FROM GERMANY TO TURKISH TORTURE CHAMBERS

On risks for Kurds returning to Turkey

2nd enlarged edition

published by
PRO ASYL and Förderverein Nds. Flüchtlingsrat e.V.
in June 2000
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**Abbreviations**

ATG: Anti Terror Gesetz (Law against terrorism)
Ausländergesetz (Aliens Act)
BAFl: Bundesamt für die Anerkennung ausländischer Flüchtlinge (Federal Office for the Recognition of Foreign Refugees)
BGS: Bundesgrenzschutz (Federal border police)
IHD: Insan Haklari Denergi (Human Rights Association)
NEK: Nordelbische Kirche (Lutheran Church in the provinces around Hamburg)
OVG: Oberverwaltungsgericht (High Administrative Court)
SSG: Staatssicherheitsgericht (State Security Court)
TSiGB: Türkisches Strafgesetzbuch (Turkish Penal Code)
VG: Verwaltungsgericht (Administrative Court)
VGH: Verwaltungsgerichtshof (Administrative Court of Justice)

HADEP: Halkin Demokrası Partisi (People’s Democratic Party)
PKK: Partiya Karkeren Kurdistan (Kurdistan worker’s party)
ERNK: Eniya Rizgariya Netewa Kurdistan (National Liberation Front Kurdistan)
IMK: International association for the Human Rights of the Kurds
HEP: Halkin Emegi Partisi (People’s Labour Party)
EJAK: Eniya Jinen Azadiya Kurdistan (Union of Free Women of Kurdistan)
Preface to the 2nd enlarged edition

With the present description of individual cases, the Refugee Council of Lower Saxony and PRO ASYL continue the documentation of persecution cases after deportation to Turkey. Seven current cases were investigated and six cases of returned refugees were included who succeeded in escaping to Germany for a second time and were then recognised as political refugees by the BAFI or court.

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.

In all cases BAFI and courts turned down the applications for asylum with stereotypical reasons. They denied a group persecution, minimised the case as “customary” and “mere molestation” and referred to the supposed possibility to live safely in Western Turkey, the so-called inland flight alternative.

Usually, no further proceedings were made, arguing that the asylum seekers were “mere followers” whose exile political activities were not interesting for Turkish security forces. With their deportation the people concerned were exposed to renewed persecution.

E.g., Ahmet Angay and N.B. were instantly arrested at the airport and interrogated and maltreated for nine days. They were accused of having demonstrated for the PKK in Germany. After being released both were arrested again by security forces: N. B. was denounced by a village guard who had recognised him on MED-TV, Mr. Angay was arrested in Enez. Both were tortured heavily.

Abdurrahman T., Ferit M. and Hüseyin Ayhanci were kidnapped in the street by civil 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. As to Ayhanci we know that he was urged to spy on the exile opposition as an agent. Just as in the other cases documented here, the actual or imputed political commitment of the Kurds abroad played an important role. Among other things this follows from interrogation records of the anti-terror department and court records.

Probably because of a denunciation, the Kurdish woman Can I. was on purpose pulled out of a touring bus in Antalya and brought to the anti-terror department where she was interrogated under torture. According to her statement, she was, among other things, asked about the (alleged) activists of “church actions” in Germany. The case of this Kurdish woman supports concerns that the Turkish prosecuting authorities have a strong interest in identifying participants of travelling church asylum (TCA) of Nordrhein-Westfalen and that in case of deportation political persecution is quite possible. Just recently - on October 21st, 1999 - the defector Vedat Yilmaz had denounced the TCA in the States Security Court of Diyarbakir as an action guided by PKK and had named several persons. Witnesses have reported that one participant of TCA, Yusuf Demir, who was deported in January 2000, was arrested, interrogated, and tortured. His case was examined by the Human Rights Foundation in Izmir. Investigations in this case are
incomplete. It is still unknown whether these two cases are connected.

In the case of Hüseyin Genc the initial reasons for his escape - which he had stated also in his application for asylum - have lead to renewed persecution after his deportation. He was again urged to work as a village guard and tortured repeatedly when he refused to do so. It was only after his second escape to Germany that the VG Stuttgart realised that Turkish security forces intended to test his loyalty. Meanwhile Genc is recognised as a political refugee.

The cases of Ayse T., 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 reason 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”.

In some of the cases documented here, the Kurds succeeded in fleeing to Germany a second time. In some cases the incidents in Turkey after the deportation were not investigated. In these cases, i.e. Hüseyin Genc and N.B., the BAFI and the courts have checked the credibility of the persons concerned and - based on the incidents after the deportation - have granted them asylum or stated obstacles precluding deportation. 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.

The research work of PRO ASYL and the Refugee Council of Lower Saxony have contributed to the fact that the Foreign Office has come to a slightly different view of the situation in Turkey. Unfortunately, though, that change of view cannot be called fundamental. In the category “danger of returning” in the latest situation report, dated September 7th, 1999, some of the cases were described which we had investigated. The cases included in the documentation are explicitly mentioned in the source list. Although the Foreign Office states torture was verifiable in two cases only (Mehmet Ali Akbas and Iman Genlik), it does not exclude maltreatment in a series of other exemplary cases and describes concrete patterns of persecution in detail: Arrests, detentions, accusations and sometimes convictions after deportation were, in the majority of cases, based on exile political activities of low threshold profile. Meanwhile, other cases are classified as credible by the BAFI. In the beginning of 2000, Hüzni Almaz and Oguz Ciftci (pseudonym Mehmet C.) qualified legally for so-called “small asylum” according to § 51 AuslG.

Unfortunately the new situation report did not have any political consequences - such as a temporary stop of deportations like in the Netherlands. Nor did the optimistic prognosis come true that the new estimation would make it easier for Kurds to become acknowledged as politically prosecuted. Our impression is that on the contrary it is becoming more and more difficult to prove a fate of persecution.
More than ever before the BAFI and the courts tend to diminish encroachments of Turkish security forces as excesses of individuals. Thus a distinction between government and security forces is suggested that actually does not exist. The German Minister of the Interior is meanwhile acting in the field of foreign policy, negotiating with Turkish authorities the easiest way of deporting Kurds. An answer to an inquiry of the fraction of PDS in the German parliament (December 30th, 1999) shows the intention of the German government to continue the so-called consulting procedure. That agreement which was negotiated between former Turkish and German Ministers of the Interior, Mentese and Kanther, states literally: “The government of the Republic of Turkey points out that every Turkish citizen deported from the Federal Republic of Germany will be treated in conformity with the rules of law.”

Although there are plenty of examples that Turkey does not provide safety for deported persons as guaranteed in the agreement, the German government does not seem to doubt that Turkey would conduct the proceedings correctly. In its answer the German government states that Turkey had signed the European Human Rights Convention and thus was obliged to attend to the observance of human rights in its own country. In November 1999, a commission of high-ranking officials have already met to discuss procedures.

In December 1999, the EU summit decided, strongly urged by the German government, to give Turkey the status of candidate for EU membership. In principle, we welcome that decision, but we warn to take the mere announcement of democratisation for its realisation. The intended armament deals with Turkey will also show how human rights are valued by the German government.

In practice, the avowals of leading Turkish politicians to democratisation and adherence to human rights are not embodied yet. The legal foundations allowing to punish free expression of opinion and commitment for equal treatment of Kurds are still in force. The government’s doctrine laid down in the constitution which denies recognition of any minorities in Turkey is still valid - any opposition to this doctrine is being prosecuted as separatism. The continuing practice of incommunicado detention, without contact to a lawyer, is considered by Human rights organisations to be the structural prerequisite for torture. The highly praised new laws for the protection of human rights turn out to be pure facade: e.g. the amnesty law for “press delicts” provides sentences of imprisonment of journalists and editors who were convicted before April 23rd, 1999, to be suspended for three years. Whoever is writing another critical article within that period, may, however, immediately be brought to court again. The majority of journalists convicted for alleged support of illegal organisations is not touched by that law. About 152 laws restricting freedom of expression of opinion are not touched by that law. Another example: the amendment of the law concerning the procedures of investigation and legal proceedings against government employees guilty of torturing, tends to make believe that sentences against torturing government employees are tightened up, and investigations against them are sped up. Already before the passing of that amendment the Deputy Secretary of State of the Ministry of Internal Affairs, Sami Sönmez, declared that higher sentences for torture would make the police unable to act. The new law did not lead to principal changes: It is true that sentences were tightened up but any criminal prosecution of an accused still depends on his superior’s assent. Correspondingly, only few trials are started. Mostly, torturers get off scot-free. While Minister of Justice Sami Türk still considers the law to be “revolutionary”, the presiding judge of the court of cassation, Sami Selcuk, stated: “This law is not even evolutionary. (...) We did not even catch up with the 18th century.” (IMK- weekly information service) No. 29, 32 and 44-45, 1999).
The Turkish government never made a step towards the representatives of the Kurds. The only legal Kurdish Party, HADEP, is being harassed by raids and apprehensions of members, although the President of the State, Demirel, asserts the opposite. In February, several members (of the board) were sentenced to years of imprisonment for alleged support of the PKK. Proceedings aiming at a prohibition of HADEP are going on. On February 19th, three Kurdish mayors were arrested for alleged contact to the PKK. According to Amnesty International, they had no contact with their lawyers and were heavily tortured. Due to strong international protest the mayors were released again on February 28th, 2000. The proceedings in the state security court in Diyarbakir concerning support of PKK are still pending.

The attitude of the government towards the PKK is still characterised by the principle “No negotiation with terrorists”. Thus, peace delegations of PKK, including high-ranking officials, were arrested upon their arrival and brought to court.

The annual report of IHD for 1999, states that human rights are still being gravely violated. In February 2000, a peaceful demonstration of IHD, HADEP and other oppositional organisations with the motto “human rights in the year 2000”, was broken up violently by police. 250 people were knocked down and arrested.

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. Exact criteria for what is setting off persecution cannot be found. 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.

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

May 2000
Claudia Gayer
Preface to the 1st edition

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 group of asylum seekers. Only some of these refugees are recognised as politically persecuted or protected against deportation according to §§ 51, 53 AuslG. In 1998, 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 had started on collecting background 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 translated judicial documents. A large part of the cases was investigated in close cooperation with the Turkish association of Human rights IHD (Insan Haklari Denergi) 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. In a number of cases we could give watertight proof of persecution and maltreatment. These are the cases we have added to this brochure. Sometimes, of course, we have been confronted with “myths of persecution”. In order not to risk our credibility we have verified all reports that reached us and in case of doubt refrained from publishing them.

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. E.g., in the case of Abdulmenaf Düzenli, genuine documents were classified as faked by the responsible administrative court without examination. Moreover it was falsely assumed, desertion would, in Turkey, “only” lead to criminal and not 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.

In the case of the Kurd Mehmet Ö., the BAFI 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 BAFI 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 BAFI. Ö. finally became a victim of the end of legal proceedings: As an asylum seeker he had to live on vouchers. Thus, after the dismissal of his application he could no longer pay his lawyer who claimed 700 German Marks in advance. Thus the deadline of legal action expired and Mehmet Ö. was deported to Turkey.

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. 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 the cases of Ahmet Karakuş, Abduhrrahman Kilíc, Hüsnü Almaz, Hasan Kutgan, Salih Berkil and Hamdullah Yılmaz.

Two of the cases described, i.e. those of Salih Berkil and Hamdullah Yilmaz, are cases of itinerant workmen, not refugees. We have nevertheless documented both cases, because they make clear how seriously anonymous denunciations are taken by Turkish prosecution authorities, no matter how baseless they are, and how high the risk is of getting wrongly arrested, accused and at that tortured. Obviously big importance is attached to denunciations, and the accused persons are suspected, 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.

Often the slightest suspicion of an anti-Turkish attitude is sufficient to order an apprehension, as in the case of Hasan Kutgan who initially was arrested only because he was born in the Eastern part of the country, in Pazarcik. In some cases the apprehension took place days or weeks after entering Turkey, e.g. in the case of Abduhrrahman Kilíc and Hüsnü Almaz. Such cases are especially hard to be documented, since they usually have disappeared from public consciousness.

The case of Mehmet Ali Akbas drew countrywide attention. After his deportation he was abducted and tortured for days. He was set free only after he had given extensive evidence about the structures of PKK in Germany, had denounced several persons and had pretended to cooperate. He succeeded in convincing the German authorities of the endured tortures. As an officially recognised victim of torture he was officially allowed to re-enter Germany and is meanwhile entitled to political asylum.

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.

Other cases are also typical persecution fates. Most of the Kurds had not been working in exposed (exile-) political positions but were rather “mere” fellow-travellers - at least according to the findings of German authorities during the asylum procedures.

Wrong assumptions or decisions, respectively, by German authorities and courts often led to deportation/expulsion, even in the new cases. The asylum decision makers disregarded the fate of persecution of the persons concerned and certified that they might return without being persecuted - in case of doubt with the reference to a supposedly safe inland flight alternative. 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 BAFI arguing that
the stated apprehensions were probably “completely imaginary”. For the BAFI 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.

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 BAFI and courts that political persecution had taken place. Often such statements were diminished as “customary molestation”. Such misinterpretations may have fatal consequences such as in the case of Hüseyin Öztürk: The Kurd was deported in March 1999, after BAFI, VG Regensburg and VGH had classified his statements as not credible that Turkish security forces would search for him because of guerrilla actions he had committed as a teenager. VG Regensburg argued that he was at most globally suspected of separatism, i.e. a nonspecific offence in the distressed provinces which would generally affect every young Kurd. Öztürk was arrested already at the airport and accused of separatism according to article 125 TStGB. A conviction according to that article provides death penalty. The wrong decisions of German authorities and courts may bring Öztürk not only to the Turkish torture chamber but even to the death cell.

In the case of Ilhan O., the protection of marriage and family guaranteed by the constitution ranked secondary in comparison with the protection of government property: The Kurdish woman came in 1996 under the regulation of family reunion to live with her husband in Germany, who had been recognised as political refugee and had a residence permit. Since the family was dependent on social welfare, however, Mrs. O. and her three children were deported in March 1999. They were maltreated and menaced at the anti-terror-department.

If the concerned persons had been politically active in Germany, the BAFI and courts fall back to stereotyped phrases. In the practice of decision-making they assume “that subordinate political actions in Germany (...) are normally not known to Turkish security forces or not interesting for them, respectively, and therefore do not cause investigations and measures of persecution in Turkey”. Our investigations show that this assumption cannot be held up: In almost all cases documented by us the real or alleged exile political activities of Kurds played an important role at apprehensions and interrogations. Among other things this follows from the present interrogation records and bills of indictment.

According to statements of the concerned persons, security forces tried in some cases to make them work for them as agents. The concerned persons were forced to cooperate by means of torture or threat of violence.

Obviously the BGS also played a dubious part in some deportations: Four 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 deportation 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 SSG Istanbul. Mehmet C. and Abdulhalim Nahir 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.

Within the last months the situation in Turkey has turned worse. After the arrest of Abdullah Öcalan the terror against oppositionists and especially against Kurds has increased.

Considering the “highly emotionalised atmosphere” the Foreign Office stated an “increased risk”
for deported Kurds in an ad-hoc report dated February 2nd, 1999, but the previous estimation of the situation was explicitly confirmed. As a result the Ministry of Internal Affairs of Lower Saxony made clear, referring to an unpublished comment of the Federal Ministry of Internal Affairs, that basically there was no change in deportation practice. In case of “PKK criminals”, however, the consultation procedure should be applied.

The consultation procedure says that Turkish authorities inform German authorities on request whether the concerned persons have to expect criminal proceedings in Turkey. That procedure, however, is dubious, for it draws the attention of the Turkish authorities to the fact that the person to be deported has committed a crime related to the PKK. On the other hand the procedure does not work considering that according to our findings there are lots of arrests without previous investigations. They result from a vague suspicion or a denunciation. Often the investigation starts after the arrest, whereat torture is part of the “methods of investigation”. In most cases which we have investigated, requests at Turkish authorities would have resulted in the information that there was no charge against the concerned persons.

In can be proved that at least two refugees have been arrested after their expulsion due to an anonymous denunciation. As already mentioned in the first interim report, denunciations play an important role in Turkey and are taken very seriously. The concerned persons incur preliminary suspicion, no matter if the statements can stand examination of their contents or not. This is shown e.g. by the case of Ferit K.. The Rural police commander’s office of Kasloiva 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 SSG Diyarbakir.

Torturings are usually difficult to be proved. Only rarely the concerned persons can produce corresponding medical certificates. Many doctors in Turkey are afraid of losing their position and of judicial prosecution and refuse to attest injuries caused by torture. In the case of Emin Acar such a certificate of an official jail physician is present. He stated a burst eardrum for the 17-year-old.

Finally everything depends on the statement of the concerned person and his or her credibility. There are rarely witnesses who can confirm tortures. We are documenting one of those “exceptional cases”: in the anti - terror - department of Istanbul Mehmet C. became, while he was tortured himself, witness of the torturing of two other persons. The lawyer Gülsen Yoleri could find one of them. It is Hüseyin Öztürk, deported from Germany and imprisoned in Ümraniye jail.

For the BAFI and the 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.

Until recently neither the Foreign Office nor the BAFI and the responsible courts were much impressed by the present cases. The situation report on Turkey by the Foreign Office dated September 9th, 1999, expresses a cautiously revised valuation. While until recently the case of Mehmet Ali Akbas was considered to be the only proved one, the Foreign Office now speaks of further cases in its new situation report. It is still striking, however, that the Foreign Office confirms with almost no exception only those cases as credible in which it came to a judicial recognition of political persecution after returning to Germany. Some cases were not taken up by the Foreign
Office. In others it obviously did not find a way of verifying the details. We cannot understand why the Foreign Office almost with no exception confines itself to the question whether the maltreatment or torture, respectively, stated by the concerned persons is credible. It makes very cautious statements on other backgrounds of the cases, such as convictions or arrest after deportation. We think that Germany has a special continued responsibility for people deported from Germany. Therefore we expect efforts by the Foreign Office to install an efficient monitoring mechanism.

The practice of the German General Consulate in Istanbul, however, is to be rated positively, as in the meantime it stood up actively and successfully for the concerned persons. Three Kurds, Abdulhalim Nayir, Mustafa E. and Emin Acar were acquitted in surprising legal decisions after diplomatic intervention by the consulate. Considering that in two cases Turkish lawyers were expecting high sentences of detention because of the immense amount of evidence, the acquittals are even more remarkable. But tortures during police detention, imprisonment and oppressions cannot be made undone. Nor do acquittals necessarily protect from further political persecution.

The suspicion of separatism and terrorism sticks to the concerned persons. And finally it is unsatisfactory if in singular cases, due to diplomatic efforts, some `success´ is scored, but in principle nothing is being changed in the practice of asylum, and refugees are still being deported to the torture chamber.

Altogether, the current situation report on Turkey of the Foreign Office shows a non-uniform picture. Some new precise formulations are contrasted by immense absurdities.

One of them is the distinction between government and security organs made in the situation report. The Foreign Office is of the opinion that the practice of human rights in Turkey is mainly suffering from the still unsatisfactory attention paid to effective law by security forces. The government would regularly dissociate itself from their illegal actions. This statement, repeated several times in the situation report, is not plausible at all. The security forces (army, police, secret service) act as integral part of the country's political system. It is true that the National Security Council (as a quasi supra-parliamentary committee), military and security forces lead some kind of individual existence. On the other hand, it is significant for the democratic deficits of Turkey, that the exceptional role of the army and the exceptional powers of security forces are being regularly confirmed, and parliamentary control is largely disclaimed. Thus, the security forces are not an independent authority apart from a government which cannot control them. They are rather its manageable instrument and at the same time a state within the state. Wolfgang Koydl has, at the occasion of the annual meeting of the Supreme Military Council (YAS) of Turkey, described the status quo in the Süddeutsche Zeitung of August 4th, 1999, as follows: “The military are the factual rulers of the country, and the YAS meeting is setting the guiding political principles. Here, decisions are made on the two most important positions in the republic, i.e. the chief of the general staff and the general secretary of the national security council. That board meets once every month and gives `recommendations´ for topical politics which the politicians follow like orders.”

The situation report by the Foreign Office mentions quite clearly that violations of human rights occur frequently. It is satisfactory that the Foreign Office explains quite clearly in some places that the declarations of intentions by the Turkish government should not be taken for reality. Thus the Foreign Office states: “Lately new tones are occasionally heard in the public discussion on violations of human rights. Prominent politicians are discussing problems quite frankly. Changes in language, however, have so far not led to new practices in human rights.“

In its situation report the Foreign Office explains very clearly the structural problems of violations of human rights in Turkey, quoting the report on torture by the special UN observer dated January
27th, 1999: "The main deficit consists in the rule that the accused persons in state security cases, during the first 48 hours or four days, respectively, of police detention do not have the unimpeded right to contact a lawyer. Therefore, incommunicado detention has for a long time been criticized as the structural prerequisite for torture". In simple words: The Turkish government has, by its legal rules, provided the prerequisites for continued torturing practices in Turkey.

Elsewhere the Foreign Office states: "Such encroachments are also motivated by the fact that the judgement of Turkish security forces is to a high degree based on confessions which are traditionally considered to have a high argumentative value." In Turkey, confessions extorted under torture are often used as legal evidence. This practice is evident in some of the individual cases presented in this documentation.

The fact that the Foreign Office has changed its previous statement, that people from South-Eastern Turkey have an inland flight alternative, is of much greater practical importance. With respect to the encroachments by security forces it states in somewhat complex words: "These events are part of the questionable practices of the Turkish security forces, over the whole country and with no relation to ethnical conditions. Although the general statement is not correct that for Kurds in Turkey generally or for Kurds from the south-eastern Kurdish territory or only for Kurds from the distressed areas there are no chances of evasion, this statement may be true in some individual cases. Such measures are not ethnically motivated and defined, irrespective of the fact that, in the regions in question, Kurds are predominantly (but by no means exclusively) exposed to this risk." In practice, this means, that every individual case must be investigated. A mere reference by the BAFI and many administrative courts to the inland flight alternative will no longer do. Thus the chances for reapplications for asylum will improve. Some first commonly known decisions by courts aware of the new situation report, however, have turned out differently. As in the previous reports, the Foreign Office is already conceptually attempting to exclude a collective persecution of Kurds. Although the Foreign Office has admitted that critical remarks concerning the Kurdish question are being penalised by law and that persons with Kurdish background become, more often than others, suspected of separatism, and although explicit repressions against the population in the south-east are reported, any persecution based on ethnic relationships is categorically denied. According to that aspect, the Turkish government is not persecuting Kurds but only individuals. It is certainly true that Kurds can live in Turkey without any problems and even work in high-ranking positions. But their complete assimilation and a renunciation of their ethnic background, i.e. the resignation of their basic democratic rights are prerequisites for their unimpeded life. Critical expressions of opinion with respect to the Kurdish question are being penalised by law as before. The Foreign Office also states: "Persons standing up in speech or writing for Kurdish autonomy, i.e. for Kurdish self-government within the Turkish state or laying claim to cultural independence risk to be punished for 'separatist propaganda'." One logical consequence of this statement would be to admit the existence of a collective persecution of non-assimilated Kurds. In this respect, the Foreign Office is evidently submitting itself to the interests of the German Secretaries of Internal Affairs, for whom the general recognition of a collective persecution of all non-assimilated Kurds would be a nightmare, since already now the relatively large rate of recognition of applications for asylum by Kurds from Turkey appears hardly tolerable to them. This attitude of the German Foreign Office seems to be in accordance with the fact that the Foreign Office has elsewhere denoted the displacement of millions of Kurds from south-eastern Turkey and the destruction of about 3500 villages as "evacuation".

The introduction of the situation report continues what the Secretary of State in the Foreign Office, Ludger Volmer, had declared already when a new conception for all situation reports of
the Foreign Office was announced: In the future, the Foreign Office will restrict itself to the representation of facts, refrain from judicial valuations, and leave conclusions from such representations of facts to administrative authorities and courts. The contents of the report, however, are not in accord with this announcement in some central points. Although it is true that risks for Kurds are mentioned in the situation report, and reports on human rights by official authorities are quoted, there are passages where mere considerations of plausibility replace seriously investigated facts. E.g. the actual report is stating again that “Turkish authorities are mainly interested in wirepullers of activities in foreign countries which, in the view of Turkish authorities, appear ‘separatist’.” The individual cases in the present documentation as well as reports by other non-government organisations prove that even persons who have not been politically active in exposed positions, have been maltreated and tortured. Thus the situation report must accept the reproach for having been subservient to the interests of home affairs, as it suggests that risks exist only for political activists in exposed positions.

For all that, the changes in the actual situation report show that the documentation of individual cases as well as struggling for each paragraph and every wording of the situation report are necessary in order to improve the chances of persecuted Kurds in German asylum proceedings. 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.

Claudia Gayer
Documentation of individual cases

1. Ahmet Karakus

Deported - tortured - accused - sentenced

The Kurd Ahmet Karakus was deported from Germany to Turkey on August 20\(^{th}\), 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 25\(^{th}\), 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 26\(^{th}\), 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 6\(^{th}\), 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 is imprisoned at Maras.

2. Abdulmenaf Düzenli

Deported - tortured - accused twice - sentenced for desertion - arrested

The Kurd Abdulmenaf Düzenli deserted from the Turkish army on March 8\(^{th}\), 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. It is still uncertain, whether the office of the public prosecutor will give notice of appeal.

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 - arrested*

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 Firat Anli and Mehmet Sirak Anik, 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 Döertyama. Besides against
Kilic, Mehmet Döertyama is known to have informed against several other persons. That follows
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.
The proceedings against Mr. Kilic are still pending. He is being kept in prison in Elazig.

5. Hüzni Almaz

*Expelled - denounced - tortured - convicted*

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.

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.

6. Hasan Kutgan

Deported - tortured - accused - acquitted for lack of evidence

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.

As a matter of fact, Hasan Kutgan has never taken part in any PKK meeting. He is rather known as a person not much interested in politics. 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. According to his lawyer, Hasan Kutgans’ reapplication for asylum is still pending at the Federal Office.
7. Salih Berkil

Arrested on a vacation trip - tortured - accused - acquitted for lack of evidence

The Turkish migrant Salih Berkil who is resident in Germany for more than 20 years was arrested on November 14th, 1997 when he entered Turkey (vacation trip), and maltreated for several days. At the request of the police headquarters in Ankara Berkil’s name had been put on a “wanted” list in January, 1997. He was charged with actively having supported the Kurds. The note dated November 16th, 1997, from the police headquarters in Ankara to the police headquarters in Antalya contained the following statements:

“It was ascertained that the person concerned has been acting as the 2nd president of a Kurdish association, has sold journals and other publications and thus helped to give the association a financial source, has made speeches against the government of the Turkish republic, has donated money to the Kurds for buying arms, has regularly taken part in demonstrations in front of our general consulate in Nuremberg (…). A note from the police headquarters in Ankara dated January 7th, 1997 requires that that person should be put on the list of persons to be arrested because of his activities in connection with Kurdish subversive actions.”

Salih Berkil was taken to the anti-terror department of the police headquarters at Antalya, and questioned for several days under heavy torture. His eyes were blindfolded. He was stripped, splashed with cold water, beaten, and threatened with electro-shocks. He was forced to sign a prepared confession. On November 25th, 1997, the state security court at Izmir brought an action against him.

In court Mr. Berkil revoked his extorted confession. The accusation turned out to be inconsistent and incorrect. E.g. the association of which Berkil had been charged of having been a president did not even exist. At that it would have been unusual that a Turk should have been the president of a Kurdish association. Berkil himself had been unable to be politically active because of an illness. On December 12th, 1997, he was acquitted for “lack of convincing evidence”, but the state security court at Izmir stated that there “remains some residual suspicion”.

His lawyer, Murat Erdogan, thinks that one single piece of evidence would have been sufficient for a condemnation. Mr. Erdogan suspects that Salih Berkil was denounced from Germany, presumably through the Turkish consulate. Mr. Berkil was kept in custody for more than a month.

8. Hamdullah Yilmaz

Arrested on a vacation trip - tortured - accused - acquitted for lack of evidence

Hamdullah Yilmaz who has been working in Germany for more than 30 years made a vacation trip to Side/Turkey with a German tourist party at the end of 1997. On December 2nd, 1997, he was prevented from leaving on Antalya airport, and arrested by the police under suspicion of having supported the PKK. He was placed under detention, heavily tortured by beating and electro-shocks etc. and accused. His detention was probably based on an anonymous information sent to the Turkish consulate in Nuremberg and from there forwarded to Turkey. He was charged with having extorted payments from Turkish citizens in the name of the PKK.

“In that letter it had been asserted that he had threatened the victims to have their houses and shops burned down. The author of that letter declared that he had for fear withheld his name.” (From a letter by the consul general Sakir Fakili dated February 5th, 1998).

It cannot be excluded that Hamdullah Yilmaz and Salih Berkil were both denounced at the
consulate at Nuremberg by the same person. The parallels are too evident. In both cases the charges were completely unfounded. Both are Turks, both were seriously ill or handicapped, respectively, both were on a vacation trip to Antalya. Hamdullah Yılmaz was accused in the state security court Izmir. During the proceedings on February 5th, 1998, Hamdullah Yılmaz revoked his extorted confession. Yılmaz had never been active for the PKK. Finally he had to be acquitted for lack of evidence. Yılmaz had been kept in detention for more than two months.

9. 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 office 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.

10. 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 cooperation 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, 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.
11. 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 prosecutor’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.

12. Menduh Bingöl
*Deported - tortured - arrested - accused*

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.

According to his lawyer, Bingöl is back again in Germany. He has again applied for asylum.

13. Oguz Ciftci

Deported - reproaches against BGS - tortured - released as “informer”

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 case 16).

Since his release, Oğuz 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, Oğuz 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.

14. Emin Acar

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

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 otolaryngologistic 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.

15. 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 Karliova/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 Karliova/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.

16. Hüseyin Öztürk
Deported - tortured - arrested - accused - motion for the death sentence

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-Ümraiye.

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 BAFI 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 BAFI, 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 result 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.

17. Ilhan O.

Deported - maltreated

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, Tawfeek Mantani, 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 poster 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. Presently she is hiding herself and the children for fear of further maltreatment. According to her lawyer, Ilhan O. is back in Germany. She has reapplied for asylum.

18. 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 follows 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 anti-terror 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.

19. Abdulhalim Nayir
Deported - reproaches against BGS - tortured - released as “informer” - accused - acquitted

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 molestation 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.

Abdulhalim Nayir is back in Germany. He and his two sons were immediately arrested in Büren for deportation. His wife and the other children are free. Nayir has made a declaration to his lawyer Dündar Kelloglu, concerning further persecution after his release, and repeated his application for asylum. The decision is pending, and he remains under arrest since French tickets were found among his personal things. Thus the Federal Office intends to deport him to France, within the framework of the third-country agreement, without any further examination of the reasons for his flight.

20. 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 BAFl 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.”

21. Ahmet Angay

Deported - tortured - accused - arrested

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 Edime 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 Kirklareli 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. Angay is being held in prison at Kirklareli.

22. 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 HADEP 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.

23. 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.

24. Duran Y.

_Illegally deported - tortured_

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 Deggendorf. 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.
Presently Duran Y. is hiding himself outside of his village, for fear of a renewed apprehension.

25. 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.

26. Abdurrahman und 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, civilian 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 civilian 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."

27. 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 civilian 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 BAF)

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 cancelled from the “wanted” list, and thus he was repeatedly arrested by the German police, even after his recognition.

28. 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 reestablishment 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.
29. 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 physicists 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, Sicac’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.

30. 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 civilian 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 Özgur 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. In the middle of March, Ayhanci finally fled to Romania out of fear of further persecution.

31. 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 BAFl 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 6\textsuperscript{th}, 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 24\textsuperscript{th}, 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 9\textsuperscript{th}, 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.

32. Yüksel Kücük

\textit{Deported - tortured - renewed flight - “small asylum”}

In 1992, Yüksel Kücük 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 5\textsuperscript{th}, 1998, Kücük 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. Kücük 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. Kücük 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 Kücük knew, advised him to leave the country, since he was no longer safe, and organised his departure.

Kücük 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 Kücük’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. Kücük was granted the “small asylum”, according to §51, section 1 AuslG.
Supplements to the investigation report „From Germany to the Turkish torture chambers“, 2nd enlarged edition, June, 2000

Nayir Family: Abdulhalim Nayir (No. 19), who at first ended up in detention for deportation after his renewed flight, 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 cooperation with the security forces as an informer by his flight abroad. The application for asylum for the rest of the family was being rejected.

Ahmet Angay: In the case of Angay (Nr.21.), the 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: Already in September 1998, he was deported and has been kept in Turkish detention since December 6th, 1998. 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.

Hasan Kutgan: Hasan Kutgan´s (No. 6) reapplication for asylum was being denied by the BAFI in April 2000. The document of this decision is not in our hands yet.

Menduh Bingöl: Menduh Bingöl´s (No.12) reapplication for asylum is being denied by the BAFI as well. 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 (lawyer Geisweid, Bochum).

Hildesheim, August 2000