

Trial of leaders and elected representatives of DISK, Turkey

R E P O R T

to the European Trade Union Confederation (ETUC)

and

the International Confederation of Free Trade Unions (ICFTU)

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TÜRKİYE SOSYAL TARİH ARAŞTIRMA VAKFI

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Report from the trial of leaders and elected representatives
of the Confederation of Progressive Trade Unions of Turkey (DISK)

On behalf of the Swedish Social Democratic Party (SAP) and the Swedish Trade Union Confederation (LO), I visited Turkey on January 3-8, 1982 in order to act as an observer at the trial of the leaders and elected officials of the Confederation of Progressive Trade Unions of Turkey (DISK).

I had lengthy conversations with several of the defense attorneys in the case. I also met people who were connected with DISK and talked to journalists and others who had good knowledge of conditions in Turkey, as well as members of the families of the defendants.

The trial began on December 24, 1981. During my visit to Istanbul proceedings were conducted at the military court only on January 6. The trial was then adjourned until January 13.

In addition to myself, two Greek attorneys were also present at the trials as observers on behalf of the Athen's Bar Association.

Several international observers were present when the trial began, among them the Norwegian lawyer Karl Nandrup Dahl representing the Norwegian Trade Union Confederation.

Nandrup Dahl has presented two extensive reports on the trial and its background. My observations are in all important aspects in agreement with Nandrup Dahl's reports

with attention to this, I have found it motivated to restrict my presentation.

The political situation in Turkey after September 12, 1980

Since the military coup d'Etat, all legislative and administrative powers have been vested in the National Security Council. Parliament has been dissolved and the political parties have been "suspended".

The powers and authority vested in the National Security Council have been defined in a "law regarding constitutional order" dated October 27, 1980, which provides that the functions and powers of the parliament shall be exercised and executed by the National Security Council and the functions and powers of the President by the Head of the National Security Council.

It is further stated that (among other things) "Those provisions contained or to be contained in the communiqués and decrees of the National Security Council and the laws adopted and published or to be published which do not conform to the provisions of the Constitution of July 9, 1961 and No. 334 will be considered as constitutional amendments. In case such legislation does not conform to the laws in force, it will be considered as amendments to laws."

The legal texts and motives as reproduced in the publication "Turkey 1981 Almanac" are included as an appendix to this report (Appendix 1).

The military leaders have motivated their seizure of power by referring to the political terror, threatening anarchy and national disintegration as well as to the inability of the Parliament to act in time of crisis.

The political terror exercised by groups on the extreme right and the extreme left have undeniably constituted

a serious problem in Turkey before the military coup. After the military assumption of power, terror from both right and left has ceased.

Several persons I spoke to in Turkey maintained that there is well-founded reason to believe that the Turkish military leaders permitted terrorism to thrive in order to provide an excuse for their seizure of power. A State of Emergency was proclaimed in several provinces as early as 1978; the authority vested in the military was continuously increased without noticeable results.

There is also reason to believe that plans for a military coup existed for quite some time before the coup was carried out. According to one reliable source, discussions took place among officers (on the colonel level) at least a year before the coup.

Trade union and employee protection rights

DISK's activities were suspended by a decision of the National Security Council on September 14, 1980. Its bank assets have been frozen and its property has been seized and placed under military administration.

Membership fees are deducted from the workers' wages on behalf of DISK but are transferred to a special bank account which is at the disposition of the national authorities. Deductions for members' fees cease when the member resigns from DISK or transfers his membership to the national trade organization Türk-Is, which is approved by the military regime.

It may be noted that the former General Secretary of Türk-Is, Sadik Side, holds the post of Minister of Social Affairs in the government which was inaugurated subsequent to the military coup.

Although significant pressure has been applied to the members of DISK, not many have requested that their membership be cancelled or transferred to Türk-Is.

The right to conclude wage agreements by collective bargaining has been eliminated by instructions governing obligatory procedures before a Supreme Arbitration Board where the government is represented. The Board establishes the wages and other benefits based on employment. The Board has the authority to make alterations in valid agreements.

Trade union actions are forbidden.

Under martial law, the Martial Law Commanders have been authorized to make decisions concerning employment and dismissals in the public sector. Such decisions must be obeyed immediately. The person concerned cannot appeal the decision or make any other attempt to have it reviewed.

During my visit to Turkey, it was generally agreed that the rights of the employees have drastically deteriorated since the military coup. A journalist on a larger daily newspaper related that the paper received many letters from workers who requested advice concerning unjustified discharges, wage reductions in violation of the collective agreements and similar problems in their companies. Numerous dismissals have taken place within the machine industry, among others.

Real wages have been greatly reduced during 1980 and 1981, from TL 20.54 a day in 1963 monetary values during 1979 to TL 15.34 in 1980 and TL 13.91 in 1981. The corresponding wage was 17.91 during the base year 1963. The estimates are based on official statistics.

For other details, I refer to Nandrup Dahl's report which comprises the military regime's measures to limit and control the trade union rights and trade union activity.

The DISK trial in Istanbul

The military prosecutor, Suleyman Takkeci, has preferred charges against 52 leaders and elected representatives of DISK.

Nandrup Dahl's Report No. 2 contains details concerning the background of all of the defendants.

The majority of the defendants have been under arrest since the military coup or shortly thereafter. Ten of them who had earlier been released were again detained when the trial was opened on December 24, 1981 and all of them are now under arrest in the Davutpasa military prison outside Istanbul.

The trial is being conducted at Istanbul Martial Law Command Court No. 2. The court meets in a basketball hall outside the city. Security measures are rigorous. A large number of military police are posted among the defendants and in the remainder of the building.

The charge

The military prosecutor has claimed that the defendants "have as members of an illegal Marxist-Leninist organization of a revolutionary character attempted to subvert the order of the State, the Constitution and the parliamentary institutions of the State in order to bring about proletarian socialism and to establish dictatorship by the proletariat based on the power of the working class, under the leadership of DISK, which has become the political organization of the working class in conjunction with groups of people allied with the workers."

He has demanded that all of the defendants be held responsible in accordance with the terms of Paragraph 146, Subsection 1, of the Penal Code which provides :

"Any person who attempts to change, deteriorate or abolish by force the Constitution of the Republic of Turkey either in part or in its entirety, or to destroy The Grand National Assembly founded on this Constitution, or to prevent it from fulfilling its function, will be condemned to death."

The prosecutor has consequently demanded that all of the defendants be condemned to death.

In support of his charge, the prosecutor has referred to both the content of DISK's statutes, resolutions, statements from meetings and publications issued by DISK, as well as to actions which DISK encouraged or undertook. The prosecutor has particularly emphasized the following actions:

1. Workers' demonstrations (in Istanbul) on June 15 and 16, 1970 (resulting from the proposal of alterations in the law regulating trade unions).
2. An attempted "general strike" on September 16, 1976 with the aim of preventing the establishment of special State security courts.
3. A two-hour strike on March 29, 1978 with the motto "Stop Fascism" (in protest against a right-wing extremist attack which had resulted in the loss of seven student lives at the University of Istanbul on March 16.)
4. Go-slow actions on April 30, 1980 as a result of the prohibition against celebration of May 1 of the same year by the Martial Law Command.
5. The organization of May 1 demonstrations from 1976 to 1978.

As an example, the prosecutor has also referred to the fact that the song Internationale was sung in chorus at the opening and closing of the Congress of the Union of Metalworkers in December 1979. In 1981 a military court condemned the singers to five years imprisonment for their "crime".

As it was reported to me, the prosecutor's case deviates on the whole from all accepted legal argumentation.

The following may serve as examples:

The prosecutor claims that DISK has stated in its statutes that a land reform is necessary. He notes that there is no further information on the subject in DISK's other publications. Despite this, the prosecutor claims that it is possible to draw the conclusion that DISK, which is a Marxist-Leninist organization, has promised a land reform in order to deceive the peasants and subsequently be able to establish collective ownership. "Kolkhozes, kibbutzes, Chinese People's Communes, Bulgarian savets and köy-kents (a form of agricultural co-operatives proposed by the Republican People's Party (RPP))-- they are all milestones on the road to collectivization."

An English summary of the most important points in the indictment is included in Nandrup Dahl's Report No. 2.

The prosecutor has not been able to connect DISK with any acts of violence. On the other hand, he claims that DISK has exerted material and moral pressure on the State by means of its actions which have paralyzed the State machinery and created an atmosphere of uprising and revolution.

The prosecutor is aware that DISK's actions have been subjected to examination by other courts and has stated that this does not constitute an obstacle to examination

of the same actions as a part of a general plan. The actions are consequently not be be considered as separate acts but, instead, as different stages in a crime which falls under Paragraph 146 of the Turkish Penal Code, according to the prosecutor.

The following information which was received from the defense attorneys with whom I talked is reported concerning the earlier trials and those presently in progress against the representatives and members of organizations related to DISK.

The events of June 15-16, 1970: Certain workers were sentenced to short prison terms. Their actions were spontaneous. No DISK leader was indicted. The workers who were sentenced were later reprimanded by an amnesty.

Attempted general strike on September 16, 1976: Members of DISK's Executive Committee were indicted before a court in Bakirköy. The indictment was dismissed. After a hearing before a higher court the case was returned to the court in Bakirköy for renewed trial. Proceedings have been initiated there.

Strike on March 20, 1978: Members of DISK's Executive Committee have been sentenced to prison for six months by a court in Bakirköy. The sentence was appealed but confirmed by a higher court. The trial was held after the military coup and sentence was passed on July 3, 1980.

Demonstration on May 1, 1979: Members of the Executive Committee were sentenced in 1979 to seven days imprisonment by a Martial Law Command Court in Istanbul. The sentence was confirmed by a higher court.

Go-slow action on April 30, 1980: A trial was started in 1981 against members of DISK's Executive Committee by a court in Bakirköy and a military court in Istanbul.

It should be noted that several of those indicted have not held leading positions in DISK during the entire period covered by the indictment, i.e. from the time DISK was founded in 1967 until the military coup on September 12, 1980. Abdullah Bastürk, for example, was elected to his post in 1978.

In addition to the above, four trials have been initiated against representatives of DISK, among them President Abdullah Bastürk and General Secretary Ahmet Fehmi Isiklar.

The defense attorneys have maintained that DISK is a legally constituted democratic trade union organization. DISK has always defended the Turkish Constitution and has emphatically condemned all forms of political violence. The great majority of the defendants are closely connected to the Republican People's Party (RPP). Abdullah Bastürk has, for example, represented the RPP in Parliament. DISK's representatives have themselves been subjected to acts of terror. For example, DISK's former President Türkler was killed by right-wing extremists in 1980.

The prosecutor has further demanded that DISK should be forbidden and its property confiscated. A trial has already been started before a labour court in Bakırhöy concerning the dissolution of DISK.

Torture and inhuman treatment of the defendants

According to the defense attorneys with whom I spoke, all of the defendants have stated that they were subjected to torture or inhuman treatment in connection with the initial interrogation. The following examples have been given:

People being interrogated have been subjected to blows by fists and truncheons. Electrical torture has been used.

One of the defendants has been hung by the arms from a crossbar for several hours. Refined methods aimed at the psychic breakdown of the accused have been employed. After being told that he was going to die, one of the defendants was pushed through a window while blindfolded. He was not aware that it was a low window only slightly above ground level. In other cases ropes have been placed around the necks of the accused at the same time as it was explained what was about to happen to them. Several of the accused have been forced to listen to the screams of other prisoners who were probably undergoing torture.

Several of the defendants have stated that they were interrogated for several days at a time while tied to a chair. Several have also stated that they were forced to sign interrogation reports while blindfolded and without knowing what the reports contained.

It should be noted that the interrogation reports are not signed by a specific name-given interrogation leader but by a signature specified as "Team A" or some similar designation.

Interrogation took place in a building within the Davutpasa military installation which is designated Otagi-Numayun.

During trial procedures on January 6, 1982 the prosecutor refuted the accusations of torture and claimed that the statements did not come from the defendants themselves but from the domestic and international press. The claims of torture were described as a brazen propaganda manoeuvre. He also referred to the fact that he had ordered former mayor Ahmet Isvan (who had been arrested together with the DISK leaders, see below) and Abdullah Bastürk to be examined by a doctor.

The medical examination referred to by the prosecutor took place at the end of February 1981 -- several months after the alleged torture -- and was filmed by the Turkish television service. According to information received, Isvan and Bastürk were not aware that a TV recording was to be made. During the interrogation of Isvan, which was broadcast by Turkish TV in a very abbreviated version, he used such expressions as "I myself was not tortured" and "I myself was not subjected to violent treatment". Isvan has, however, never claimed that he was subjected to physical violence. TV only broadcast pictures from the interrogation of Bastürk and nothing that was said was sent out over the network.

All of the defendants have, according to the statement made before a military judge, claimed that they do not accept the interrogation reports. I have seen the records of the Martial Law Command Court No. 3 in Istanbul which show that several of the defendants have declared before Military Judge Ismet Aytug that they were forced to sign interrogation reports without knowledge of their contents. It is noted in the records that they have filed written complaints to the judge concerning the treatment to which they were subjected. It has been notated that the written complaints have been incorporated into the court records. In his report, Nandrup Dahl has included accounts of three of these cases. I have also studied the record of an interrogation held before Assistant Prosecutor Ataman in January 1981, according to which the same persons state that they were subjected to torture during the introductory interrogations whereby they refer to the written complaints submitted to Judge Aytug. One of the accused stated that he was subjected to torture for "11 days and 11 nights".

It can be noted that the judge who recorded the written complaints concerning torture etc., Ismet Aytug, has

also in several other cases found that there were not sufficient grounds for a detention order.

Ismet Aytug was later transferred to Corum. According to the information I received, it is obvious that the transfer was a result of the fact that Aytug had not proved sufficiently harsh in his judgements.

The defendants complaints are not included in the files of the military court.

The military prosecutor's categorical denial that the defendants had themselves stated that they had been tortured should be given special importance in view of the circumstances related above.

Taken together, the circumstances indicate that there is reason to assume that many of the defendants have been subjected to severe torture during interrogation.

Long deprivation of freedom

The lengthy deprivation of freedom has entailed severe stress on the defendants. After their arrest they have usually been held totally incommunicado for the first three months. During that period they have not been permitted to meet with their lawyers or relatives.

After the military coup, new regulations were introduced in accordance with which the longest period of deprivation of freedom without a court order has been set at 90 days. Later the longest period for the deprivation of freedom without a court hearing has been set at 30 days or, for certain cases, 45 days.

Even after the difficult interrogation period, prison conditions have been completely unacceptable. The defendants were not permitted to be outdoors before nine months had

elapsed. Conditions are described as somewhat better than earlier but many suffer from the aftereffects of the long detention period. Some of them have shown initial symptoms of scurvy.

The defendants are permitted one visit a week by close relatives. These visits take place under degrading conditions. Conversations must be carried out at high voice through double security grilles between which guards are posted.

The defense

The defendants received information about the prosecutor's charges first in June 1981 when he held a press conference at which he stated that they would be charged with crimes against Paragraph 146, Subsection 1, of the Turkish Penal Code.

Copies of the 817 page indictment were received first in November 1981. The indictment is dated June 26, 1981.

It is reported that one of the assistant prosecutors, Tahsin Çelik, refused to sign the indictment. His name has been stamped over in the indictment and he has been transferred from Istanbul to Bolu.

The defense attorneys did not receive copies of the charges. They have been obliged to take a copier to the prison in order to make copies of the document.

During the court proceedings the prosecutor stated that there is no regulation which stipulates that the defense attorneys should be supplied with copies of the charges. According to the defense attorneys, this has, however, been common practice.

The defense lawyers' ability to conduct effective defense has been strongly curtailed. Each attorney has only been

permitted to visit the prison twice a week. Each visit is limited to a maximum of 10-15 minutes and applications to extend the length of the individual visits have been rejected. The attorneys may only take a blank piece of paper and a pen into the prison. Conversations with their clients must be conducted while standing and through double security grilles between which guards are posted. Papers may not be passed between attorney and client. The attorney is not permitted to "get over-friendly" with his client or to "get emotional". Discussions of torture are stopped by the guards. Attorneys and their clients are even kept apart in the courtroom.

When the trial opened on December 24, 1981 the military court ruled that wartime conditions existed in the country and that the defendant's right to choose his own defense attorney would be limited in accordance therewith. By a ruling of the military court, the number of attorneys was reduced to 52, with each attorney authorized to represent several defendants. Each of the defendant is entitled to change his attorney or select one from among the 52 attorneys. In accordance with these conditions, 46 of the defendants will be defended collectively by 46 lawyers while 6 have chosen individual lawyers.

Orhan Apaydin, one of the leading defense attorneys who is also President of the Istanbul Bar Association, expressed the objection that the regulation cited by the court could only be applied during an actual state of war, which did not exist. When he maintained this position, he was expelled from the court after which all defense attorneys left the courtroom in protest. I refer to Nandrup Dahl's report.

The following day of the trial one of the defendants, Riza Güven, was expelled when he complained that no measures had been taken, even though he had preferred charges that he had been subjected to torture.

On December 30, two defense attorneys, Hasan Fehmi Günes and Turgut Kazan were expelled from the courtroom when they endeavoured to make certain procedural objections. The other defense attorneys then left the courtroom in protest.

When the trial was resumed on January 6, only two attorneys were in attendance. Attorney Gülçin Cayligil, who is also vice chairman of the Union of Turkish Bar Associations, expressed serious criticism of the conduct of the case on behalf of 46 of the absent attorneys and demanded that the military prosecutor should resign and that Major Çetin Güvener, justice of the military court, should be relieved of his duties.

Attorney Cayligil made a number of formal objections concerning the handling of the case up to that time, among them the fact that the objections made by the defense attorneys had not been examined by the court, that the prosecutor had been permitted to present the indictment before a roll call of the attorneys had been taken, that the court's judge had arbitrarily and incorrectly dictated what should be included in the court records, that the court's interpretation of the "State of War" concept was in contradiction of the law and that the defendant's written complaints concerning torture had not been incorporated in the court files.

She maintained that there was good reason to question the impartiality of the prosecutor and the judge. The defendant's right to defense had not been respected and the defense attorneys had not been treated as equal parties to the prosecutor.

The prosecutor refuted the objections.

The court then determined, without deliberation, to refuse the demands of the defense.

A bizarre incident took place when Attorney Cayligil requested the Court's permission to leave the courtroom since she felt ill. After hearing the prosecutor's opinion concerning the request, the judge decreed that Attorney Cayligil could be excused from the proceedings if a doctor would certify that she was ill. The medical examination took place immediately thereafter and determined that Attorney Cayligil was indisposed due to excessively high blood pressure.

The defense attorneys work under severe pressure. One of the leading attorneys stated that a police commissioner warned him against taking the case and that on two occasions the military prosecutor tried to have him arrested. This attorney was held under house arrest under guard immediately after the coup. Another attorney was arrested for four days after the military coup. He was not subjected to torture but was forced to sit on a chair for several days. A third attorney stated that in connection with a visit to a client in the Mamak military prison in Ankara on another case, he had been subjected to a serious attack by a group of prisoners who were members of a right-wing organization. The guards had completely disregarded the beating. A fire extinguisher and a chair were among the weapons used during the attack.

The following documents relating to the trial are included as appendices:

Application to the court prepared by several of the defense attorneys on 30 December 1981, with complaints concerning restrictions on their ability to defend the interests of their clients. (Appendix 2).

Application to the court dated January 6, 1982 by Abdullah Bastürk with the claim that the court should not be considered competent to try the case. (Appendix 3).

Application to the court dated January 6, 1982 by Abdullah Bastürk claiming that he should be permitted to present certain procedural objections before the indictment is read. (Appendix 4).

Application to the Court dated January 6, 1982 by Abdullah Basturk et alles with complaints (among other things) that the defendants had not been permitted to present complaints concerning torture to the court, as well as the demand that prosecutor Suleyman Takkeci should resign. (Appendix 5).

Application to the court dated January 3, 1982 by Abdullah Bastürk claiming, among other things, that the court's judge Cetin Güvener, should be relieved of his duties (Appendix 6).

A communication addressed to the Turkish Bar Association dated January 3, 1982 with complaints concerning the conduct of the DISK case in contradiction with accepted rules of procedure and claims that the rights of the defense had been disregarded. (Appendix 7).

A communication dated January 3, 1982 addressed to the Istanbul Bar Association by Attorney Ercüment Tahiroglu concerning complaints of the abusive treatment to which Attorney Gülcin Cayigil had been subjected during the session of the military court on January 6, 1982. (Appendix 8).

Affidavit by seven attorneys dated December 30, 1981 concerning "gross violations of procedure" during the three first days of the trial and the abusive treatment of the defense attorneys. (Appendix 9)

Other deprivations of freedom related to the DISK case

After the military coup, some 600 members of DISK were arrested together with other persons suspected of having supported the organization. Almost 160 of these, including the 52 under indictment in the case in question, are still deprived of their freedom. Later, approximately 25 additional persons have been imprisoned on suspicion of support to or collaboration with DISK.

Among these are the internationally known film director Hâbir Ali Özgentürk who was arrested early in December 1981, according to information received because he had sold a film to DISK.

Although many of those arrested have been deprived of their freedom for up to 16 months, no charges have been preferred against them.

At a press conference in June 1981 the military prosecutor stated that the prosecuting authority has conducted interrogations of DISK and affiliated trade unions since December 1980, as well as of persons and organizations who worked with and for DISK. He stated that there were more than 2000 suspects and that their number would rise in view of the fact that DISK is a nation-wide organization.

The case of Ahmet Isvan

Among those imprisoned together with the DISK leaders and elected representatives is Ahmet Isvan who was the Social-Democratic (RPP) mayor of Istanbul during the period 1973-1977.

Ahmet Isvan was arrested on November 13, 1980 and is accused of supporting DISK, although he has not been notified of any specific charges.

Ahmet Isvan's defense attorney has not even been allowed

to see the documents in his file. The prosecutor has not stated whether he will be charged or not.

Ahmet Isvan is not well and his health has significantly deteriorated during his period of imprisonment.

Torture in Turkey

Among the people with whom I spoke during my visit to Turkey, it was the general opinion that torture is routinely employed as an interrogation method in Turkey. I was informed that Istanbul's Bar Association had received several reports of cases involving torture and deaths.

Among other cases, the following report on Ataman Ince was given to me.

Ataman Ince was arrested and taken to Istanbul's police headquarters, Department 1. Ince's father was informed that his son had died as a result of torture in the police headquarters. On November 9, 1981 he went to Istanbul to investigate the matter. During a visit to the police headquarters on that day he was told that Ataman Ince had never been there. With the help of lawyers, Ataman Ince's father endeavoured to see the legal advisor to Istanbul's Martial Law Command on November 10, but this was refused. The same day he visited the military prosecutor in Istanbul but neither there could he obtain an appointment for a meeting. On November 11 an attorney talked to military prosecutor Sulyeman Takkeci who declared that there was no information that the alleged death had taken place.

By further investigation, Ataman Ince's father learned that his son's dead body had been taken to the mortuary on October 26, 1981 together with an order from the

Istanbul's military prosecuting authority stating that the body came from the Haydarpasa Numune military hospital. It was also learned that the body had been turned over to the municipal priest in Fatih for burial on November 12, 1981 in accordance with a written order from the military prosecuting authority.

According to the medical records, Ataman Ince arrived at the Haydarpasa Numune Hospital on October 25, 1981 on the basis of a written order from the Istanbul military prosecuting authority. Ataman Ince was alive upon arrival, according to the medical records, but died a few minutes thereafter. The body was taken from the hospital to the mortuary by order of the prosecuting authority.

Ataman Ince was imprisoned together with his wife Hatice. She was released on November 20, 1981 and has related that she saw her husband at the Soganli police station in Istanbul on October 22, 1981. At that time Ataman Ince could not stand alone and was supported by three policemen. His head, as well as his entire face, was completely swollen. His tongue was extremely swollen and hung out of his mouth. Both legs appeared to have been broken below the kneecaps. Ataman Ince tried to speak to his wife but his lips and tongue were too swollen for him to enunciate any words. His wife was severely shocked. She asked the policemen what they had done to her husband and was told that he had "fallen from a parachute".

They jokingly said to her "You have read in the newspapers how people fall from parachutes in eastern Turkey". The wife then fainted.

On October 23, 1981 Ataman Ince and his wife were again taken to Istanbul's police headquarters, Department 1, where they were both again tortured. On October 26 the police told Ataman Ince's wife that her husband had died during torture. They said that she had no reason to

continue living and suggested that she voluntarily jump from a window in the police building.

This information was largely obtained from a document dated December 25, 1981 written by Ataman Ince's father and addressed to Istanbul's Bar Association. In it, the father requested assistance in bringing the responsible persons to trial and punishment. (Appendix 10.)

On October 29, three days after Ataman Ince's death, his sister Aytin Dumanli and her husband Bahadir Dumanli were arrested in Ankara and taken to a prison in Istanbul. Amnesty International conducted a so-called "urgent action" on their behalf in November since their families had not been able to obtain any information about where they were being held after their imprisonment. Aytin Dumanli was subsequently released early in December 1981. Her husband Bahadir died in hospital on January 3, 1982. There is reason to believe that his death was the result of torture.

I was also informed that two prisoners, Hakan Mermer Oluk and Serif Yildiz, had been killed in December 1981 at the Almendag prison in Istanbul. According to the information received from the authorities, they were injured on 8 December when teargas was used against detainees who refused to leave a building within the area. They have been said to have died in a hospital on December 14, 1981. According to my informant, who referred to an attorney engaged in the case, they had suffered severe head injuries and skull fractures.

I also received information concerning the head of the Fur and Leatherworkers Union, Kenan Budak, who was killed by the police in July 1981. The police have stated that Budak was shot when he tried to escape. According to other sources, the obduction proved that the fatal shot had been fired while Budek's body was in such a position that an escape attempt would have been impossible. I was

informed that a trial has been initiated at Istanbul Law Command Court No. 1 against the policeman alleged to have fired the fatal shot.

Amnesty International has declared to the Political Affairs Committee of the Council of Europe's Parliamentary Assembly that the information possessed by Amnesty International made an irrefutable case that torture is practiced on such a wide scale in Turkey that it is not possible that it is carried out without official sanction.

The information that I received during my visit to Turkey did not lead to a divergent assessment. It appears clear that torture could be stopped if the military leaders wished to do so. The measures taken by the military authorities to deter military personnel and police from torturing political prisoners have been very limited up to the present.

The material assembled in Turkey during my visit is somewhat uncertain but may give a general picture of the attitude of the authorities.

According to my sources of information, verdicts of guilty have been passed in three cases. In 1981, one policeman, Haskinis, was sentenced to 14 years imprisonment for the murder of Zeynel Abidin Ceylan in the Ankara police headquarters during September 1980. This policeman was held in arrest for a year. One week before the sentence was passed, he was released and has been missing ever since. In the other cases, comparatively brief prison sentences were passed. Trials of one or several persons have been started or are being prepared in 11 additional cases. Among others, a trial is underway in Ankara concerning the murder of book publisher Ilhan Erdost who was beaten to death on November 7, 1980 in a military vehicle. The non-commissioned officer who was responsible for the transportation of Erdost sat in the

front seat of the vehicle while the fatal beating took place but he has not been indicted.

According to a recent press release by Amnesty International, there is information that over 70 prisoners have died in custody in Turkey since the military take-over.

Political prisoners

Information concerning the number of political prisoners is uncertain. Most observers estimated the number of political prisoners to be between 40 000 and 50 000. This figure also includes politically active persons who are suspected of or sentenced for crimes of violence. My sources state that this latter category constitutes only a minor part of the total number of political prisoners.

Some sources state that the number of political prisoners is greatly in excess of the numbers mentioned above.

Executions

After the military coup on September 12, 1980, ten people have been executed in Turkey for political murder. On January 7, 1982, legally binding death sentences for 28 people had been submitted to the Consultative Assembly's Legal Commission for decision concerning the execution of the sentences. Death sentences are carried out by hanging.

Amnesty International estimated that at the end of 1981 some 90 people had been sentenced to death in Turkey and that the military prosecutor had demanded a death penalty for some 2000 persons in trials which are in progress or will be taken up in the near future.

Military courts

The attorneys with whom I spoke especially emphasized that the independence of the judiciary system and, in particular, the military courts had completely ceased due to the military take-over of power with its fatal consequences for the administration of justice. In practice, the immunity of judges has ceased to exist due to changes in the laws since the military coup. I refer here to Nandrup Dahl's reports.

The military prosecutor and judges are responsible to the Martial Law Commander and, ultimately, also to the National Security Council. Several examples -- some of which were reported above -- were cited to prove that judges and prosecutors have been transferred or pensioned. In the nature of things, it is also felt that the military officials, including the judges and prosecutors, cannot act independently of the demands of the military hierarchy.

The restoration of democracy

The head of the National Security Council, General Kenan Evren has announced that a referendum on a new constitution can take place earliest in November 1982, whereafter general elections can be held earliest in the Autumn of 1983 or latest by the Spring of 1984. According to Turkish newspapers which cited "official sources" in Turkey, this statement has been "accepted well by the European governments".

Opposition circles in Turkey felt that in Europe entirely too much emphasis has been placed on the question of a time table for the restoration of parliamentary democracy.

The present military regime cannot be compared with earlier military regimes, they emphasized. What is presently taking place in Turkey is a complete reconstruction of

the entire society. It is feared that the new constitution now being prepared, without the collaboration of parliamentarians, will lead to a form of government which is democratic only in name and outer form. The military junta is striving to create a controlled "democracy" with strong presidential power. The constitution of the Chilean military junta is cited as an example.

Human rights in Turkey

The total picture is very dark in Turkey. Utilizing the struggle against terrorism as an excuse, the military junta has consistently and systematically eliminated the country's democratic institutions and effectively stifled freedom of speech and assembly. Its methods do not differ from that of other military dictatorships. Basic human rights have been violated in a manner that is unprecedented in Turkey's modern history. Together with persons suspected of acts of political violence, thousands of people are held imprisoned for purely political reasons. They are members of political and trade union organizations which have been themselves subjected to the violence and terror which the military junta took as its excuse for seizing power.

Many have been held imprisoned for long periods without being charged or tried or even without being informed of any concrete suspicion of crime. Lengthy prison sentences have been passed for purely political acts. In its efforts to exercise political authority without judicial restraints, the military junta has even abolished the right to appeal a prison sentence which does not exceed three years. A large number of those arrested have been sentenced to death and several have been executed under the military regime. The number of demands for the death penalty are remarkable, even when judged by international standards.

The people who are now brought to trial for their opinions and standpoints on political and trade union questions are indicted and sentenced by prosecutors and judges who are directly subordinate to and dependent on the country's leaders, within the framework of the military hierarchy of order and command.

Brutal torture takes place on a wide scale in Turkey. The military leaders cannot avoid responsibility for the abuses which have occurred. The military junta's changes in the laws which extend the permissible period for deprivation of freedom without trial by a court to first 90 days and thereafter 45 days have in practice entailed a license to commit torture.

The Turkish military regime has in a flagrant manner violated basic human rights in conflict with the European Convention on Human Rights. The most consequent and principally acceptable response to the military coup would naturally have been to exclude or, at least, suspend Turkey from the Council of Europe. At present there is insufficient support among members for such an action. On the other hand, there is still well-founded reason to initiate proceedings against Turkey before the European Commission of Human Rights for breaches of the provisions of the European Convention on Human Rights.

The military junta in Turkey has requested dispensation from the obligations under the Convention on the basis of Article 15 which stipulates that the contracting parties may take measures derogating from its obligation in time of war or other public emergency threatening the life of the nation "to the extent strictly required by the exigencies of the situation."

It would be legally unacceptable but it would also set a dangerous precedent to permit the application of Article 15 in favour of a military junta which had seized power by violence in a country with a democratic form of government.

It should also be emphasized that Article 15 does not permit derogation from the prohibition against torture or inhuman or degrading treatment as defined in Article 3 of the Convention.

Europe has a major political and moral responsibility to ensure that violations of human rights cease and that real democracy is again restored to Turkey. The countries of Europe can also affect the situation in Turkey by political and economic measures.

The United States naturally also exercises a decisive influence on developments in Turkey. The present administration in The United States has, however, not only refrained from all criticism but has instead - as was demonstrated during the visit of Defense Minister Caspar Weinberger to Turkey - even expressed its unreserved support for the military regime and the policies it has pursued in the country.

It is therefore highly urgent to endeavour to persuade the United States to abandon its present attitude toward Turkey.

The DISK trial

The DISK trial should be seen in the context of the general background in Turkey, as related above. In my opinion, the DISK trial is, however, of special importance.

The indictment in the case is, on the whole, chiefly an exposition of an ideological conflict rather than an document in a legal process.

The legal principles and rules accepted by Western democracies in order to protect the rights of the defendants during a court trial have been disregarded in the most flagrant manner.

The principle that a person cannot be sentenced twice for the same act is completely ignored by the prosecutor who is basing his indictment on a number of events that have already been tried or are being tried in other processes.

The requirement that a trial shall be objective and impartial is a fundamental rule. An important element in this principle is that the parties shall be considered to have equal status. This rule has already been invalidated before the trial since the ability of the defendants and their attorneys to prepare the defense has been greatly restricted. This impression was reinforced during the trial when both the defendants and their attorneys were silenced and banished from the courtroom when they raised objections pertaining to important questions.

The fact that written complaints by the defendants against the use of torture have disappeared from their files and that, despite proof to the contrary, the defendants denied the existence of defendants claims of torture gives reason to believe that the prosecutor and the court have consciously endeavoured to conceal documentation which speaks to the advantage of the defendants.

The circumstances as a whole give rise to the impression that the defendants are considered guilty long before they have been sentenced and that, in any case, they bear the burden of proof to show that they are innocent. In fact, the head of the junta publicly announced many months before the indictment was presented that the guilt of the labour leaders would be established when they were tried.

In view of the extensive measures taken by the military leaders to limit and restrict trade union rights and activities, it is difficult to avoid the impression that the purpose of the trial of the DISK leaders is to eradicate vital and independent trade union organizations.

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