the actual figure, because they are in constant movement. This figure has increased due to economic pressures recently. It might even be over 500 thousand within a year. My data is for the year 2000. Immigration has been growing as a result of the recent economic crisis and poverty. As you might notice, illegal immigration has increased within the last two or three years. No one is able to provide accurate data, because it is impossible to record. (...)

A Tragic Human Rights Violation: Forced Displacement

By Tahir Elçi

Tahir Elçi is a lawyer in Diyarbakır

Within the recent years, one of the most tragic human rights violations experienced in Turkey was to be faced by peasants who were subject to forced displacement. There are political, socio-economic, legal and humanitarian aspects of the problem.

An intensive evacuation of villages in the southern part of Turkey subjected villagers to displacement between 1990 and 1995 and caused/is causing the violation of a series of basic rights guaranteed by the Constitution of the Republic of Turkey. The Property Right, defined in the Article 35 of the Constitution, the Right to Inviolability of the Domicile in Article 21, the Right to Freedom of Residence and Travel in Article 23, the Right to Respect to Private and Family Life in Article 20, the Freedom to Claim Rights in Article 36 and a series of related rights have been violated.

Although these rights are under the protection of the UN Declaration of Human Rights, the European Convention of Human Rights and of other international documents, victims are deprived of a real international legal protection. International conventions regulate the legal status of refugees and establish related mechanisms. It becomes quite an important issue to identify the status of forced displacement victims who have been subjected to pressure and violation and who cannot go beyond the national borders within the framework of the international human rights laws, and to provide an international protection mechanism.

Legal Ways and Implementation

The State of Emergency Practice and the legislation of this practice are directly related to the problem of forced displacement. Evacuation of thousands

of villages were made by the Regional Commandership for Public Security under the mandate of the Emergency Region Governorate under a specific strategy and a central policy. However, although the legislation of the state of emergency allows the evacuation of villages, this authority has never been legally used. This established a barrier in front of potential solutions to be found in the national law.

Paragraph 1 of Article 125 of the Constitution reads that recourse to judicial review shall be available against all actions and acts of the administration. The last paragraph of the same article reads that the administration shall be liable to compensate for damages resulting from its actions and acts.

Although evacuation of villages is not based on an administrative procedure, there is no doubt that it is an administrative action. In accordance with the above mentioned article of the Constitution, it may be possible, as a rule, to have recourse against administrative judiciary. However, in practice, due to some legal and de facto obstacles, administrative judiciary has not been an effective solution.



Foto: 3.Welt-Saar

Some applications for recourse against administrative judiciary have not resulted in effective and satisfactory outcomes. Victims did not have evidences to prove their material loss. Financial conditions for victims who have to pay the costs of court proceedings as well as the duration of court proceedings until a conclusion is reached, and the conflict between legal interest rates and inflation rates have become factors of not having concrete results from the judiciary.

The legislation of the State of Emergency, Decree No. 2935 on State of Emergency, Decree No. 285 on the Establishment of Government of the State of Emergency and Decree No:430 on the Additional Measures to be Taken by the Government of the State of Emergency, are legal obstacles for claiming victims rights.

Within the framework of the human rights laws, the European Convention of Human rights and the judicial mechanisms established by the Convention can be regarded as a legal solution. The Convention regulates the property and shelter rights together

with respect to personal and family life. Due to the magnitude of the problem, its complexity, victims conditions, interests of human rights defenders to the issue and some other similar reasons, the European Court of Human Rights has not been effectively used. Decisions of the Court on this issue were limited to a few examples. (i.e. Akdvar vs Turkey, Mentec vs Turkey). On this subject, the role of the human rights defenders is very important. According to non - governmental organizations like Human Rights Association and Human Rights Foundation of Turkey and official authorities like Migration Commission of the Turkish Grand National Assembly, over 3000 residential areas have been evacuated and over 3 million people have been subjected to forced displacement. Victims can neither use the national judiciary nor international judiciary mechanisms. Due to the lack of knowledge of lawyers about the procedures of the European Court of Human Rights, a very limited number of victims has been able to benefit from the European Court of Human Rights. Existing applications to the ECHR were mostly made with the assistance of the Diyarbakr HRA branch.

Kurdish Refugees in the Netherlands

By Ritske Zuidema

In 2000, about 5% of the people who applied for asylum in the Netherlands were from Turkey. Obviously, not all of them have a good chance of receiving a residence permit in the Netherlands. In general, the Dutch Immigration and Naturalisation Bureau (IND) only gives residence permits to asylum seekers whom the Turkish authorities believe to be guilty of separatist activities because they have propagated the Kurdish cause and to conscripts who have serious conscientious objections against serving in the Turkish armed forces. Those who have fled Turkey because they refused to become a village-guard will normally not be recognised as refugees. The IND believes that they have an internal protection alternative in the west of Turkey.

When judging applications for asylum, the IND makes use of general information about the situation in the countries the asylum seekers come from that is provided by the Dutch Ministry of Foreign Affairs. Unfortunately, this information cannot always be trusted. Often, the reports of the Dutch Ministry of Foreign Affairs present a far too positive picture of the human rights situation in countries that produce large numbers of asylum seekers. Recently, the Ministry of Foreign Affairs brought out

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two new country reports about the situation in Turkey. One of them is about conscripts, the other one about Kurdish asylum seekers. Both reports contain serious inaccuracies. The first report, for example, attempts to deny that there is a serious problem concerning human rights within the Turkish army, even though there is a great deal of credible information that clearly points in the opposite direction. The second report attempts to downplay recent reports about asylum seekers who were ill-treated and/or tortured after they had been deported by Western European countries to Turkey, thus ignoring all the evidence that has recently been collected in the brochure "From Germany to the Turkish Torture Chambers", published by Pro Asyl and the Niederschsischer Flchtlingsrat.

Most of the Turkish asylum seekers who come to the INLIA Foundation for help are Kurds who initially fled to Germany, were rejected there, and subsequently fled to the Netherlands to avoid their deportation to Turkey. In most cases, they are not allowed to have their application for asylum processed and judged in the Netherlands. Instead, they receive a so-called Dublinclaim and are told to wait in the Netherlands until they can be transferred back to Germany. In the meantime, they receive no government-support. They normally come to the INLIA Foundation to ask for accommodation. Sometimes, they also ask us to help them fight their Dub-

lin claim. Unfortunately, if a Dublin claimant has already had an asylum procedure in the country he entered first, it is only possible to pose an effective legal challenge to the Dublinclaim if a number of very strict criteria are met. Kurdish conscientious objectors from Turkey sometimes succeed in this as there is a difference in the way Germany and the Netherlands interpret the Geneva Refugee Convention with regard to conscientious objectors.

I believe there are several ways in which Turkish human rights organisations and refugee organisations in Western Europe can cooperate to improve the situation of refugees from Turkey. First of all, we could help each other by exchanging information. We need to work together to gather information that can pose a credible challenge to the information that the immigration services of Western European countries use to reject applications for asylum.

Obviously, human rights organisations in Turkey can play a very important role in this. As they are aware of what is really happening in Turkey, they can check whether the information that is provided by, for example, the Dutch Ministry of Foreign Affairs is correct. Moreover, they could perhaps also verify (aspects of) the stories of individual asylum seekers in certain very special cases.

Secondly, I think it is extremely important that asylum seekers who are deported to Turkey can be monitored effectively. I know that the Niedersächsischer Flüchtlingsrat together with the organisation Pro Asyl has set up a very successful monitoring project. Perhaps it is possible to expand this project so that we can get a better idea of what exactly happens to rejected asylum seekers who are deported to Turkey by Western European countries.

European Refugee Policies - Humanitarianism or Neo-colonialism?

By Thomas Uwer

European Refugee policy is passing through a fundamental change of paradigm, leaving its traditional role as a national matter behind and occupying a new territory that is not any more limited to domestic politics and legal protection. Since the Edinburgh-Summit in 1992, when the concept of a "regionalisation of refugee protection" was first set on the EU agenda, refugee politics have practically changed, with its responsibility reaching far into the sphere of foreign politics and relief work. Some may think of a change only by word without any practical consequence at least in the field of relief work & humanitarian assistance - and in fact, providing humanitarian aid, for example handing out blankets or medicine to Albanians, is not really new. The change is to be seen as a more fundamental one: Relief work is more and more bound into a concept of refugee defence, a concept which has deep impacts on the development of the region and - through that - on the daily practice of relief work itself. I will try to show how the overwhelming change of European refugee policies from a matter of domestic politics towards one of foreign affairs and relief work does not leave the facts on the ground untouched. The very opposite is true.

Secondly I want to consider the effect of these changes on future developments inside Europe itself. You may know that the European Union is on its way to define a common European refugee law. We have to be aware that matters of fact might be implemented before fundamental standards are de-

finied. I want to show how the European refugee defence in practice has already changed the formal relation between refugees and European nation states.

Finally I would like to single out the impacts on the development of the countries in-between, the so called "transit-countries" of the subeuropean periphery through which refugees pass. I will use the Kosovo protectorate and its neighbouring country Macedonia as an example, at least because of the latest developments. You may decide by yourselves if the exemplified mechanisms fit to other regions too.

1. Relief work

With the implementation of so called safe havens as the most meaningful manifestation of that very concept of regional protection, relief work and humanitarian aid became an integral part of refugee policing. Despite the question if safe havens are save not only by name - but in full reality for those who have to be safeguarded-, none of these regional enclaves has been enabled to survive without international support until now. It is very important to realise the fact, that for almost every of these enclaves humanitarian aid is the main source of income - even after years. The provision of humanitarian assistance plays a key role as it is the necessary

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condition for those regions to exist. It is therefore also obviously that the distribution structures which were set up by humanitarian assistance became the origin of any further development of economical structures and social stratification. None of these developments is understandable without referring to these structures.

Of which kind are these structures and how do they work?

Due to the fact that those entities are almost the result of a military conflict and facing extraordinarily high numbers of displaced persons, humanitarian aid is naturally first aimed on providing goods which are urgently needed. Following its own logic, relief work is always building and modelling groups which are needed to provide aid effectively. Its a kind of relief economy that is in need of a social formation in which the safe flow of goods and local distribution are guaranteed. In the 1999 Kosovo crisis NGO began to build up those social structures already in the refugee camps inside Macedonia by evaluating the inhabitants to use its information for distribution and resettlement. Later on the region has been divided into seven Areas of Responsibility - a division which was not solely needed to manage humanitarian aid (each area came under the responsibility of an international NGO) but also to set up a regional structure of distribution and through that to limit the movement of people. The overwhelming principle of keeping people in their region leads to sometimes paradox results. In Koso-

vo UN began to hand out passports after registration and taking the fingerprints. A passport of a non-existing state which is only designed to prevent people from passing the border.

As far as regionalisation is the primary aim, humanitarian aid depends secondly on accepted regional and traditional structures of collective social organisation to build up an effective relief economy. The use of these structures, which have to be rooted in a regional context, boosts in the same way traditional kinds of social organisation and provides regional actors with the power of controlling humanitarian goods. The most worsening consequence is that specific local actors are gaining an extraordinary power through the control of distribution. Mostly these local actors are leading persons of militia and parties or traditional or religious leaders. And even if not: Humanitarian aid is a costly and desired good. Poverty forces NGO to protect the distribution with arms - arms provided by local militia. In Kosovo small so called Private Voluntary Organisations (PVO) managed the distribution of goods, organisations which were rooted in local structures. Even if they did not want to, they became companions to local elite and militia. As far as they control the main and only source of income, absolute loyalty to these elites is the one and only guarantee for people to survive.

These elites are secondly defined through regional or ethnic categories. On the ground distribution works through personal knowledge which is usually



made through primordial structures as tribe, clan or family. Exclusion from humanitarian aid becomes on the other hand an effective weapon to fight local conflicts on a lower but also existential level, while an extreme kind of corruption is a typical phenomenon for this kind of distribution oriented economy. Ethnic or primordial identification becomes an important aspect of life, as not belonging to the right group might lead to an exclusion from the distribution of humanitarian goods. Conflict between these groups is actually one of the most common problems of all these enclaves as the struggle for participation is fought out and justified mainly through the category of ethnic or primordial belonging. In Kosovo Romes and Jews were the first to loose the ethnic fight for participation, other ethnic groups, some of which do not even knew to exist before, followed. Besides, these strengthened local, regional and ethnic entities are finally undermining any attempts to develop independent and democratic structures as they are directly opposing the principal of equality.

Safe havens are obviously not protecting but producing refugees. Not at least because of an impressed economy of distribution - an economy which is only producing good reasons for war and repression. Without legal and independent institutions and the regulating structures of market (production/consumption), the struggle for participation on resources falls back into its state of origin: As an armed struggle between ethnic gangs and regional rackets - and a brutal and repressive system of patronage inside. NGO implemented the role model for it.

2. Impacts on Europe

I want to stress two aspects of the "regionalisation" concepts impact on the European understanding of refugee policies in short terms. Details of the European development have been provided by others and do not need to be repeated - but some elements should be summarised to close the scenario I wanted to draw. The first aspect deals with the subject of all these European concepts: Migration, which is not any more seen only as a phenomenon of masses but more and more as one of specific groups. In that way policy in Europe is directly following the practical conditions of relief work (and military action) in the field which is by its nature designed not to support single persons but whole groups. The equivalent of group in the language of policy-making is the contingent. During the Kosovo crisis, European countries first implemented the concept of temporary protection, a concept which solely justified itself with the promise of making the homeland of the Kosovo refugees save for them again. And, through that, a concept too that deals with people solely as part of their national (or ethnic) entities through which they are determined to live in a specific territory. The frame which is set by this

concept is in the same way (logically) one of ethnic or national belonging to what Germans call a Heimat - a home, which is not a defined national territory, but a state of being, physically and mentally, rooted deep down in (collective) personal structure. An idea too, which is in stark conflict with the principle of treating refugees as single persons. The consequences are far reaching. Once Kosovo refugees were temporarily protected for the time needed to prepare their Heimat for repatriation, all ethnic Kosovo-Albanians had to fear a forced removal. Ethnic belonging suddenly became important also for those who never solely defined themselves as ethnic Albanians. (It is a horrible vision that you can never get rid of to were you originally came.) So the influence of regional protection on inside European developments can be described as ousting the individual as subject to legal process and replacing it with the national or ethnic group. Instead there was a good reason to establish a legal system through the Geneva Convention that secures the individual asylum seeker.

The consequences of this change might be understandable by considering the second aspect which can be described as a shift in time. Migration is not any more understood as a matter of fact, something which can be regulated only after it already happened. It is seen as something which should be regulated with political means before the refugee appears inside Europe. As far as political regulation of whole refugee groups is the main and central aim of European strategies, so far interference into the social, economic and political structures of the countries of origin - and those countries refugees have to pass through - is a logical consequence. Kosovo showed that interference can even mean military intervention. Usually less martial means are used to push the countries of transit on the European periphery (like Poland or the Czech Republic) to adopt the standards of the European border regime. We should take the phrase of European Unification Process quite seriously, as a process through which a new European supranational society defines itself. A process which is almost underdone by defining its relation to others. This relationship between Europe and its neighbouring countries is nowadays widely characterised by Europe's "security" demands. Questions of border protection and refugee defence are on top of the agenda of every summit between European and subeuropean countries and not only there: The border regime is unanimously seen as central aspect and motor of the European unification. By defining its relation towards others through a border regime Europe defines itself: As an exclusive entity some also call Fortress Europe. In this context, questions of ethnic or national belonging are again becoming central as they give the frame to divide into those who are allowed to participate and those who have to stay abroad.

3. The so called Transit-Countries

As far as the relation to others is strongly determined by Europe's will to defend its borders, countries on the European periphery are instrumentalised, functionalised, even sometimes they are destroyed itself, split into pieces and newly constituted to fit European demands. Europe intervenes and interferes in domestic politics and questions of national sovereignty to get rid of those people who are not wanted. Politics likely to be called a neo-colonialism.

The consequences on those transit countries are far reaching. Bilateral credits, economical co-operation or transfer of (military) equipment are depending on their will to fulfil European obligations. The wish of most of these countries to take part in the EU is another good argument to put them under pressure. On the other hand more and more refugees are forced to stay for longer periods inside these transit countries due to enhanced mechanisms of European border protection. As a result of this kind of outsourced border protection, measures taken against refugees in these countries are mostly reduced to repression only. One can see that Europe's support for those countries to deal with the situation are again mostly reduced to executive and repressive measures - like the training of border police, providing equipment for border control and registration of refugees. Besides, the EU takes full advantage of the fact that some of these countries are in distinct fear of destabilisation through large numbers of refugees belonging to an ethnic minority also settled inside the transit country itself. Macedonia which strongly opposed any military actions of the NATO during the Kosovo crisis on the other hand supported all European attempts to keep the Albanian refugees in the region - due to a fear of destabilisation which nowadays became true.

Conclusion

Finally, let me come to a conclusion by mentioning what usually needs to be mentioned first - the role of the speaker himself. When criticising the impacts of relief work and the concept of "regionalisation" I am analysing a situation which I know very well from my own practical work as a member of a relief organisation which is active too in one of these enclaves. I want to stress that my critique is not one that intends to end humanitarian aid (the necessity of which I would never dispute), but to reinforce an urgently needed political analysis. But it seems to me that one of the most worsening aspects

of a regionalised refugee protection is that, due to the urgent need for humanitarian assistance, problems which have to be solved very practically in the field, are not any more seen as politically ones. NGO working in those regions have to be aware that they are a part of a process which is in a fundamental contradiction to the aim of supporting people to come to a stable and self-determined development. Facing the fact that we are part of the game is frustrating but nonetheless urgently needed - not at least because of the fact that not only NGO in the field but also those who are designed to criticise European politics inside Europe, are more or less depending from European funds. There is a severe danger of losing an analytic view during the day by day work with displaced persons in the field as well as with agendas, conferences and petitions.

I spoke of a neo-colonial behaviour of Europe towards its peripheral countries to reintroduce a term of political analysis. In fact there are a lot of similarities - but differences too. I tried to show in short terms that the declared will to support "Democratisation" is to be seen as ideology only - European migration policies are obviously undermining any democratic approach by strengthening the executive apparatus against legislative and judicial institutions. Democratisation is a justifying ideology only that reminds on the "White mans burden" of the British Empire or the "progrès" of French colonialism with one stark difference: Both of those highly ideological phrases claimed to be universal. Colonial ideology became objectively progressive through the anti-colonial movements which turned the ideology against its reality. There is nothing to turn against a reality nowadays, when EU supports ethnic enclaves and forces people into a process of nationalisation and ethnic identification. There is on the other side also no promise any more behind an identification which is limited to itself. It is visible that, like in the century of colonialism, this policy is turning back as a boomerang to Europe itself. In the last three years ETA for example killed more persons than in any time of its whole history before, while this organisation has left any social promise behind.

Neo-colonialism isn't the right term to describe European politics. But it is a term of political analysis and a very disputable one. If I can only start a dispute about the terms I mentioned - like colonialism, ethnic entities, safe havens, distribution oriented economy - right here, it would be a great success. And a step beyond the fixed frame of our European donors.

Repression of HRO's in Turkey: for example IHD

Pressures faced by IHD

December 2000 - May 2001

IHD Malatya Branch was closed by the Malatya Governor Office on 3 December 2000 on the grounds of having "forbidden publications". Advocate Doğan Karaođlan, Chairperson of the Branch, said that it was not coincidental that the closure of the branch took place after a press meeting on F-type prisons. Karaođlan said the following: "we were told we breached the Association Law by keeping 'forbidden publications' in the premises of the Association. But, seized publications were not included in the forbidden publication status but in the confiscated ones. For all the printing houses and editors in chief were certain and all had legal basis". Malatya IHD had been closed already for an unlimited time by the Malatya Governor's Office on 16 February, 2000, on the same grounds, but later the branch was given decision of acquittal at the court case took place in Malatya Court of First Instance. The Association was reopened only after the final decision.

IHD Gaziantep Branch: was closed down for an unlimited duration on 7 December, 2000. Relatives of inmates who were on hunger strikes were taken out of the premises of the branch and harassed by the police. The branch was closed by the office of Gaziantep Governor on the grounds of conducting activities beyond the aim and content defined in the Association Law.

IHD Van Branch was raided by the police on 19 December, 2000, and families of inmates who were on hunger strike were taken under custody. By a decision of the office of Governor, the Branch was closed down for an unlimited duration on the grounds of breaching the Association Law. Detained families were later released. A court case is continuing against executives of the branch for letting people stage hunger strike in the premises of the Association.

IHD Konya Branch was closed down for 45 days by the Karatay Sub-Governors Office on the grounds of finding posters during the search by the police supposedly being contradictory to the aims of the Association.

IHD Bursa Branch was raided by the police of the Anti Terror Department on 1 January, 2001, at midnight. Four members of the Association, two on hunger strike, were taken under custody. Further four more members of the Association were taken under custody through raids in their houses the same night. The police of Associations Department came later and sealed the branch due to security reasons. The sealed branch was reopened on 2 January at noon time. The Bursa Public Prosecutor opened one investigation about the executives of the branch. By the decision of the Bursa Governors Office, the branch was closed for an indefinite period on 5 January, 2001, on the grounds of breaching the Association Law, by alleging that four members taken under custody during the raid were belonging to the DHKP-C (Revolutionary People's Liberation Party) and resisted to the police, and that posters and documents supporting death fasts were found in the premises of the Association. A court case has recently been opened against executives of the branch.

IHD İzmir Branch was closed for 10 days on allegations of allowing non-members entry to the office. On 2 January, the political police came and sealed the office. On 9 December, 2000, the İzmir Branch made an official complaint about the police of the Security Department. In her press meeting, the chairperson of the branch, Günseli Kaya, said that the police who came to deliver the decision for closure did not have any authorization to conduct any search. She also stated that one of the policemen recorded the member registry book page by page on video, although he was told that it was not legal. Executives of the Branch did not sign the minutes because their demands on irregular search and video recording were not written into the minutes.

IHD Ankara Branch was raided by the police on 23 December, 2000. The Ankara SSC Prosecutor opened an investigation against the branch, on the grounds of organizing protest activities against F Type prisons. As a result of investigation, a court case was launched demanding on the closure of the Ankara branch and punishment of board members

for their support of illegal organizations. The indictment claims that representatives of illegal organizations contacted the Ankara branch and organized protest activities in support of the "death fasts" in prison. A detailed list of prisoners and their health situation had been found during the raid of the premises of the branch. A decision by the board to stage a number of actions "similar to the aims of imprisoned members of organizations" is shown as evidence for the charges which include the demand to close down the branch according to Article 7/4 of Law 3713 to Fight Terrorism. Chairman Lütfi Demirkapi, the board members İlhami Yaban, İsmail Boyraz, Erol Direkçi, Mesut Çetiner, Zeki İrmak, Rıza Resat Çetinbaş, and the members of the prison commission Ali Rıza Bektas (under arrest), Selim Necati Ort (under arrest), Saniye Simsek, Ekrem Erdin and Gökçe Otlı will be charged under Article 169 of the Turkish Penal Code. The final decision is still pending.

IHD Mersin Branch was raided by the police on 29 January. The offices were searched on order of the prosecutor's office and all documents were seized. Documents were returned back a week later to the IHD Mersin Branch. The prosecutor has opened a court case to dissolve the association. The decision is still pending.

IHD Rize Branch: A court case was opened against the executives of the branch who organized a peaceful demonstration by sitting in silence to protest against F Type prisons, on the grounds that the demonstration took place without obtaining permission. Two hearings took place. The next hearing shall be on 28 June, 2001.

Headquarter of IHD On 25 January, 2001, at 10.30a.m., officers of the security department from the Ankara Police HQ. came to the central offices of the Human Rights Association (IHD) in Ankara. They came on order of Ankara Penal Court No. 8 to search the premises because of news in the media that the IHD had received aid of TL 33.5 billion (roughly \$ 50,000) from the Greek government. At the end of the search, a large amount of accounting material and a total of 7 PCs were taken away. On 19 January, the semi-official Anatolian News Agency spread the news that according to the Greek news agency ANA the IHD had received 19 million Greek drachmas from the Greek government. This item was published by the TV channels NTV and CNN Türk and also in the daily Hürriyet the following day. On 21 January another paper, Asabi, made it the head story full of insults, despite the fact that the list of institutions that received aid from the Greek government which was published by the news agency ANA did not even mention the IHD. This name was added by the Anatolian News Agency. The IHD immediately informed the media

and asked for a correction of the news. CNN Türk and NTV did so the same day, but neither the Anatolian News Agency nor the other newspapers corrected their mistake.

The Press Prosecution Office opened a case at the Court of First Instance with the demand of the closure of the IHD. The indictment prepared by the Prosecution Office demanded the closure of IHD under article 37/1 of the Law on Association No. 2908, on the grounds that it had contravened the Law on Association. The Prosecution Office also took the decision of non-jurisdiction and sent the file to the Ankara State Security Court (SSC). In the non-jurisdiction decision taken by the Public Prosecution Office it was stated that the investigation was set up on the grounds that illegal publications and bullets were found during the search carried out at the IHD Center and that investigations were opened against some of the members of the Association on charges of illegal organization membership, and arrest warrant in absentia was issued for some of the other members. It was for these reasons that the Prosecution Office took the decision of non-jurisdiction deciding that the documents found at the IHD Center should be considered under Anti-Terror Law, and sent the file to Ankara SSC. Together with the decision of non-jurisdiction, the Public Prosecution Office opened a case with the demand of the closure of the Association. In his statement the chairperson of the IHD, Hüsni Öndül, emphasized that the investigation had been set up on charges of "receiving money from Greece" however neither the Security Directorate nor the Prosecution Office asked who had received money from Greece and that on the contrary the Prosecution Office had separated the file and had sent it to the SSC Prosecution Office. Öndül stated that the finding of illegal publications, bullet pieces, empty bullets and that the cases being opened against the executives and members were considered as crimes and said, "answers will be given to these during the trial process. We believe that the executives of the IHD will be acquitted. Empty bullet pieces were taken as evidence during the tour organized in connection with the 1992 Newroz and Qaxnak incidents. They were pieces given to us by the victims whose house were raided. This incident was mentioned in our reports, in the reports we submitted to our General Board and the press at those days. We have got the answers to all allegations and these are concrete evidence." PCs and documents were given back two weeks later. Now the IHD awaits the decision of the State Security Court's Prosecutor's decision either to open a trial for members of executive board or close the file.

Two hearings took place at the Court of First Instance no.24 on the closure of the Association. The lawyers of the Association presented in their defen-

se that the court case was opened on the grounds of Article 37/1 of the Association Law which does not foresee the closure but only the prosecution of the executives from 6 months to one year. The lawyers

also asked the dismissal of the case as there is no investigation opened against individual members of the board. The case was adjourned to 25th June 2001.

Petition of the IHD to the State Security Court Chief Prosecution Office Ankara

The investigation set up against the IHD upon the baseless and deliberate news released by the Anatolian Agency has been converted to an operation against the executives of the Association aiming at convicting them and closing down the Association, although the Anatolian Agency itself had disclosed that the mentioned news were baseless.

It is clear that the governments' executives and especially the security officials had felt uneasy about the work carried out by the IHD since its establishment in 1986. As regards to this uneasiness, it is also clear that they have been working on campaigns trying to wear down the Association and its executives. All these reactions could be understood because throughout the course of their work, as means of their being, the human rights institutions have no concerns so as to protect the state, not to weaken its power, not to put them in difficult situations or not to raise reaction in most part of the society. It is only natural that "the executive organ of the government" will feel uneasy of the applications which do not conform with human rights revealed publicly, and also it is understandable that they will try to obstruct the works carried out in this line. Consequently, the way the executive organs of the government deal with the issue, by raising accusations against the IHD, blackening its work as well as obstructing them is an expected approach.

Judiciary, which guarantees the fundamental rights and freedom of people in a Democratic State of Law will also protect the rights of the IHD against the injustice faced or yet to face. With this respect, we would like to submit some of our thoughts and worries to the Prosecution Office on the investigation being carried out and would also like to clarify some details that have been used as means to accuse us.

Our concerns related to the investigation

It is understood that by diverting the investigation that has been submitted to the prosecution office from its real aim, the police who has set the course and has been the crucial element in this investigation is trying to take advantage of the situation to close down the IHD and wear down its executives.

The investigation that has been started on the grounds of a baseless news released by the Anatolian News Agency has been converted by the police to an operation against the executives of the Association and its activities, although the mentioned Agency itself had disclosed that the news was baseless. There were no instructions by the Public Prosecution Office given in this regard in the files of the investigation. What is the relation between the investigation and the work carried out by the IHD regarding the prison problem? Under the cover of "a baseless news", the police opens an investigation against the work that has been carried out by the IHD for months publicly. Since there were no investigation orders given to the police in this respect, is it not clear enough to see that the real aim of the police is to close down the Association?

Despite the fact that the Public Prosecution Office had no demands in this respect, the letter sent by the Security Directorate in Ankara to all provincial security directorates where there were branches of the IHD demanded the police records of the IHD members and executives to be put in the file regardless of being true or not. This is another important proof of the police plot aiming at the IHD.

Police practices in Turkey are well known to everybody. The police detains people for various excuses. Even if individuals are being released later, the detention can be used against individuals years later as a "verified crime" or an "adjudgement of sentence" basing on a court decision.

The same methodology was used in the investigation against our Association. By adding fair/unfair police registrations to the dossier, it has been aimed to affect the Office of Prosecution as well as the court in case of opening a file against the Human Rights Association. For example, the 10 years old police registration of the Chairperson of the IHD, Mr. Hüsni Öndül, the 13 years old police registration of Deputy Secretary General I.Poyraz, the 10 years old registration of Treasurer N. Taçtan, the 15 years old police registration of I.Kartal, member of the General Administrative Board, the 17 years old police registration of I. Yaban, Reserve Member of the Executive Board, and the 22 years old police registration of A. Kalkan, Reserve Member of General Administrative Board, have been put into the dossier as evidences to prove that executives of the Association committed crimes. Unfortunately, there is no concept like LIMITATION in that sort of accusations. It should not be difficult to anticipate the reason for establishing a relation between a fair/unfair police registration belonging to 22 years ago and an investigation being conducted in 2001, and the logic and the aim behind putting these into the case dossier.

(...) The Ankara Directorate for Security which did not hesitate to write to other security departments in various provinces in order to collect information about members and executives of the IHD did not find it necessary to investigate into the origin of bullets put into the dossier as "important crime evidences". That is the evidence of the motivation. If it was to be investigated, it would immediately be understood that these bullets were the evidences found during the investigation conducted by the Human Rights Association for clarifying incidents taken place in Cizre, Q̇ṙnak and Nusaybin in 1992. In order to use it as accusation material, intentionally this issue was not searched and forwarded to the Prosecutors office.

Explanations on the issues of accusation

1. Explanation on the Empty Bullet Cylinders included in the accusation file

Empty Bullet Cylinders included in the accusation file are the materials found in places subjected to attacks by a 10-person mission formed by the representatives of the Human Rights Association and some other civil society organisations to investigate into incidents taken place in March 1992 in Cizre, Q̇ṙnak and Nusaybin. After following the investigation, these bullet cylinders were shown to the press in a press conference. The report issued by the mission was also published in the Working Report of the 4th General Assembly of 24 October 1992. As it may be known, this report was also presented to the Government inspector and other relevant authorities. It was written in the report that these bullets were taken from the house of Lawyer Mesut Uysal who was subject to an armed attack in Q̇ṙnak. Therefore, it is not easy to understand why these have been included in the investigation file as evidences of crime 11 years later.

2. Identifying the work in relation with prison issues as being beyond the goals of the Association and as a crime

Both in the preparatory documents prepared by the police and in the Press Prosecutor's decision on non-jurisdiction, work carried out by the Association towards prison issues are tried to be shown as committing a crime. Paragraphs 4 and 5 of Article 3 of the Regulation of the Association says the following:

§4. To conduct researches and interpretations to ensure prisoners, convicts and detainees to live in conditions respecting human dignity without making any discrimination on the grounds of race, language, religion and political thinking and to enlighten the public opinion.

§5. To collaborate with other organisations sharing the same goal.

As it can be seen from our regulation, work carried out on prison issues is in harmony with the regulation. Assessing these works as crime is a total unfairness towards our Association. We are expecting the honorable Prosecutor to take these issues into consideration.

RESULT and REQUEST: We request the Prosecutor to take our explanations and the documents annexed to this petition into account and to make the decision that there is no reason for investigation.

Service

Main collaborators of the project

The **Refugee Council of Lower Saxony (Nds. Flüchtlingsrat - NFR)** was founded in 1984 and has got about 200 members. It co-ordinates and organises activities in the field of work with refugees in the state of Lower Saxony. NFR serves as a counsellor for self-supporting groups of refugees and organisations who deal with refugees' problems, and gives advise in special individual cases. Periodically, NFR publishes a magazine, offers training e.g. for social workers. Public relations work is done for individual cases and on asylum policy. Since 1998, NFR investigates into the risk for refugees returning to Turkey.

PRO ASYL was established in 1986. It is an umbrella organisation for co-operation between German NGOs concerned with refugees and asylum seekers. PRO ASYL members include all the federal refugee councils in Germany, church based assisting organisations, national branches of international organisations and other agencies dealing with human rights issues. It is focussing on two main concerns: the commitment in the legal domain, with the explicit aim of rectifying the change of the German asylum law, and the concrete support of individual refugees with exemplary appeals, in order to achieve a fair representation of asylum seekers. PRO ASYL is counting 11 000 members today.

TAV (Toplumsal Arařtıřmalar Vakıf - Foundation for Social Research, Art and Culture) is doing social studies, organising scientific, political and sociocultural activities, seminars and symposiums, aiming to extend the border of democracy and give scientific and cultural support to all democratic civil organisations in Turkey. TAV is in contact with trade unions, human rights organisations and other civil research organisations. Currently, it is offering democratic, cultural and artistic education to various The foundation has got 11 offices and 250 members. It publishes a monthly bulletin and a scientific journal four times a year.

IHD (İnsan Hakları Derneđi - Human Rights Association) was founded in 1986 to carry out activities in the field of human rights and liberty in Turkey. IHD conducts and commissions scientific studies in connection with human rights in order to monitor developments in this sphere and make them known to the public. It organises conferences and public debates, carries out investigations into human rights violations in order to document and publish them, and offers judicial and medical support for the persons concerned. It is publishing a monthly bulletin. IHD has got about 50 branches and about 50 000 members.



Foto: NRF

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