

# INTIMIDATION IN TURKEY



A Report On Lawyers,  
Human Rights Activists  
And Politicians

May 1999

**KHHRP**

Kurdish Human Rights Project



BAR HUMAN RIGHTS  
COMMITTEE OF  
ENGLAND AND WALES

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Human Rights Activists  
And Politicians



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# **INTIMIDATION IN TURKEY**

## **A report on lawyers, human rights activists and politicians**

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## FOREWORD

In December 1998, on the eve of the fiftieth anniversary of the Universal Declaration of Human Rights, the United Nations Assembly adopted the Declaration on the Protection of Human Rights Defenders. This recognises that:-

“everyone has the right, individually and in association with others, to promote and strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels”.

It is a truism to say that in order to establish and maintain observance of fundamental human rights, instances of human rights abuse must be documented, and the perpetrators must be brought to justice. In Turkey, as in many other parts of the world, a number of exceptional individuals have been battling to uphold human rights standards for many years. They have been working in intolerable circumstances: writers, human rights activists, lawyers and politicians have been imprisoned over the years for “activities which threaten the integrity of the State”, when, to an impartial observer, their only crime has been to call for justice. Some of these individuals spend time in prison: others have given their lives in the struggle.

This report contains an account of interviews given by individuals and representatives of human rights organisations and political parties in Istanbul in March 1999, in the run up to the 1999 elections, and in the aftermath of the arrest of Abdullah Ocalan. They document accounts of deaths, abductions, intimidation, torture and threats. They record harassment of lawyers who are simply seeking to defend their clients. They expose the Turkish system's failure to bring those responsible for such intimidation to account, and they allege state involvement in the persecution.

This report is important as it highlights the obstacles in the path of those seeking to uphold human rights in Turkey: obstacles which seem incredible to those working elsewhere. It also demonstrates the importance of international interest in events in Turkey. International observers, who should not be faced with the daily intimidation borne by organisations in Turkey, must continue to support the movement towards improved human rights in Turkey by recording the accounts of those who live and work there, and by disseminating these accounts worldwide.

The Kurdish Human Rights Project, the Bar Human Rights Committee of England and Wales and Howe & Co, solicitors, would like to thank all who participated in this delegation and those who helped to put this report together. Particular thanks are due to those who organised the visit in Turkey, not only for their practical assistance, but for their unfailing commitment to upholding human rights in the face of continued harassment, intimidation and worse.

We urge the international community, and the Turkish government, to seriously consider the recommendations made in this report.

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## INTRODUCTION

### The mission

This report is based on a series of interviews conducted by a legal delegation which visited Istanbul between 16<sup>th</sup> and 18<sup>th</sup> March 1999.

The delegation was organised by the Kurdish Human Rights Project (KHRP), the Bar Human Rights Committee of England and Wales (BHRC) and Howe & Co, solicitors.

Interviews were conducted with the Istanbul branch of the Human Rights Association of Turkey (IHD), the Foundation for Social Jurisprudence Research (TOHAV), the Istanbul Bar Association, representatives of the People's Democracy Party (HADEP), representatives of the Republican People's Party (CHP) and Ahmet Zeki Okcuoglu, who is a member of Abdullah Ocalan's legal team.<sup>1</sup>

This report was written by Antonia Mulvey and Simon Ridley, in collaboration with Edward Grieves and Rory Field.

By way of supplement, the report contains an extract from the proceedings of a public meeting in the House of Commons, on 26<sup>th</sup> April 1999, about "The Right to a Fair Trial and the Intimidation of Lawyers in Turkey". The meeting was hosted by Jeremy Corbyn MP and organised by the KHRP and the BHRC. One of the main speakers was Selim Okcuoglu, another member of Abdullah Ocalan's defence team and the brother of Ahmet Zeki Okcuoglu.<sup>2</sup>

### Aims of the mission

The aims of the mission were twofold.

Firstly, the delegation had intended to attend the trial of members of the Diyarbakir branch of the IHD at the State Security Court in Diyarbakir on 16<sup>th</sup> March 1999, but were refused entry to Diyarbakir by the Turkish authorities. This was on the orders of the state of emergency governor. The members of the delegation were informed that, due to security concerns in the region following the arrest of Abdullah Ocalan<sup>3</sup>, the south east of Turkey had been largely closed to foreign observers.<sup>4</sup>

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<sup>1</sup> At the time of going to press, the Turkish Daily News reported that the Ankara No. 2 State Security Court had decided that it was not appropriate for Ahmet Zeki Okcuoglu to be part of Abdullah Ocalan's legal team.

<sup>2</sup> Selim Okcuoglu's name does not appear on the list of approved defence lawyers for Mr Ocalan, declared by the Ankara No. 2 State Security Court on 20<sup>th</sup> May 1999.

<sup>3</sup> See below for more information on the arrest.

<sup>4</sup> Trial observation missions supported by KHRP and the BHRC have observed other hearings of the trial of the IHD members. A separate report on these missions, written by Edward Grieves, is available from KHRP and BHRC.

The second aim of the mission was to investigate the extent to which legal practitioners, human rights activists and political parties are subjected to intimidation by the Turkish authorities and others, and to report on the findings.

### **Members and organisers of the mission**

*Antonia Mulvey and Simon Ridley* are immigration caseworkers employed at Howe & Co, solicitors in west London.

*Rory Field* is a barrister in private practice in the UK. He is treasurer of the Bar Human Rights Committee of England and Wales and has observed trials in Sierra Leone on behalf of that committee and the United Nations.

*Edward Grieves* is a barrister in private practice in the UK. He is a member of the Bar of England and Wales Human Rights Committee, and has participated in several trial observation missions to Diyarbakir in order to observe the trial of members of the Diyarbakir branch of the IHD. A separate report on these missions is available from the KHRP and the BHRC.

*The Bar Human Rights Committee of England and Wales (BHRC)* is an independent body primarily concerned with the protection of the rights of advocates and judges around the world. It is also concerned with defending the rule of law and internationally recognised legal standards relating to the right to a fair trial.

*The Kurdish Human Rights Project (KHRP)* is an independent, non political charity founded and based in Britain. It is committed to the protection of human rights of all persons within the Kurdish regions of Turkey, Iran, Iraq, Syria and the former Soviet Union, irrespective of race, religion, sex, political persuasion or other belief or opinion.

*Howe & Co, solicitors* is a firm of solicitors based in west London. A large part of its work involves representing asylum seekers in proceedings against the Secretary of State for the Home Department under the criteria of the 1952 UN Refugee Convention. It has particular experience of Kurdish and Turkish asylum seekers and has brought cases before the Immigration Appellate Authorities, High Courts and House of Lords. It has sent delegations to Turkey on fact finding missions and trial observations on previous occasions.

### **Acknowledgements**

Many thanks are due to the lawyer Mr Edip Yildiz and the staff at TOHAV for their invaluable help and assistance during our time in Turkey, and for organising our interpreters. We are indebted to those to whom we spoke during our fact finding mission for giving their time and expertise. We wish to thank Howe & Co, solicitors, the Kurdish Human Rights Project and the Bar Human Rights Committee for their financial support. We would also like to extend our thanks to the Kurdish Human Rights Project for the help and assistance they gave in preparing this report and organising the mission. Finally, we would like to pay tribute to the commitment of all to whom we spoke to promoting human rights in Turkey in the face of very difficult conditions and often, as we discovered, at great personal risk to themselves.

## SECTION 1: BACKGROUND

### Historical introduction

According to its constitution, the modern state of Turkey is a multi-party republic. In point of fact, the range of political expression is limited and few parties are given real freedom to canvass diverse opinions. The principles of the modern Turkish state are based on homogeneity and the indivisibility of the State. In the homogenised state there is only room for one language, one religion and one cultural identity. This policy has, in particular, denied rights to people of Kurdish origin and to anyone who dares to criticise the State.

Turkey's economic progress since the 1980s and its recent political stability compared to the military coups of the 1960s and 1970s have encouraged Turkey to apply for membership of what is now the European Union. Several applications have been made since 1987. However, evidence of grave and widespread human rights violations occurring in Turkey has contributed to continued refusals to allow Turkey to join the Union. Despite this, and in the face of continued criticism from western European and other governments of its human rights record, Turkey's denial of religious, cultural, political and linguistic rights continues.

Nevertheless, there are signs to suggest that Turkey may be starting to reform some of the worst abuses.<sup>5</sup> However, this report shows how the arrest and detention of the leader of the Kurdistan Worker's Party (PKK)<sup>6</sup> has provoked another wave of human rights violations against Kurdish people across Turkey in recent months.

The March 1999 delegation spoke with a representatives of a number of organisations, several of which have grown up over the years despite interminable criticism, and worse, of those seeking to canvass a view which contradicts that of the state. All those who spoke with the delegation commented on a deterioration in human rights conditions since Mr Ocalan's arrest.

The delegation met with:

### The Human Rights Association of Turkey – IHD

The Human Rights Association (IHD) was founded in 1986 by a group of lawyers and human rights activists, and the relatives of prisoners. The IHD is now the largest independent human rights organisation in Turkey. The organisation has over 25,000 members and 41 branches throughout Turkey. Its headquarters are in Ankara. The Istanbul branch of the organisation has some 3,000 members. Fifty of these are lawyers who are actively campaigning for human rights in Istanbul.

<sup>5</sup> See, inter alia, the US State Department report on Turkey for 1998, the Lawyer's Committee for Human Rights report on Turkey in March 1999 (summarised in KHRP's Newslines, edition 6), and the Turkey section of the Amnesty International Website at [www.amnesty.org](http://www.amnesty.org) (in particular the 'Summary of Amnesty International Concerns in Turkey')

<sup>6</sup> The PKK is an armed opposition group, which has been involved in a conflict with the Turkish state in the south eastern regions of Turkey since 1984, in the course of which an estimated 30,000 people have lost their lives.

Article 3 of the IHD's constitution sets out the aims and objectives of the association:

1. To investigate, determine and inform individuals and the public of practice relating to human rights.
2. To carry out and have carried out scientific research in the matter of human rights and to follow developments in this field and announce them to the public.
3. To hold debates, conferences, seminars, forums, symposiums and all types of meetings and demonstrations, open exhibitions, issue publications, organise competitions, present prizes and found charities appropriate to the aims of the association.
4. To perform research and determinations to ensure that the lives of convicts, remand prisoners and those in pre-committal custody pass under conditions appropriate to human dignity regardless of their race, sex, language, religion, political opinion and beliefs and to enlighten the public in these matters; and
5. To co-operate with other institutes with the same aims.

The IHD has spoken out against the gross and systematic human rights violations carried out by the government and opposition parties. It also co-ordinates investigations on human rights practices in Turkey. The work of the IHD is portrayed by the government as undermining the state of Turkey. As such, the IHD has often been the subject of attack, against its premises and its members. Officials have been threatened, subjected to torture, arrested and killed. The most notorious recent example is the attempted assassination of Akin Birdal (President of the IHD) in May 1998<sup>7</sup>. In November 1998, he sought to travel to Norway to receive treatment for his injuries, but was prevented from leaving the country, as had recently been sentenced to one year's imprisonment for "inciting people to hatred and enmity on the basis of class, race or regional differences". His offence had been to call for a peaceful approach to issues concerning Turkey's Kurdish minority and to use the phrase "the Kurdish people" in a speech at a public meeting in September 1996. Due to concerns about Mr Birdal's health, the sentence is now due to begin on 3<sup>rd</sup> June 1999. Since 1991, at least 10 IHD officials have been killed. These killings have never been properly investigated.

In recent years, the authorities have ordered the closure of many IHD branches including Diyarbakir, Malataya, Izmir, Konya, Sanliurfa, Balikesir, Mardin and Bursa. Since then some branches have now re-opened but some remain closed, including the Diyarbakir branch. The Turkish authorities have cited a number of reasons why the branches should be closed, the Diyarbakir branch, for example, being closed because 'its activities threaten the unity of the state'.<sup>8</sup>

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<sup>7</sup> In May 1998, armed gunmen burst into Akin Birdal's office in Ankara and shot him. Despite being hit thirteen times, Mr Birdal survived the shooting. Following international condemnation of the assassination attempt and government inaction, eleven people have now been put on trial. Some of those accused have admitted to links with the government and organised crime.

<sup>8</sup> Following the acquittal of ten members of the Diyarbakir branch of the IHD on 11<sup>th</sup> May 1999, an application will shortly be made for the reopening of the Diyarbakir branch.

## **The Foundation for Social Jurisprudence Research - TOHAV**

TOHAV was founded by 46 lawyers on 23<sup>rd</sup> October 1994 in Istanbul. The foundation is a democratic, independent, impartial, non-political and non-governmental organisation.

TOHAV is comprised of three main sections:

1. Law Section – to raise human rights issues in national and international courts.
2. Torture Medical Centre – to provide medical assistance to torture victims.
3. Legal Assistance – to challenge the State for its actions and to provide redress for its victims.<sup>9</sup>

The stated aims of TOHAV are

1. To carry out independent and impartial investigations and studies on violations of human rights and breaches of the law in social and administrative life in Turkey. These violations stem partly from the Turkish Constitution and partly from the Turkish State and society.
2. To legally challenge the Turkish Constitution and the Turkish legal system, which have both caused the violations of rights and a breakdown of the rule of law. TOHAV aims to build the legal system in accordance with international legal norms by carrying out related studies and to co-operate with and contribute to the work of other organisations and individuals working in the same field.

It seeks to achieve these aims through the following methods

1. By investigating legislation and legal articles which are not in accordance with international law norms and by making reports.
2. By challenging new legislation and preparing and submitting alternative proposals.
3. By opening cases in the national courts and if they are not resolved, by going to the international courts, in circumstances where the law has been broken or there have been human rights violations.
4. By making effective studies, seminars and lectures which could pressurise the State to follow international treaties signed by Turkey.

## **Istanbul Bar Association**

The Istanbul Bar Association is the co-ordinating body for the legal profession in Istanbul. It is a member of the Turkish Bar Association, and is the largest local Bar Association in Turkey.

## **People's Democracy Party (Halkin Demokrasi Partisi) - HADEP**

The People's Labour Party (HEP) was formed in 1990 by seven members of the Turkish parliament who had been expelled from the Social Democratic Populist Party (SHP) for

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<sup>9</sup> Due to limited funds, this section remains embryonic at this stage.

attending a conference in Paris in November 1989 on the Kurdish situation. These members, plus three others, formed HEP on 7<sup>th</sup> June 1990. HEP joined with SHP prior to the October 1991 elections in order to bolster support from the Kurdish regions. However, the alliance was shortlived after the new deputies used Kurdish words in Parliament prior to taking the parliamentary oath. A number left SHP to re-form HEP in 1992. HEP was subsequently closed by the Turkish Supreme Court on 14<sup>th</sup> July 1993 for 'functioning with the intention of destroying the indivisible integrity of the state and nation.' In May 1993, 18 Kurdish deputies formed the Democracy Party (DEP) which was similarly banned on 16<sup>th</sup> June 1994. Thirteen of the deputies had their parliamentary immunity lifted and were charged with treason. Six fled to Belgium and the rest were sentenced for up to fifteen years imprisonment on 8<sup>th</sup> December 1994. Four of them remain detained.

On 11<sup>th</sup> May 1994 HADEP was formed. It experiences the same difficulties to this day. HADEP was careful to draft its party ideology and policy along lines that would give the state grounds to close it down. In the general election of 1995 they obtained 4% of the vote, but did not meet the minimum electoral threshold of 10% to gain a seat in parliament.

In the run up to the April 1999 elections, many members were arrested and offices were closed down. In late 1998 47 members of HADEP, including lawyer and party leader Murat Bozlak, were charged with abetting the PKK. The charges arose as a result of HADEP's response to the arrest of Abdullah Ocalan in Rome at the end of 1998, which included the issuing of statements, documents discovered in the HADEP offices and a succession of short hunger strikes in HADEP officers throughout Turkey. Nonetheless, although HADEP did not, again, reach the 10% threshold required to gain a parliamentary seat, at a local level the party took control of thirty-eight mayoral seats in the south east.

### **Republican People's Party - CHP**

The Republican People's Party (CHP) was established by Mustafa Kemal Ataturk in 1923, and remained in power under one-party rule until 1950. An intervening decade saw the CHP fall from view, until it returned in 1960 for a brief period of coalition rule. The CHP again returned to power, led by Bulent Ecevit, in the October 1973 elections where it formed a coalition government with the National Salvation Party. A succession of coalitions saw Turkish politics into the 1980s, and the CHP dip from view, to be replaced at the helm of the Turkish state by the first civilian administration since the early 1970s. In September 1995 the CHP emerged once more in a coalition with the True Path Party (DYP), and successfully saw through the introduction of a new election law. General elections were set for December 1995, and although failing to win as many votes as the three main parties (the Welfare Party, the Motherland Party and the True Path Party), the CHP remained an influential supporter of the coalition formed.

In the 1999 elections, the CHP received 8.5% of the vote, and no parliamentary seats.

### **The Arrest and Detention of Abdullah Ocalan**

In February 1999, Abdullah Ocalan, the leader of the PKK, was arrested in Nairobi, Kenya and brought back to Turkey. He is currently being held in isolation at a top security prison on Imrali Island, Istanbul, accused of crimes against the Turkish state. A preliminary hearing

was held on 30<sup>th</sup> April 1999, and Mr Ocalan's trial is due to commence on 31<sup>st</sup> May 1999. If convicted, Mr Ocalan could face the death sentence.

The arrest and forthcoming trial of Abdullah Ocalan have caused widespread unrest, not only in Turkey but throughout Europe. Well-publicised demonstrations took place outside the Greek and Israeli embassies in many parts of the world. In Turkey itself, the Turkish authorities embarked on a widespread crackdown of Kurdish people and political dissidents.

The interviews conducted in Istanbul in March 1999 show how human rights activists, politicians and lawyers have faced further intimidation, harassment and detention since Mr Ocalan's arrest. They recount how Turkish police have been rounding up hundreds of Kurdish activists in the country after violent protests over Ocalan's capture. Human rights activists estimated that 700 Kurds were detained in Istanbul alone in February 1999, there was growing unrest in Ankara, and hundreds of other people were arrested in towns and cities across the south east. As the trial of Mr Ocalan approaches, there is heightened tension between Turkish and Kurdish people. The election of a fiercely nationalist government in the April 1999 elections, after the delegation's visit to Istanbul, must serve to exacerbate the problem.

The question of whether Abdullah Ocalan will receive a fair trial is one which has caused great concern to the international community and legal and human rights groups world wide. The Turkish government has promised to hold a fair and just trial, but there are concerns that Turkey has breached international law even before the trial has begun. In February 1999, the International Commission of Jurists issued a press release condemning the circumstances of Mr Ocalan's arrest and urging the Turkish judiciary to enquire into the circumstances by which the accused was brought within the Turkish jurisdiction. Mr Ocalan's lawyers have also registered their concerns over the conditions in which Mr Ocalan is being held. The European Court of Human Rights has taken the unusual step of taking interim measures in the case, requesting the Turkish government to take all necessary steps to ensure that Mr Ocalan receives a fair trial and that the rights of the defence are respected. The Committee for the Prevention on Torture has sent representatives to visit Mr Ocalan in prison.<sup>10</sup> Notwithstanding the concerns on the part of the international community, the Turkish authorities have stated that no international observers will be allowed into Mr Ocalan's trial.

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<sup>10</sup> In a written report, the Committee stressed its concern over Mr Ocalan's psychological health and recommended that improvements should be made to the conditions in which he was held.

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## 2: INTERNATIONAL LAW

*This section focuses on Turkey's obligations under international law. It examines the European Convention on Human Rights, with particular focus on those articles designed for the protection of legal practitioners, political parties and human rights activists. It refers to the interviews in Section 3, indicating how these demonstrate a shortfall between Turkey's international obligations and what occurs in practice.*

### United Nations Charter and Universal Declaration of Human Rights

The United Nations Charter lays the foundation for the protection and promotion of human rights<sup>11</sup>. The preamble of the Charter declares the determination "to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained". The Universal Declaration of Human Rights elaborates on these obligations.

Although the Universal Declaration sets out the human rights principles subscribed to by all members states of the United Nations, it is not a legally binding document. Subsidiary United Nations documents, such as the International Covenant on Civil and Political Rights (ICCPR) contain concrete obligations which are enforceable against the signatories. Turkey is not a signatory to the ICCPR. Nevertheless, it is a party to the European Convention on Human Rights (ECHR), which is the most important legally binding human rights instrument in western Europe. Turkey ratified the ECHR in 1954 and has subsequently incorporated it into domestic law.

### The European Convention on Human Rights

The ECHR establishes some significant rights, including:

#### *The Right to a Fair Trial*

Article 6(1) of the ECHR begins:- "In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law...."

The European Court of Human Rights has more than once referred to the "prominent place which the right to a fair trial holds in a democratic society within the meaning of the Convention."<sup>12</sup> As a consequence, "there can be no justification for interpreting Article 6(1) of the Convention restrictively"<sup>13</sup>. Equality before the law and the maintenance of an independent judiciary and independent lawyers are necessary for the effective realisation and enjoyment of most other rights. It is therefore essential that the right to a fair trial is upheld.

<sup>11</sup> See Article 1(3); Article 55(c) and the preamble.

<sup>12</sup> De Cubber v Belgium, Series A, No. 86 para 30 (1986).

<sup>13</sup> Morera de Azevedo v Portugal, Series A, No. 189 para 66 (1990). This statement can be taken to apply to Article 6 as a whole, not just Article 6(1).

Bearing in mind that members of human rights organisations and HADEP have been tried by the Turkish State Security Court, it is worth noting that the European Court has found breaches of Article 6 in a number of cases involving trials before this Court<sup>14</sup>. One of the three judges comprising the Court is a serving military official, which raises doubts as to the Court's independence from the executive.

It is also clear that the State Security Court's existence has exacerbated the pressures on lawyers. In the interviews with Eren Keskin and Ahmet Zeki Okcuoglu<sup>15</sup>, reference was made to the fact that cases have been brought against lawyers following statements made in the Court. Attention was also drawn to examples of intimidation which lawyers have faced in the course of defending clients in the State Security Court system<sup>16</sup>.

### *Preparation of defence*

Reference also needs to be made to the provisions of Article 6(3)(b), namely:-

"Everyone charged with a criminal offence has the..... right.. to have adequate time and facilities for the preparation of his defence"

Pierre Sani, Secretary General of Amnesty International noted in an open letter to the Turkish Prime Minister on the 23rd February 1999 that "the amount of time necessary [for preparing a case] depends on the complexity of the case"<sup>17</sup>. Requests for adjournments need to be considered seriously by the court.

Lawyers interviewed in Turkey in March 1999 voiced concern that the timetable of the State Security Court is driven by political rather than legal considerations which may have serious implications in the Ocalan trial.

### *Access to a lawyer*

The European Court has described the right of access to a lawyer as one of a detainee's basic safeguards<sup>18</sup>. In addition, as Mr Sani has noted, the Human Rights Committee has stated "all persons must have immediate access to counsel"<sup>19</sup>. A concern that emerged from the interviews with Ahmet Zeki Okcuoglu was that it was more than seven days before Mr

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<sup>14</sup> *Incal v Turkey* (June 1998), *Ciraklar v Turkey* (October 1998). For more information on these cases please see the KHRP.

<sup>15</sup> See below

<sup>16</sup> For example, in December 1995, almost 20 lawyers were arrested and detained in Diyarbakir, accused of abetting members of illegal organisations, but allegedly due to their work in defending those accused of terrorist offences before the State Security Court. A number of the lawyers concerned have brought proceedings for unlawful detention under the ECHR, in the cases of Elci & others v Turkey and Sahin & Sahin v Turkey.

<sup>17</sup> Amnesty International report, EUR 44/18/99, February 1999, "Turkey, Abdullah Ocalan's detention and trial must conform to International Standards".

<sup>18</sup> *Brannigan and McBride v UK*, Series A, paras 64-65(1993).

<sup>19</sup> *Ibid.*

Ocalan's lawyers were granted access to their client, giving rise to a breach of the European Convention. A ruling of the European Human Rights Commission Council of State states that detainees cannot be held for more than four days and six hours in incommunicado detention.

In addition, TOHAV, IHD and the Istanbul Bar Association expressed concern about the procedures under the Anti-Terror Law and before the State Security Court. Under the State Security Court system an individual can be detained for seven days before seeing a lawyer. In the emergency regions this period is extended to 10 days.

### *Adequate facilities*

The meaning of "adequate facilities" implies that the client is able to see his lawyer in confidence and not within the hearing of prison officials. The initial meeting conducted with Mr Ocalan by Ahmet Zeki Okcuoglu was in the presence of masked guards. Subsequent meetings have also taken place in the presence of guards. "Adequate facilities" also includes easy access to one's client. Mr Ocalan's continued detention on Imrali Island, rather than on the mainland, is a barrier to this.

### *Freedom of Expression*

Article 10 of the European Convention establishes the right to freedom of expression. The European Court has stated that "it constitutes one of the essential foundations of a democratic society, one of the basic conditions for its progress and the development of every man. Subject to [certain limitations set out in Article 10(2)<sup>20</sup>] it is applicable not only to information or ideas that are favourably received or regarded as inoffensive, but also to those that offend, shock or disturb the state or any sector of the population"<sup>21</sup>. Political representatives can only understand and represent the views of their constituents through an open and two way process of airing views, opinions and facts. And a person can only achieve self-fulfilment and their full human potential through being able to freely communicate their feelings, opinions and ideas.

Although Article 10(2) acts as a limitation on the broad right of freedom of expression, it is interpreted narrowly by the European Court<sup>22</sup>. Any restriction must be prescribed by law, necessary in a democratic society and proportionate. It must therefore satisfy a "pressing social need"<sup>23</sup>. Concerns of national security have been consistently overridden in European

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<sup>20</sup> Article 10(2) reads "The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

<sup>21</sup> *Handyside v UK*, Series A, No 24(1976).

<sup>22</sup> "it is not sufficient that the interference involved belongs to that class of the exceptions listed in Article 10(2)[or] its subject matter fell within a particular category". See *Sunday Times v UK*, Series A, No.30, 1979, para 65.

<sup>23</sup> See *supra* note 20.

Court judgments, in an acknowledgement that "freedom of political debate is at the core of a democratic society"<sup>24</sup>.

The prosecution, detention, imprisonment and harassment of human rights activists, lawyers and members of legal political parties in Turkey is disproportionate to the aims and intention of Article 10. These individuals and organisations are engaged in peaceful protest and have not advocated violence. They are exercising their right to freedom of expression which safeguards "the freedom to hold opinions and to receive and impart information and ideas without interference by public authority"<sup>25</sup>.

For example

- There are currently approximately 20 prosecutions pending against Akin Birdal, the president of IHD.
- In 1998 branches of the IHD were closed all over Turkey<sup>26</sup>.
- The trial of 10 IHD executives in Diyarbakir lasted for two years, involving many hearings, ultimately resulting in an acquittal on 11<sup>th</sup> May 1999<sup>27</sup>.
- Edip Yildiz, the director of TOHAV, commented in March 1999 that its members have been imprisoned or detained after speaking about the Kurdish problem.
- TOHAV's founder Medet Serhat was the victim of an extra judicial killing.
- There is also an ongoing trial against HADEP.
- There were restrictions on HADEP's capacity to campaign during the election.
- Ahmet Zeki Okcuoglu<sup>28</sup> was imprisoned after speaking Kurdish and advocating discussion of the Kurdish question.

The curtailing of the right to speak Kurdish is in itself a violation of Article 10<sup>29</sup>. As Akin Birdal has noted the continued intimidation of civil society amounts to an attempt "to create a silent society" in Turkey<sup>30</sup>.

As Turkey has accepted the jurisdiction of the ECHR it must ensure that its Anti-Terror Law and Penal Code are in line with Article 10 and must therefore abide by European Court judgments. The Turkish authorities have used a range of pretexts to justify prosecutions against civil society, including the call that such activities "threaten the unity of the State" or involve individuals "acting outside their authority"<sup>31</sup>. It is difficult to argue that these restrictions are necessary in a democratic society or amount to a "pressing social need".

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<sup>24</sup> Lingens v Austria, Series A, No. 103, 1986.

<sup>25</sup> Article 10.

<sup>26</sup> See, inter alia, Amnesty International report, "Creating a Silent Society: Turkish government prepares to imprison leading human rights defender", February 1999.

<sup>27</sup> For further details see Edward Grieves' report, and Amnesty International news release, 8<sup>th</sup> February 1999, "Trial undermines human rights defenders' work".

<sup>28</sup> See the interview with Mr Okcuoglu later in this report.

<sup>29</sup> McIntyre v Canada, Series A, No 359, 1993

<sup>30</sup> See supra note 26.

<sup>31</sup> Ibid

## *Freedom of Assembly and Association*

Article 11 of the European Convention establishes this right. As with Article 10 there are restrictions but Turkey must prove that any restriction is justified and therefore "necessary in a democratic society".

The restrictions enshrined in Turkish law on the ability of HADEP and human rights organisations to legitimately raise ethnic issues has meant they are unable to raise the Kurdish question without exposing themselves to prosecution or imprisonment. This goes against the intention and the spirit of Article 11.

## *Positive Obligations*

Article 1 of the ECHR imposes a positive obligation on the state "to secure to everyone within their jurisdiction the rights and freedoms defined in...the Convention". This imposes affirmative duties on the state to take the steps necessary to enable individuals to exercise their rights. There is an increasing recognition of a duty placed on states to protect individuals against human rights violations<sup>32</sup>.

## **The Basic Principles on the Role of Lawyers**

The Basic Principles on the Role of Lawyers were adopted by the Eight United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27<sup>th</sup> August - 7<sup>th</sup> September 1990. The Principles state that lawyers, in protecting the rights of their clients and in promoting the cause of justice, shall at all time act freely and diligently in accordance with the law and recognised standards and ethics of the legal profession. For example:

Article 16: "Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference: (b) are able to travel abroad and consult with their clients freely both within their own country and abroad: and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognised professional duties, standards or ethics."

The interviews recount, for example, how Edip Yildiz, Director of TOHAV, is unable to obtain a passport to travel abroad. Section 4 recounts how Mr Ocalan's international legal team have been unable to see him, due to restrictions on international observers. The interviews with the IHD and Ahmet Zeki Okcuoglu give details of intimidation and harassment of lawyers.

Article 17: "Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities."

Ahmet Zeki Okcuoglu gives an account of an attack by a mob, including policemen, when the police refused to assist.

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<sup>32</sup> See, for example, the KHRP case report on the case of Yasa v Turkey.

Article 18: "Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions."

There is ample evidence, in these interviews, of lawyers who represent clients accused of offences under the Anti-Terror law being intimidated on account of the allegations against their clients.

Article 23: "Lawyers like other citizens are entitled to freedom of expression, belief association and assembly. In particular, they have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organisations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organisation. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognised standards and ethics of the legal profession."

Again, the interviews catalogue numerous instances of persecution against members of legal organisations.

### **Other international instruments**

The United Nations has passed a number of declarations specifically designed for the protection of human rights activists and lawyers. The UN Special Rapporteur on the Independence and Impartiality of the Judiciary, Jurors and Assessors and Independence of Lawyers has commented on the risks to legal practitioners in times of emergency stating "the emasculation of the judiciary and the harassment of defence lawyers are not uncommon"<sup>33</sup>.

On 9<sup>th</sup> December 1998, the United Nations Assembly adopted the Declaration on the Protection of Human Rights Defenders. Article 1 states: "everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels". Article 6(c) states that "everyone has the right...to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights..and to draw public attention to those matters".

Turkey is also a signatory to the Organisation of Security and Cooperation in Europe (OSCE) Paris Charter and the Moscow meeting of the OSCE Human Dimension Conference Document. Both documents emphasise the importance of NGOs.

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<sup>33</sup> Report of UN Special Rapporteur, Mr Param Kumaraswamy. Commission of Human Rights resolution 1994/41.

## SECTION 3: INTERVIEWS

### **The Human Rights Association of Turkey - IHD**

*Meeting with Eren Keskin, lawyer and Head of the Istanbul branch of the IHD on 16<sup>th</sup> March 1999*

#### **The trial of the Diyarbakir branch of the IHD**

We began by asking Mrs Keskin for an update on the IHD trial in Diyarbakir. All statements have now been collected by the prosecution, including those of two individuals who were previously detained in Istanbul (having moved there from Diyarbakir) and who were freed from detention at the end of January. She advised us that since they were from Istanbul, they would give evidence to the Istanbul public prosecutor, which would then be passed to Diyarbakir.

Mrs Keskin told us that the prosecution aims to close the IHD office in Diyarbakir. It is necessary therefore to be aware of the political implications of the trial as if it is successful there will then be other trials to close IHD offices. The prevailing belief in the IHD is that if this were to happen there would be objections from Europe.

Nevertheless if the defendants are found guilty they could be sentenced for up to seven years. They have been charged under Article 7 of the Anti Terror Law and Article 169 of the Penal Code. These charges relate to "making propaganda on behalf of illegal organisations".

We then asked Mrs Keskin why she believes we were not permitted to attend the trial on the 16 March 1999 in Diyarbakir as observers. Following the arrest of Abdullah Ocalan, no foreign delegations have been permitted in Diyarbakir. A Spanish deputy had gained access to the city. He was arrested in Osman Baydemir's office in Diyarbakir<sup>34</sup> and been sent back to Istanbul. A group of doctors from Germany were permitted to go to Diyarbakir on 14<sup>th</sup> March 1999 to attend a "Doctors' celebration", but this was an exception.

#### **The working methods and mandate of the IHD**

Mrs Keskin went into the IHD's working methods. There are 14 directors and commissions dealing with areas such as torture, Kurdish rights, children's rights and women's rights. The IHD will take cases to the prosecutor and obtain doctors' reports in support of an individual's case in order to mount trials on torture. They also have campaigns on issues such as freedom of expression, the treatment of prisoners and the State Security Court system. The IHD works alongside other NGOs such as Amnesty International. Many trials spring from press conferences, meetings or demonstrations, when people are detained.

We then looked at two cases the IHD is currently working on in order to develop a more complete picture of the issues they have tackled. The first concerns the case of Suleyman Yeter. He was a member of the Union of Harbour workers in Istanbul. He was working at the Education Commission when he was arrested and detained. Mr Yeter was tortured in

<sup>34</sup> Osman Baydemir is the vice-president of the IHD, and a member of Mr Ocalan's defence team.

detention and killed. His neck was broken. The IHD has applied to the prosecutor for the matter to be investigated<sup>35</sup>.

We then looked at the case of a Turkish soldier from Istanbul who served his military service in Sirmak. He was accidentally wounded and admitted to a military hospital and operated on. Following his operation it became apparent that several vital organs had been taken (gall-bladder and 1 kidney). His relatives have applied to the IHD.

### **Intimidation of the IHD membership**

Since 1986 13 members and directors have been killed. In 1998 there was an attempt made on the life of the president of the IHD, Akin Birdal<sup>36</sup>. Mrs Keskin was attacked near Diyarbakir Airport in 1994<sup>37</sup>. She informed us that being a member of the IHD is a risk in itself. Many members of the IHD have been detained in the past and pressurised<sup>38</sup>.

### **The impact of the detention of Abdullah Ocalan**

As to how the Ocalan trial has affected the IHD, we were advised that there has been intense pressure put on human rights organisations. There have been curbs placed on the ability of IHD to operate effectively. The IHD are not permitted to conduct public meetings or press conferences outside their offices. These types of activities are restricted to inside the office due to "security concerns".

Mrs Keskin was at pains to point out that the IHD is opposed to these restrictions on its operations, which are designed to silence it. State justification for the restrictions has centred on the perceived threat to the IHD from the general public. This was dismissed by Mrs Keskin who believes the threat is from the government and not the public.

Mrs Keskin also pointed out that intimidation has also intensified against the IHD as a direct result of lawyers who are IHD members applying to represent Mr Ocalan at his forthcoming trial.

Osman Baydemir and Mrs Keskin both applied to represent Mr Ocalan. Following this, both the government and the press have stated that the IHD is pro-Ocalan, which has put the organisation and its members at risk. As a result of this publicity, the IHD has received

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<sup>35</sup> Further information about this case can be obtained from the Kurdish Human Rights Project.

<sup>36</sup> See footnote 7.

<sup>37</sup> The attack had occurred during a fact-finding mission. There had been deaths in Diyarbakir prison and Mrs Keskin had gone to investigate. She was near the airport in a car with other people. Shots were fired at the car. Mrs Keskin believes that their intention was not to kill her but to intimidate. There was no investigation so nobody knows who was responsible for the attack. Mrs Keskin suspects contra-guerrillas were responsible. For further information, please see US State Department report on Human Rights Practices on Turkey 1994.

<sup>38</sup> See Edward Grievess' report on the IHD trial (KHRP; BHRC) May 1999.



threatening mail, phone calls and faxes. One caller stated "If I kill your son will I have a defence lawyer ?".

### **Mr Ocalan's treatment since his arrest**

We asked whether there has been any evidence that Mr Ocalan has been tortured since his arrest and imprisonment. Having spoken to Ahmet Zeki Okcuoglu, Mr Ocalan's lawyer<sup>39</sup>, Mrs Keskin informed us that Mr Ocalan was given drugs on the plane to Turkey, and blindfolded.

As to Mr Ocalan's current condition, Mrs Keskin's belief is that he is under psychological torture. He is in solitary confinement without access to reading materials. Some books, magazines and mail were sent to the prison recently by courier and were returned. We were shown photocopies of receipts, signed by a captain, indicating this.

We then asked Mrs Keskin if intimidation had increased since the capture and imprisonment of Abdullah Ocalan. Two people have been lynched since Mr Ocalan's arrest. One individual was lynched in Diyarbakir by the police. A retired teacher was also lynched in Izmir by MHP<sup>40</sup> members and the police. In addition, thousands have been detained, and detentions are still continuing. The fear is that this rise in state intimidation will lead to an escalation in violence between Kurds and Turks.

### **The intimidation of lawyers**

Mrs Keskin went on to emphasise that any lawyers who represent political defendants are under pressure. Examples range from lawyers who have been detained when they see a client or represent someone at the State Security Court. In addition when lawyers defend people in the Court they can be prosecuted for what they have said in the course of the trial.

Mrs Keskin told us of an experience that had occurred six years ago. She had gone to see her client, Mehdi Zana (ex-mayor of Diyarbakir) who was detained at a police station in Istanbul. She was taken by the police to a room containing photos of police officers who had been killed by illegal organisations. Her head was banged against the wall beside each photo. She was then taken outside where a minibus was driven at her. There was no investigation into this incident.

Turning to the forthcoming trial, we were told that 102 lawyers had applied to represent Abdullah Ocalan. This, we were informed, was intended as a symbol of support and solidarity for those defending Mr Ocalan. Mrs Keskin stated that this is especially relevant in view of the risks that the lawyers are under.

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<sup>39</sup> See the report of the interview with Mr Okcuoglu below.

<sup>40</sup> The MHP (National Action Party), Turkey's ultra nationalist party, won the lion's share of the votes in the April 1999 general election.

One to two lawyers will actually speak at the trial, but other lawyers will be engaged in preparing the case. If nobody had wanted to represent Mr Ocalan at his trial, the Istanbul Bar Association would have appointed a lawyer. Ahmet Zeki Okcuoglu and his brother Selim Okcuoglu are heading the defence team.

Mrs Keskin noted that she and Mr Baydemir had received anonymous faxes, letters and telephone calls. We asked whether other lawyers representing Mr Ocalan had been intimidated. Pictures of female lawyers representing Ocalan were printed in the press. Mrs Keskin now believes that this has put these individuals at risk of attack. She advised us that although she believes the government is not directly responsible for the threats, they are acting through civil fascists. Although the anonymous threats have not been reported to the police, the female lawyers whose pictures were printed in the press are currently preparing a case against those newspapers.

Lawyers who were trying to visit Mr Ocalan on Imrali Island were attacked by civil fascists and police officers, both on that occasion and as they were trying to hold a press conference. Mrs Keskin's belief is that the attackers were incited by the police.

### **The State Security System and the treatment of detainees**

There are two separate systems within Turkey: the civil court system and the State Security Court system, under which a defendant is not allowed to see a lawyer until he is charged. In the south east, moreover, which has been under a special emergency regime for the last 75 years, the maximum time an individual can be detained before he is charged is 10 days, while in the rest of Turkey this period is only four days.

If an individual is accused of belonging to an illegal organisation, it is likely that he will be tortured while in detention. The degree of torture is different from case to case. We were advised that everybody detained is subjected to psychological torture. Individuals will be stripped naked and threatened with death. If an individual is suspected of belonging to the PKK, they will be subjected to "heavy torture". The methods in this case may include Palestinian hanging, electric shocks, falaka, nail pulling and rape.

We asked Mrs Keskin whether torture is systematic in Turkey. The Turkish authorities argue that it is not. We were told that:-

1. Torture is a central part of state policy and is commonly used in interrogation.
2. Doctors' reports can confirm if an individual has been tortured, although it can be problematic to obtain a doctors' report, as people are afraid that they are under surveillance.
3. The tools used for torture are paid for by the government and not out of police salaries.

Mrs Keskin noted that there have been trials against police officers accused of committing acts of torture against detainees. However, the word "torture" is not used in the court. Only a few individuals have been convicted: they usually receive a suspended sentence of between one and three years, or a fine. The significance of a suspended sentence is that the officer convicted can remain employed or even be promoted. Mrs Keskin pointed out that the

Director of the Anti-Terror division in Istanbul, Sefik Kul, has personally been the defendant in 15 torture cases including the case of Suleyman Yeter.

## **The Foundation for Social Jurisprudence Research - TOHAV**

*Meeting with Edip Yildiz, Director, on 16<sup>th</sup> March 1999*

### **TOHAV's aims, working methods and mandate**

TOHAV's membership is made up exclusively of lawyers, and numbers 120. Its focus is on human rights, although it is interested in all areas of Turkish law. TOHAV also prepares cases to be taken to the European Court of Human Rights and before the public prosecutor. In addition, it operates a small clinic for the treatment of victims of torture. Doctors therefore assist TOHAV but are not members. The organisation therefore specialises as a legal forum, and its mandate is narrower than that of the IHD. It is the only non governmental organisation of its type in Turkey.

The organisation is funded by monthly subscriptions from members, and donations from the general public.

Last year, approximately 150 people approached TOHAV for free treatment. They had been the victims of physical torture. They had come forward as they would not have received adequate treatment at the state hospital, where there are long queues. In addition, the majority of people do not have health insurance. People are often reluctant to come forward for treatment as they are afraid that by doing so they risk further detention. Mr Yildiz also referred to the case of Suleyman Yeter<sup>41</sup>, explaining that he was treated for torture, and attempted to bring a prosecution against those police officers who were allegedly responsible. He was killed before the second court hearing.

We then looked at the international affiliations TOHAV has. They have informal connections with NGOs across Europe. In Turkey, it is illegal to have formal relations with overseas NGOs without formal permission from the Ministry of Foreign Affairs. In the UK, TOHAV has co-operated with and assisted the Kurdish Human Rights Project and Amnesty International. It has also provided information to UK Members of Parliament. TOHAV has informal links with European Medical groups such as Medecins Sans Frontieres and Action Aid. Unfortunately Mr Yildiz told us that he is unable to obtain a passport to travel abroad which has prevented TOHAV from enjoying wider links with NGOs in other countries.

We asked if TOHAV was committed to working with all ethnic groups in Turkey. Mr Yildiz stated it is important to understand there is a denial of ethnicity by the Turkish authorities. Nevertheless, he emphasised that TOHAV was committed to helping all ethnic groups, and at present the majority of its work focuses on the Kurds, as they are experiencing more harassment than other groups.

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<sup>41</sup> See above

### **Intimidation of membership**

Mr Yildiz stated that the pressures on the membership are indirect and faced in the course of their work. This can occur when they visit police stations and as a result of their work in the courts. Mr Yildiz noted that harassment is more prevalent in trials involving misconduct of police officers.

We asked Mr Yildiz if any lawyers or doctors associated with TOHAV had been killed or tortured. He noted that the founder of TOHAV, Medet Serhat, was killed. Another member of TOHAV, Medini Ayhan, is in prison. He had given a speech in Kurdish. He had also used the words "Kurdistan" and "Kurdish". He was sentenced for advocating separatism and sentenced to two years in prison and a fine of 200 million Turkish Lira. In addition, following the arrest of Abdullah Ocalan, seven members, who were at the HADEP headquarters in Diyarbakir just after the arrest, were detained and tortured in Diyarbakir for six days. They were released without charge, although an investigation continues against them. Mr Yildiz pointed out that there was no reason to arrest them.

### **Comments on the role of the public prosecutor**

We asked Mr Yildiz whether the public prosecutor in Turkey is fair. He stated that the prosecutor is employed by the state. He opens trials as the state and complainant's lawyer. One can approach him to initiate an investigation, and he will decide if there is a case. In addition, the prosecutor can initiate a trial himself. He will conduct the investigation and suggest the sentence. The final decision, of course, rests with the Judge.

### **The implications of Abdullah Ocalan's trial**

Turning to the Ocalan trial, we asked Mr Yildiz if he believes this will mean that lawyers and Human Rights organisations will experience more harassment. Mr Yildiz noted that this, to a large extent, depends on the government. If Mr Ocalan is convicted and executed, then violence will increase to the maximum. This in turn could lead to an extension of emergency rule in other parts of Turkey.

As a result of these draconian measures, those individuals connected to organisations such as TOHAV and IHD could be arrested and detained. In addition, such organisations could be prevented from working. Mr Yildiz noted that much depends on the reaction of the ECHR and European Community, as well as that of the USA. Mr Yildiz believes they have enough influence over Turkey to halt Mr Ocalan's execution.

## **The Istanbul Bar Association**

*Meeting with President, Yucel Sayman and Vice President, Osman Ergin on 17<sup>th</sup> March 1999*

### **Trial observation**

We initially asked for comments on the fact that we had been denied access to Diyarbakir by the Governor and were therefore unable to attend the IHD trial. We were advised that the Governor has this power under the laws conferred by the State of Emergency regime, but that the holding of such a power is not in accordance with legal principles.

The Istanbul Bar Association is sceptical about the role of "observers" at the trial. The Association will do its best to ensure that observers can attend, but they should not be there in an official capacity. The Istanbul Bar Association takes the view that the role of official observers can lead to accusations of imperialism. They are also concerned about the political motivations of certain organisations, who will use their observations at the trial as a political tool. We suggested that in order to ensure transparency, it was essential to allow access to international observers. The representatives replied that they are in favour of observations on the part of international organisations such as the United Nations, but that neutrality is of paramount importance.

We asked whether the State perceived the Istanbul Bar Association to be independent. The President stated that they do. In the past, the Bar Association has been pressured. The President highlighted a case in 1988 where the Bar had refused to expel a lawyer who had been imprisoned for 12 months for crimes of opinion. The State attempted to bring a case against the Bar Association, but lost. At the time, the Istanbul Bar Association received a great deal of support from Bar Associations in other European countries. Since then, the President noted, they have not been harassed.

### **Intimidation of lawyers**

The President of the Bar Association advised us that in the Istanbul area, torture is not systematic for lawyers. He noted that if it happened then the Bar would defend the rights of lawyers. He drew our attention to an organisation within the Bar called the Centre for the Protection and Defence of Lawyers' Rights. They also have a Human Rights Centre. In addition, individual lawyers who are members of the Bar have brought cases before the ECHR.

We highlighted the case of Eren Keskin, and the account she had given of mistreatment six years ago at the police station in Istanbul. The President said that he had never heard this story.

### **Involvement of the Istanbul Bar Association in the trial of Abdullah Ocalan**

Turning to the lawyers defending Mr Ocalan, the President noted that at present the public are protesting against the lawyers, accusing them of being tools of the PKK. He believes it is too

early to say if the government is at all responsible for this. The Istanbul Bar Association, he noted, has tried to support the lawyers through the media: the President showed us articles where he had defended their right to defend Mr Ocalan.

When he was initially arrested, Mr Ocalan's Italian lawyers had approached the Istanbul Bar Association, asking them to find a lawyer to defend their client. The Bar Association had an executive meeting but decided they had no competence to make such a decision. The matter was passed to the Ankara Bar Association and the Mus Bar Association, both of whom refused to act. Finally, the Istanbul Bar Association did appoint lawyers, and obtained the necessary permissions from the Ministry of Justice. At the same time, however, the family of Mr Ocalan found their own lawyers, which meant that the Istanbul Bar Association no longer had any role in the appointment of his representatives.

The Istanbul Bar Association has also been requested by the State to consider the expulsion of the two Okcuoglu brothers who are the chief defence lawyers of Mr Ocalan, on the grounds that they have been imprisoned in the past. Practitioners who have been sentenced to more than one year's imprisonment can, under Turkish law, be disbarred. The President noted that the two brothers had been convicted under Article 159 of the Turkish Penal Code for attacking the integrity of the state. One was sentenced to 13 months imprisonment and the other to 10<sup>42</sup>.

The President noted that if the lawyers are expelled from the Bar, they will be prevented from practising and will therefore be unable to represent Mr Ocalan at his trial. The Vice President of the Bar Association is one of those conducting the investigation. He advised us that the result is expected in mid April<sup>43</sup>. We noted that one of the Okcuoglu brothers was only sentenced to 10 months in prison and as such would not be eligible for expulsion under the principle that a sentence of more than 12 months can lead to expulsion. The Vice President advised us that because of the nature of his offence the length of the sentence did not matter.

Turning to the principles of a fair trial, we asked if it was possible to move Mr Ocalan from the Island to enable the lawyers to have greater access to their client. The President believes that the trial will probably take place on the Island due to security concerns<sup>44</sup>. The final decision rests with the government. He agreed, however, that the issue of access is a concern. A second problem area is the issue of the fairness of the State Security Court system: this is something which gives all Bar Associations throughout Turkey cause for concern. Finally, the President noted that if it was the intention of Mr Ocalan's lawyers to run a political defence, then the need to confer with their client was not great, as they would not be focusing on Mr Ocalan's case but on Turkey's record in the south east.

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<sup>42</sup> Details of the offence appear in the interview with Ahmet Zeki Okcuoglu.

<sup>43</sup> At the time of going to press, this matter is still undecided.

<sup>44</sup> This belief has been borne out by subsequent events: the trial of Mr Ocalan, commencing on 31<sup>st</sup> May 1999, will be held on Imrali Island.

## **Mr Ahmet Zeki Okcuoglu - lawyer for Abdullah Ocalan**

*Meeting on 17<sup>th</sup> March 1999*

### **Background**

Mr Okcuoglu is a liberal democrat, who has worked to promote Kurdish rights for 35 years. He informed us that he has no links with the PKK, but has taken on Mr Ocalan's case because he believes that the trial is symbolic for the whole Kurdish question. Mr Okcuoglu, as well as being a lawyer, is also a publisher.

### **Intimidation of Mr Okcuoglu**

Mr Okcuoglu informed us that he has been detained on five occasions. He was detained for the first time in 1971 because he was associated with the Kurdish East Culture Association. In 1988 he was detained for 40 days, and on this occasion he was tortured. The torture included Palestinian hanging, electric shocks, water hosing and being forced to stand for lengthy periods of time. In 1991 Mr Okcuoglu attended a meeting of the IHD. At the meeting, Medet Aydin made a speech in Kurdish.<sup>45</sup> Some members of the audience were unable to understand Mr Aydin and Mr Okcuoglu offered to translate into Turkish. After the meeting, Mr Okcuoglu was detained by the Turkish authorities for two months. One year later, Medet Aydin was killed by contra-guerrilla forces.

Since 1991, Mr Okcuoglu has been detained on two further occasions for 'crimes of opinion'. These crimes constituted criticising the Turkish state, either at demonstrations or in the newspaper. Under Article 159 of the Turkish Penal Code, an attack on the identity of the Turkish state often leads to imprisonment. In 1993, during an interview with the press, Mr Okcuoglu and during the interview he used the words "Kurdistan" and "Kurdish". Following this, he was sentenced to 10 months' imprisonment for using these words. Currently, Mr Okcuoglu faces expulsion from the Istanbul Bar Association on the basis of this sentence. The government are pressurising the Istanbul Bar Association to make a decision<sup>46</sup>. In 1998, Mr Okcuoglu wrote an article in a newspaper which criticised the government and the Turkish State. Mr Okcuoglu was sentenced to ten months in prison, of which four months were served

We asked Mr Okcuoglu if he felt that the Istanbul Bar Association was subject to political pressure because, if the Association upheld its principles regardless of political pressure then it would not expel Mr Okcuoglu. He replied that his expulsion depends on a decision by the Bar Association and that he hoped that it would support him. He went on to inform us that in Turkey the defence of Kurdish rights is a crime. Mr Okcuoglu said that the state did not want him to represent Mr Ocalan at the trial because he had no links with the PKK and was well known as a social democrat.

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<sup>45</sup> Medet Aydin was the founder of the Human Rights Association and chairman of HEP.

<sup>46</sup> Please see the earlier report on the meeting with the Istanbul Bar Association.

Since Mr Okcuoglu began representing Mr Ocalan, he has received two death threats by letter and one threatening phone call. He believes that these have come from the Turkish state who do not want him to represent Mr Ocalan. Mr Okcuoglu is not the only one who has been intimidated. Fellow lawyers have also received threatening phonecalls and letters. The lawyers have not been to the police, because it is the police who are threatening them.

### **Intimidation of Mr Ocalan's legal team**

Ahmet Zeki Okcuoglu and his brother, Selim Okcuoglu<sup>47</sup>, are currently heading a team of 17 lawyers who are formally representing Mr Ocalan. Mr Ocalan has 17 lawyers because they represent different opinions on ethnic rights. All of the lawyers are based in a new office in Istanbul which has been established as the centre for Mr Ocalan's case.

One of the main forms of intimidation that Mr Ocalan's lawyers are facing is the government's attempt to have many of them expelled from the Istanbul Bar Association. Mr Ocalan's lawyers are currently compiling a list of the sentences against them and when the judgements were made. Due to the slow judicial system, many of the lawyers have outstanding cases against them. However, since Mr Okcuoglu became Mr Ocalan's lawyer the determination on a case against him from 1993 was made, in the last month, and the sentence passed. Since Medini Ayhan visited Abdullah Ocalan in detention, his trial in the State Security Court has been decided and sentence passed in an attempt to disbar him and therefore remove him from the case. It appears that this is likely to be a trend for the rest of the lawyers on the case.

Mr Okcuoglu said that if he was disbarred he would continue to work on the case, but would be unable to legally represent Mr Ocalan.

On the first occasion that Mr Ocalan's lawyers' went to visit him at Imrali Island, a group of civil fascists were demonstrating at Mudanya. The group consisted of about 100-150 people and roughly half of this mob were thought to be policemen. The factors giving an indication of their police status were firstly, that they were carrying walkie talkies, which are only carried by police, and secondly, that their language was very formal. Mr Okcuoglu said that he was not injured during the demonstration but that they did attempt to punch him. The aim of the mob appears to have been intimidation rather than actual physical harm. Mr Okcuoglu informed us that he asked for protection from the police. The policeman that he spoke to replied that it was not his problem and that he could not protect them. When Mr Okcuoglu asked to go to the police station for protection his request was refused. He went to say that the police were not acting on their own accord but are tools of the military state.

### **Mr Ocalan's conditions of detention**

Mr Ocalan is currently being held in isolation on Imrali Island. When we saw Mr Okcuoglu, Mr Ocalan had been visited three times since he was detained on the island. However, from 8<sup>th</sup> March 1999 his lawyers were to be officially allowed to visit twice a week. Officially,

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<sup>47</sup> See the note on the Parliamentary meeting at Section 4.



there is no time limit on the length of the visit, but on the first occasion Mr Ocalan's lawyers only had twenty minutes with him, forty-five minutes on the second visit and one hour on the third visit. At the time of the interview, a fourth visit was being prepared in which they intended to go through the structure of the case.

On the occasion of the first visit, Mr Ocalan looked as though he had been given some kind of drugs. His eyes focused on one point, his face was motionless and his voice was monotonous. Mr Ocalan appeared to be in a low psychological state, fearing for his life. However, on the second occasion Mr Ocalan was focused and alert and appeared to be in a better psychological and physical condition. During the first visit, Mr Ocalan was surrounded by masked guards but on the second and third times there were unmasked guards present.

Abdullah Ocalan currently had 18 different cases being prepared against him by the state prosecutor. Mr Okcuoglu said that he believes that Mr Ocalan's trial will be a solution to the whole Kurdish problem. The first trial is expected to take place on Imrali Island and then there will be an appeal to the High Court. Mr Okcuoglu stated that he did not know the position of the European Court of Human Rights but that at the end of the trial the European Court of Human Rights would be able to give its decision on the case.

## **People's Democracy Party (Halkin Demokrasi Partisi) - HADEP**

*Meeting with Veli Haydar Gulec, the acting vice-president, Istanbul and Leyla Pokkoz, previous HADEP candidate, Istanbul, on 18<sup>th</sup> March 1999*

### **The election campaign**

HADEP has faced numerous problems since the start of the recent election campaign. Firstly, since the date of elections had been set, the Turkish State Prosecution Service had opened a case to close HADEP. Mr Gulec explained that the government did not want HADEP to participate in the elections. However, it proved very difficult to close HADEP and after 8<sup>th</sup> March 1999 the government decided not to continue with this plan. Mr Gulec pointed out to us that if the government had succeeded then HADEP would have continued but under a new name.

HADEP has encountered several further problems in its campaign process. In the last election of 1998 the government gave no financial assistance to HADEP despite the party gaining 1.2 million votes. All other parties were given financing for their election campaign. A lack of funds, according to Mr Gulec, is one of their main problems. HADEP has been unable to produce party propaganda properly, or even to print brochures. Advertising on bill boards has been difficult. Lack of finances has also inhibited ground roots campaigning. Candidates have been forced to go to local cafes and houses and to have small meetings in order to deliver the party message.

Mr Gulec stressed that the media and TV have portrayed HADEP extremely negatively. Whilst other parties have been able to use the media, HADEP has been unable to.

Newspapers have simply refused to print information about the party. Mr Gulec went on to comment that HADEP is only portrayed in the media as the mouthpiece of the PKK.

Furthermore, HADEP has found it extremely difficult to organise a public meeting. Under the Turkish constitution, HADEP has a right to hold public meetings, but permission to do so has been refused. The authorities have granted permission for only one closed meeting, on 10<sup>th</sup> April 1999, in a small sports centre in Istanbul, but have not given permission for an open air meeting. Ms Pokkoz informed us that HADEP are unwilling to hold an open air public meeting in any event, for security reasons. At the last HADEP meeting in 1997 members were detained as they left the meeting. Some were later released, and others are awaiting a trial date from the public prosecutor.

### **The implications of Abdullah Ocalan's detention**

#### *Positive implications:*

Before Mr Ocalan's arrest, the Kurdish people did not share a common viewpoint on the Kurdish question. According to Mr Gulec, since the arrest of Mr Ocalan the Kurdish people have become more unified. For example, the Democratic Peace Party has joined forces with HADEP for the election. Mr Gulec thought that the government had probably realised that this might occur, which may have been their main reason for attempting to close HADEP.

#### *Negative implications:*

The capture of Abdullah Ocalan has created a psychological war between the PKK and the government. In the past 15 days, since the arrest of Abdullah Ocalan more than 13,000 members had been detained.

### **Intimidation of HADEP members**

On 19<sup>th</sup> November 1998, on the orders of the government, all HADEP buildings were attacked and more than 5,000 members and leaders were taken into custody. All work was stopped and all buildings were in police control. This made it impossible to enter and leave the buildings. The main office of HADEP in Istanbul was raided four times and everybody was taken into custody for no reason. When the police were asked why they had been taken into detention they replied that it was because they 'suspected' them and because they were 'suspicious people'. The police had said that they would be following members and had said 'maybe today we cannot kill you but you are not free.'

The Chairman, Murat Bozlak, the party secretary and five of the party leaders are still in jail. There are ten more candidates and thousands of members currently in jail. However, Mr Gulec pointed out that this situation has given more power to the people who do have a vote, and has encouraged them to use their vote.

On 3<sup>rd</sup> March 1999, Mr Gulec was taken into custody. At the police station to which he was taken, there were children who were 14-15 years old. The police had stopped the children on the street and asked for identification papers. When the police discovered that they were Kurdish, the police took them to the police station and detained them. Mr Gulec commented that all Kurdish people are potentially guilty in Istanbul. Two days prior to our visit some

students were commemorating the death of seven students allegedly killed by the authorities in 1976<sup>48</sup>, by putting flowers at the site of their deaths. The police placed them in custody for this act. To date, it is estimated that there have been 4,000 mystery killings and 1,500 disappearances.

## Republican People's Party - CHP

*Meeting with Mehmet Boluch, Head of Istanbul CHP on 17<sup>th</sup> March 1999*

After introducing the members of the mission, we were given a brief history and description of the CHP. It is the oldest political party in Turkey. It was founded by Mustafa Kemal Atatürk (known as "father of the Turks", a military leader who after world war one, took the multicultural population of what remained of the old Ottoman empire and created a single identity and a Eurocentric, secular and ultra-nationalistic society) and was the only party when Turkey was a one party state. It considers itself a social-democrat party and has nationwide support and representation in each city. Its aim is to move Turkey towards the west and to raise living standards and democratic rights to a European level. Since 1946, when a multi-party system was introduced, it has been in power twice, the last time being 1978-9.

At the election in 1995 the CHP received 10.7% of the vote (10% minimum is required to obtain parliamentary seats). It was mentioned in passing that although HADEP achieved 70% of the vote in the south east of Turkey, it did not receive any parliamentary seats because it failed to achieve the necessary 10% of support nationwide, whereas the fundamentalist party, which only received 20% of the vote in Diyarbakir, received 5 seats from there because of wider nationwide support. HADEP was criticised by the CHP for not condemning PKK bombings, such as the recent bombings in Istanbul. It was also stated that HADEP has all the rights of a normal party and is free to campaign (this last statement was contrary to the information which we had received from HADEP about arrests of its members, intimidation and so on).

The 1999 elections had, of course, not yet occurred at the time of our mission. The CHP did not appear particularly hopeful about their prospects<sup>49</sup>.

Our attention was drawn to the fact that there are secret right wing factions within the police and military whom parliament cannot control. These fascist groups are involved in murder and racketeering and are in league with gangsters. They mentioned the Susurluk report<sup>50</sup>.

<sup>48</sup> The students were members of TIP (the Workers' Party of Turkey). The party does not exist today. It joined the Communist Party of Turkey to form the United Communist Party of Turkey, but was later closed down by the State Security Court.

<sup>49</sup> As noted in Section 1, the party gained 8.5% of the vote.

<sup>50</sup> The Susurluk report, published in 1998, is the result of a investigation, carried out at the request of the Turkish prime minister, into allegations of collaboration between the state security forces and organised crime in

Apparently the police and army are outside the control of parliament. Particular blame for the current situation was placed on the True Path Party (DYP) and the Motherland Party (ANAP).

Mr Boluch then referred to Mr Ocalan's lawyers and stated that everyone had the right to a fair trial. He said that despite this, it is understandable that people were angry and would try to assault the lawyers.

Their reaction to our treatment in Diyarbakir was to state that if they had flown in themselves, they would have probably also have been sent back, or put in prison. They accepted that we might have been left thinking the worst of the situation, but stated that there was a war going on in the south east. They stated that their position politically was to support the cultural rights of minorities.

## SECTION 4: PARLIAMENTARY MEETING

Ahmet Zeki Okcuoglu's brother, and fellow member of Abdullah Ocalan's legal team, Selim Okcuoglu, attended the parliamentary meeting organised by the Kurdish Human Rights Project and the Bar of England and Wales Human Rights Committee on 26<sup>th</sup> April 1999. He spoke to the meeting about Mr Ocalan's conditions, the concerns that he will not receive a fair trial and the difficulties facing his lawyers in Turkey:

While Turkey states that it conforms to international law and standards in its attitude to human rights, in reality the Turkish state is acting in a manner which is entirely contrary to law. The trial of Abdullah Ocalan is an opportunity to expose all the human rights and legal infringements which have occurred over the years. The trial must be examined by reference to the complex political issues which give rise to it: the war in the Kurdish regions, and the reasons for that war. While the Turkish state is attempting to keep the international community out of the issues surrounding the trial, it is clear that the trial will be exposed internationally, and it must be seen in that way.

At the moment, in Turkey, there is a crisis at the top levels of government, which means that the proper procedures are not being followed in respect of this trial: for example, the government have been given responsibilities which should rest with the judiciary. The upshot of this is that the prosecutors and the justice department have been divested of their usual responsibilities and this means that the lawyers working on the case cannot use the usual channels for their applications, but must apply to the 'crisis desk'. Thus, the fundamental principle of the right to a fair trial cannot be respected.

Despite the European Court of Human Rights judgment condemning the biased structure of the State Security Court in the case of Incal v Turkey, on account of the presence of a military judge, the trial of Abdullah Ocalan will take place in this Court. No changes have been made to the State Security Court structure since the Incal case, and it is understood that none will be.

It has been clear from the outset, through the attitude and comments of the president, press and other key figures, that Mr Ocalan cannot receive a fair trial. There is a logic at work which is trying to prevent the possibility of a defence. Mr Ocalan is detained under conditions which are illegal even from the perspective of Turkish law. He is not treated like an 'ordinary' detainee. For example, all contact with the outside world has been stopped and he does not have access to newspapers, radio or television. It is not possible for his lawyers to prepare a defence according to accepted principles. He is detained under intense psychological pressure. He is kept under military surveillance on an island. The intention of this is to deprive him of the opportunity, from the outset, of preparing an adequate defence.

Mr Ocalan's lawyers are in a difficult position. When he was first abducted, it was suggested that he should have no lawyers, because in the eyes of the public he was not a person who was even going to be defended. However, the right to a defence is sacred and should be

upheld. The lawyers therefore took the case in order to carry out their role as members of the legal profession in a proper manner.

There have been attempts to show the lawyers themselves as being guilty. The press has taken on the role of provocateur in this respect. It then became clear that the lawyers would become target themselves and would face problems. They have been attacked by fascist groups. They have all been threatened. They have received death threats and anonymous letters. They have also been involved in defending other human rights cases, and many of the lawyers are themselves personally facing charges. As a result of their involvement with Mr Ocalan's case, the cases against them are proceeding more quickly, so that they can be removed from the situation.

The conditions surrounding the lawyers' meetings with their client are completely unique. They must apply to the 'crisis desk' 48 hours prior to a visit for permission to see Mr Ocalan. Once they are within five kilometres of the place where he is held, they encounter a heavy police presence. On arrival at the boat landing, they are greeted by military personnel. They are subjected to five separate searches. There is then a two and a half journey to the island. This is followed by further searches. They are not permitted to take anything into the meeting, not even a pen and paper. The meetings are restricted to one hour. They are not permitted to shake hands with their client. While there are thousands of individuals in Turkey facing the same charges as Mr Ocalan, none of them are subject to these restrictions and procedures.

Once they are in the meeting room with their client, they are listened to and observed: even their breathing is noted. Under these circumstances, they attempt to have a dialogue and to do everything that is necessary for the so-called 'fair trial'.

As a result of these conditions, it is impossible to expect that Mr Ocalan can have a fair trial. Indeed, there is no such expectation.

The Turkish procedures do not correspond with those required by international law. Only Turkish lawyers can represent Mr Ocalan in Turkey, but an international legal team has made representations to the European Court of Human Rights on Mr Ocalan's behalf, and thus they have an important role to play internationally. It is natural that they should want to meet with their client in order to represent him properly, but there are restrictions on the presence of international observers.

Another dimension to the case is that it is not receiving sufficient international attention. Countries that could influence Turkey in this regard have retained their usual position: to wait and see what happens. The situation, both legally and politically, should be of international concern, as it affects everyone. Everyone who has a role to play in ensuring the right to a defence and the right to a fair trial should, therefore, undertake that duty, and should assist the lawyers in this regard. And it is important to remember that underlying this trial is a war in which 30,000 people have lost their lives, millions of Kurds have been driven out of their homes and thousands of villages have been destroyed, all because of the misplaced policies of the Turkish state. If this suffering is to stop, something must be done.

Mr Okcuoglu also commented on the pressure on the Istanbul Bar Association to disbar members of Mr Ocalan's legal team. He confirmed that this is one of the means of oppression of the lawyers, but there is some debate as to whether expulsion is appropriate when the relevant offence is a political crime as opposed to a true 'criminal' crime. For example, the Ankara Bar Association has disbarred members on this basis, but the Istanbul Bar Association has refused to do so. However, it is not clear for how long the Istanbul Bar Association will be able to withstand this pressure. The Association has an absolute discretion in this regard, so it will probably not be for long.

Finally, in response to a question, Mr Okcuoglu confirmed that Mr Ocalan's legal team would not withdraw on the grounds that this is not really a proper trial. They are his only contact with the outside world, and see themselves as lawyers to the Kurdish people.

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## SECTION 5: CONCLUSION

Turkey has an international obligation to ensure that human rights organisations, political parties and lawyers are free to perform their legitimate role without fear of reprisals. They may be embarrassed or even offended by their activities but non-violent dissent is an essential component of a democratic society. Failure to protect these groups gives a licence to conservative elements in society to attack them.

The interviews in this report paint a picture which is far removed from the ideal. Lawyers are subjected to verbal and physical abuse from civilians, which is apparently tolerated by the Turkish authorities. Further, there appears to be an active campaign on the part of the state to prosecute and imprison those involved in human rights activities. The history of the persecution of members of the IHD, who are seeking to exercise their right to freedom of expression, makes astounding reading.

Since Abdullah Ocalan's arrest, the atmosphere in Turkey has been highly charged. As a result, the risk of attack has intensified for lawyers, human rights activists and political parties. It is difficult for those working in the field of human rights to maintain morale under these conditions. The situation may well have deteriorated since the elections: the emergence of a strongly nationalist party at the helm of government has heralded pessimism about political will to tackle human rights issues, and the Kurdish question.

The recent acquittal of the ten executive members of the Diyarbakir branch of the IHD is to be welcomed. The final hearing at that trial was open to international observers: this too is a welcome development, although the restrictions on observation of Abdullah Ocalan's trial continue. This report demonstrates how important independent, impartial observers can be to the maintenance of human rights standards.

The current situation in Turkey is particularly troubling. If the tension and protests continue, then Turkey will face a crisis of security not only within its borders but also internationally. The arrest of Mr Ocalan has already received worldwide condemnation and his trial will throw further attention on the human rights record of Turkey, the independence of the judiciary and the scope, or otherwise, for human rights defenders to act without fear.

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## SECTION 6: RECOMMENDATIONS

**The Bar Human Rights Committee, Howe & Co, solicitors, and the Kurdish Human Rights Project** are deeply concerned about the human rights violations that have been illustrated in this report. We are also troubled by the Turkish governments' intimidation, assault and detention of human rights lawyers, activists and politicians, and their failure to investigate these violations.

**The Bar Human Rights Committee, Howe & Co, solicitors, and the Kurdish Human Rights Project** call on the Turkish government and the international community to seriously consider the following recommendations.

1. The importance of NGOs in the field of human rights can not be overemphasised. It is of concern that the Turkish members of the IHD and TOHAV who are working to disseminate information regarding human rights abuses in Turkey are being harassed and prosecuted for undertaking this task. The Turkish government must protect these organisations from harassment by members of the public, and must ensure that any prosecutions are in line with Turkey's obligations under the European Convention of Human Rights to uphold human rights and fundamental freedoms.
2. Under Article 52 of the European Convention of Human Rights, the Secretary General of the Council of Europe may demand of any party to the Convention 'an explanation of the manner in which its internal law ensures the effective implementation of any of the provisions of the Convention'. An inquiry into Turkey's treatment of its legal profession and other human rights defenders should be launched.
3. There is substantial cause for concern that lawyers are being targeted because of their involvement in human rights and defending the Kurds. Lawyers in Turkey are being put on trial simply for speaking out on behalf of their clients and defending human rights. The Turkish government should investigate these allegations and take appropriate action.
4. We would remind Turkey of the Basic Principles on the Role of Lawyers<sup>51</sup>. Principle 18 is of particular relevance, stating that lawyers should not be identified with their clients or their clients' causes as a result of defending them. The lawyers of those who stand accused under the Penal Code and the Anti-Terror Law should be accorded these rights.
5. The cycle of impunity in Turkey must end. We urge the Turkish government to stop their complacency in the face of human rights violations by law enforcement officers and military personnel. We urge the government to launch independent investigations

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<sup>51</sup> See Section 2.

and to prosecute those who have committed human rights violations, and not to allow them to hide under the protective shield of the state.

6. Turkey must ensure that the judiciary is independent from the executive. We ask Turkey to respect Articles 6 and 13 of the European Convention for Human Rights to ensure that all legitimate prosecutions are fair, independent and impartial.
7. We call on the international community to raise these concerns with Turkey by reminding it of its obligations under international law and in particular as a signatory of the European Convention on Human Rights.
8. The Committee of Ministers of the Council of Europe should monitor the implementation of the judgements of the European Court of Human Rights against Turkey.

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