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TURKEY

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"Birds or earthworms": the Güçlükönak Massacre, its alleged cover-up, and the prosecution of independent investigators

June 1998

SUMMARY

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DISTR: SC/CO/GR

On the morning of 15 January 1996, on a remote mountain road near the town of Güçlükönak in Şirnak province, southeast Turkey, 10 passengers and the driver of a minibus were found shot dead. The minibus, with the bodies of the passengers still inside, had been set on fire. The unburned body of the driver lay at a short distance from the vehicle. All 11 victims were Kurdish men from local villages.

Turkey's southeast provinces have been the scene of a bitter 14-year conflict between government forces and the Kurdish Workers' Party (PKK), in the course of which both sides have been responsible for many civilian deaths. The authorities were quick to blame the PKK for the atrocity, accusing the outlawed group of breaking their own self-declared cease-fire. The day after the massacre the Turkish military flew a group of journalists from Ankara to the isolated scene to photograph the charred bodies and burned-out vehicle. News reports that evening generated outrage and revulsion within Turkey. Over the following days, however, the official account was challenged when word came from some relatives of the dead that local security forces had killed the men. The PKK had already denied responsibility for the massacre.

It seemed that full information about the murders might never emerge from this isolated region which is under a state of emergency, with access strictly controlled by the military. But in February a broad-based delegation travelled east to conduct a fact-finding mission. They managed to reach the villages and set to work interviewing witnesses and visiting the site of the massacre. Slowly the official version of events began to unravel: the evidence collected by the delegation seemed to confirm that the security forces were indeed involved in the deaths of the 11 men. Villagers and relatives interviewed by the delegation blamed the military for the killings. When the delegation members pointed out that according to the government, the PKK had committed the murders, the wife of one of the victims replied:

"PKK? What PKK? Have you not seen the scene of the event? On one side runs the river Tigris below with village-guards' positions just across the

river. On the other side: sharp rocks with military positions at the top. Two kilometres to the north, Taşkonak Gendarmerie. Three kilometres to the south, Koçyurdu Gendarmerie. PKK guerrillas must be birds or earthworms to carry out such an attack and disappear so soon....”

On their return to Istanbul the delegation submitted their findings to the authorities, asking for further investigation and for those responsible to be brought to justice. For three months the authorities did nothing. Then, on 16 April 1996, three members of the delegation, exasperated by the official inaction, submitted a formal complaint to the Public Prosecutor in which they accused Turkey's Chief of General Staff of responsibility for the massacre and of engaging in a cover-up. At this point the authorities acted. The judiciary, apparently at the urging of the Deputy Chief of General Staff, charged the three delegation members - musician Şanar Yurdatapan, former trade union leader Münir Ceylan, and president of the Istanbul branch of the Turkish Human Rights Association, the lawyer Ercan Kanar - with “insulting the security forces”. After protracted proceedings, on 3 February 1998 the three men were each sentenced to 10 months' imprisonment.

To date there has still been no official investigation of the Güçlükonak Massacre. Its perpetrators remain at large. The Turkish Government has said it considers the case closed and is not prepared to launch an independent inquiry.

The United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions require that governments should conduct thorough, prompt and impartial investigations into all suspected cases of extrajudicial execution. Amnesty International deplores the fact that the Turkish authorities have ignored these internationally recognized standards, preferring instead to prosecute members of a delegation which had tried, in good faith, to cast some light on the events at Güçlükonak that winter morning.

Amnesty International urges the Turkish authorities to quash, immediately and unconditionally, the verdicts against Şanar Yurdatapan, Münir Ceylan and Ercan Kanar. If the verdicts are enforced, Amnesty International will adopt the three - who are currently free pending appeal - as prisoners of conscience.

Finally, Amnesty International calls upon the Turkish Government to establish a thorough and impartial investigation into the massacre at Güçlükonak, to make public the methods and findings of that investigation, and to bring to justice those responsible for the killings.

KEYWORDS: EXTRAJUDICIAL EXECUTION / INVESTIGATION OF ABUSES / IMPUNITY / NON-GOVERNMENTAL ENTITIES / MASS KILLING / WITNESSES / TORTURE/ILL-TREATMENT / NON-GOVERNMENTAL ORGANIZATIONS / HUMAN RIGHTS ACTIVISTS / TRADE UNIONISTS / MUSICIANS / LAWYERS /

This report summarizes a 16-page document (5,616 words), *TURKEY: “Birds or earthworms”: the Güçlükonak Massacre, its alleged cover-up, and the prosecution of independent investigators* (AI Index: EUR 44/24/98), issued by Amnesty International in June 1998. Anyone wishing further details or to take action on this issue should consult the full document.

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED KINGDOM

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TURKEY

“Birds or earthworms”



The Güçlükönak Massacre, its alleged cover-up, and the prosecution of independent investigators

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TURKEY

“Birds or earthworms”: the Güçlükonak Massacre, its alleged cover-up, and the prosecution of independent investigators

In February 1996 the Turkish “Together for Peace” movement commissioned a fact-finding mission to investigate the killings of 11 Kurdish men which had taken place on 15 January near the town of Güçlükonak in Şırnak province, southeast Turkey. The massacre had been the subject of controversy: the official explanation that the illegal armed Kurdish Workers' Party (PKK) had committed the killings had been challenged and it seemed that in key respects the government version of events was unsound.

The region in which the massacre took place is under state of emergency rule where independent investigation is a difficult task. Nevertheless the fact-finding mission revealed previously undisclosed facts and shed important new light on the crime. Evidence uncovered by the mission suggested that Turkish security forces were involved in the killings.

Mission delegates called publicly for further investigation and for the perpetrators of the massacre to be identified and brought to justice. The authorities responded by charging three leading members of the fact-finding mission with “insulting the security forces”.

In February 1998 the three were each sentenced to 10 months' imprisonment.

The Güçlükonak Massacre

Since 1984 a bitter conflict has been fought between the Turkish security forces and the PKK which seeks autonomy for Turkey's Kurdish minority. The conflict has been waged mainly in the rural areas of the southeastern provinces, which have been under martial law or state of emergency rule since the 1970s.

This mountainous terrain is policed by the Turkish military and by gendarmes (soldiers acting as police officers) operating from small posts attached to villages or as larger units in towns and cities. The gendarmerie is supported by village guards - local auxiliaries armed and paid by the Turkish Government. In theory, enrolment in the village guard corps is voluntary, but the authorities view villagers who refuse service with great suspicion, as possible PKK sympathizers. Recalcitrant villagers have in many cases been threatened, tortured, burned out of their villages, killed or “disappeared”. On the other hand, any village that agrees to provide guards may suffer reprisals from the PKK. PKK members have periodically targeted such villages, “executing” captured guards and killing civilians, including in some cases women and children.

On 14 December 1995 the PKK had declared a unilateral cease-fire. The Turkish Government had not matched this PKK truce with a cease-fire of its own and was under political pressure to respond.

On 15 January 1996, at around 10am, a minibus was ambushed on a mountain road near Güçlükönak. The road runs between two villages, Taşkonak and Koçyurdu, which are a few kilometres apart and both house gendarmerie units¹. The site at which the ambush took place is narrow, bound on one side by the river Tigris and on the other by cliffs and a steep mountainside immediately above the road.

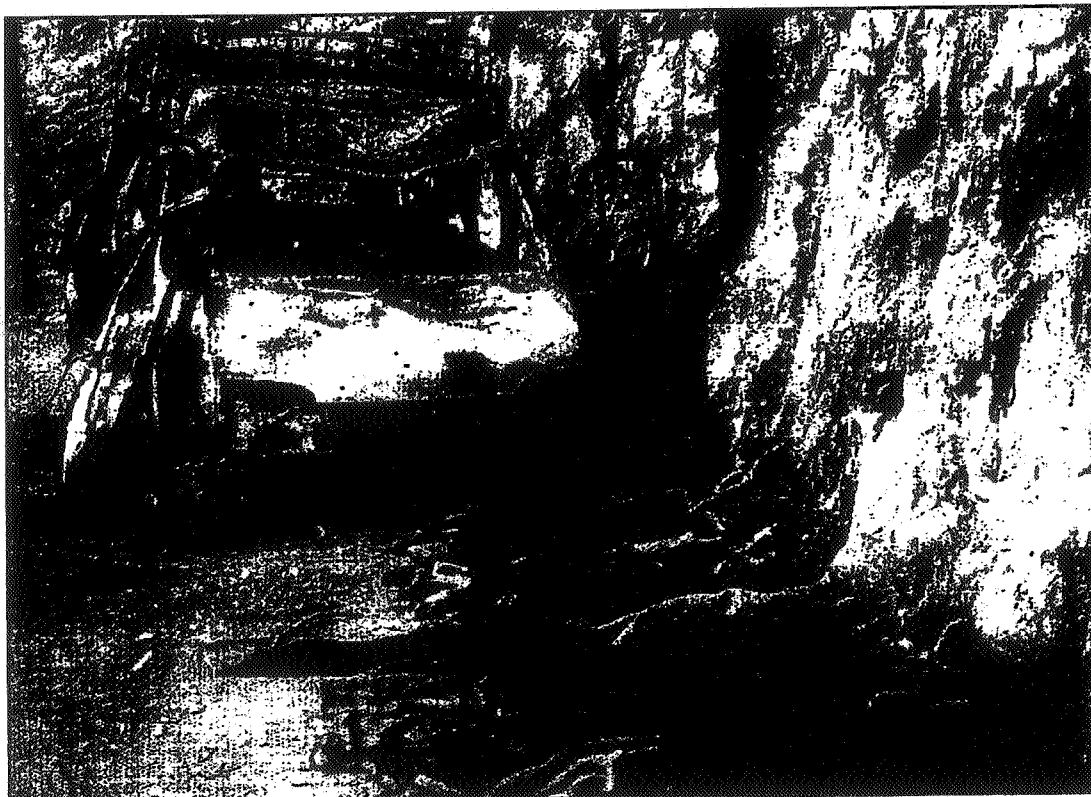
After the attack the minibus had been set on fire and the charred bodies of 10 men were found still inside the vehicle. The body of the driver, unburned, lay on the ground a short distance away. The victims of the massacre - Abdullah İlhan (aged 40), Neytullah İlhan (25), Halit Kaya (60), Ahmet Kaya (50), Ali Nas (48), Ramazan Oruç (65), Mehmet Öner (63), Lokman Özdemir (19), Abdulhalim Yılmaz (18), Hamid Yılmaz (26) and the minibus driver, Beşir Nas (23) - were all Kurdish men from local villages. Many of the passengers were serving or former village guards.

Official account is disputed

The Turkish military authorities promptly announced that a PKK unit had committed the killings, in violation of the PKK's own cease-fire. On 16 January the Turkish General Staff - the military high command - flew a group of selected Turkish and foreign journalists from Ankara to Taşkonak Gendarmerie Battalion Headquarters, near the scene of the killings. There, three high-ranking military officers, one from the army and two from the navy, told the journalists that the PKK had perpetrated the massacre. It was a plausible claim. The PKK had concluded an earlier cease-fire in May 1993 by abducting 33 unarmed members of the security forces and four civilians near Bingöl and killing them all.

The journalists were taken to the scene of the massacre, where the military had gone to unusual lengths to enhance the media impact of the killings. Reportedly the charred bodies, which had been carried away to Koçyurdu village in the immediate aftermath of the killings, had been returned to the site as a photograph opportunity for the visitors. The army Chief of Staff stated that the minibus had been attacked by the PKK with RPG-7 rockets "and all inside the vehicle were burned to death". He went on to cite the atrocity as "an explicit example of the unreliability of terrorist claims of a unilateral truce". The official account added that four Turkish soldiers from a nearby gendarmerie post had intervened and that the attackers had fled after a brief exchange of fire. When asked how it was known that the attackers were PKK, a spokesperson for the military said that they had found a

¹ The civilian population at Taşkonak had previously been forcibly cleared from the village.



The scene of the massacre: the burned-out minibus and, in the foreground, the covered bodies of the victims. © TDN

distinctive type of headscarf traditionally worn by PKK members and that PKK radio communications which disclosed PKK responsibility had been intercepted.

The state television channel TRT1 reported the incident on 16 January saying:

"A TRT correspondent has been told by the State of Emergency Region Governor's Office that terrorists stopped a minibus travelling from Siirt to Şirnak's Güçlükönak district at the village of Koçyurdu on the Erüh-Şirnak road yesterday evening and killed 11 passengers with automatic weapons fire. The terrorists later fled the area after setting fire to the minibus... The security forces have launched extensive operations in the region."

Understandably, public expressions of outrage followed. The then Prime Minister Mrs Tansu Çiller commented:

"These enemies of humanity who believe that the state authority has weakened and turned their guns on our innocent citizens will definitely

drown in the hole that they have fallen into. Such attacks which are against the existence of the Turkish Republic prove how just we are in the struggle against terrorism. I extend my condolences to the relatives of these innocent citizens killed in the inhuman attack and wish they may rest in peace."

However, on 17 January, the Diyarbakır branch of the Turkish Human Rights Association (HRA) circulated a different account of the incident, based on information supplied by relatives of the victims. The HRA reported that six of the passengers had been detained by gendarmes four days before the attack. It provided additional information that a group of village guards who had heard gunfire and telephoned the Taşkonak gendarmerie offering to assist had been ordered not to interfere.

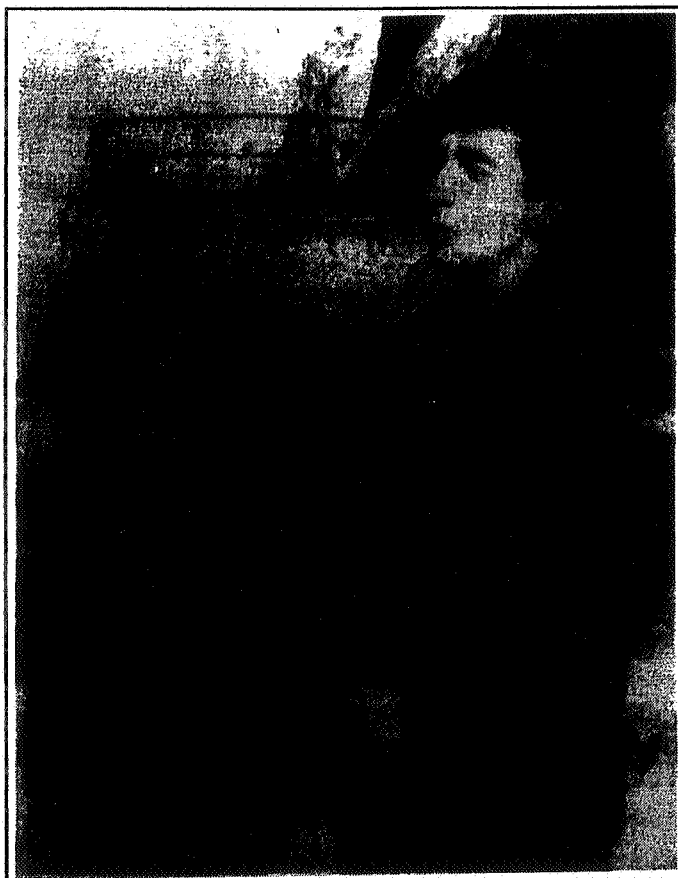
The previous day, the European representative of the National Liberation Front of Kurdistan (ERNK), the popular front of the PKK, had denied that the PKK was responsible for the killings. The ERNK spokesperson maintained that the PKK's unilateral cease-fire was still intact.

Peace movement organizes fact-finding mission

The "Together for Peace" initiative sought to resolve the contradictory claims of what had taken place at Güçlükönak. "Together for Peace" (in Turkish, Barış için bir araya - BIBA) was a movement of people from different cultural traditions and political perspectives which aimed to identify common ground between the Kurdish minority and the Turkish State, and to bring an end to the conflict through dialogue.²

When in February 1996 "Together for Peace" launched its appeal for respected Turkish and foreign citizens to take part in a fact-finding mission, the difficulties seemed immense. Güçlükönak is situated in the heart of the state of emergency region where an independent investigation of this kind would be difficult to achieve. Movement is strictly controlled in the region, where the Governor in Diyarbakır has the power to expel unwanted visitors. In October 1994 even the Turkish Deputy Prime Minister had been prevented by a military commander "for safety reasons" from visiting an area where villages had been burned by security forces. The risks of probing in such an area could not be ignored. Critics of the security policy in southeastern Turkey were, and are still, regarded as potential enemies of the state. During the early 1990s hundreds of the state's supposed "enemies" were tortured to death, shot dead in the street or "disappeared".

²"Together for Peace" was the title of a meeting in 1996 at the Marmara Hotel in Istanbul attended by representatives of non-governmental organizations, some political parties and prominent individuals. The primary aim was to forge a strong peace movement but the main achievement of the working group set up by this meeting was to send delegations of investigation to look into human rights violations taking place in the context of the conflict.



Bernice Rubens (PEN UK) and Cem Özdemir, German member of parliament, in front of remains of the minibus.

Nevertheless, many of the organizations and individuals approached by "Together for Peace" were enthusiastic about the initiative. A delegation was formed of representatives from a wide spectrum of political opinion and professional background in order to avoid possible charges of partiality. The delegation included academics, authors and journalists, human rights monitors, trade union leaders and politicians, many of them notable national figures whom the military would find difficult to turn away. Three overseas representatives also took part in the fact-finding mission: the Vice-President of International PEN UK, a German writer and a German member of Parliament of Turkish origin³.

³ The members of the delegation to Güçlükonak were: Ihsan Arslan (General President of Mazlum-Der, a human rights organization), Ismail Arslan (Deputy President, People's Democracy Party, HADEP), Sadik Bayantimur (Hak-İş, a trade union), Akin Birdal (President of the Turkish Human Rights Association), Ali Bulaç (writer), Münir Ceylan (former President, Petrol-İş trade union), Siyami Erdem (President, Public Workers' Union KESK), Ali Rıza Gülçiçek (President, European Federation of Alevi Unions), Prof Tahir Hatipoğlu (Ankara Gazi University), Lütfü Kaleli (Writer), Ercan Kanar (President, Human Rights Association, Istanbul branch), Güliz Kaptan (Social Democracy Foundation representative), Mehmet Metiner (Writer), Prof Ali Nesin, Hüseyin Okçu (Publisher), Hüsnü Öndül (General Secretary of HRA), Cem Özdemir (Parliamentary deputy, Green Party, Germany), Veli Özdemir (journalist), Leyla Peköz (Medical doctor), Bernice Rubens (Writer, Deputy President of UK PEN), Hasan San (Tunceliler Culture Association, General Secretary), Server Sarica (Turkish Medical Association), Christoph Schwennicke (Journalist), Hakan Tahmaz (ÖDP Freedom and Democracy Party), Altan Tan (Writer and researcher), Ferhat Tunç (Singer), Osman Tunç (Writer, publisher), Ali Ürküt (President, Diyarbakir Democracy Platform), Şanar Yurdatapan (Musician).

Mission uncovers new evidence

The delegation travelled to the region on 12 February 1996. They spoke to the Deputy Governor of the State of Emergency Region in Diyarbakır, who repeated the government assertion that the PKK had committed the attack. The delegation then travelled on to the Güçlükönak district to interview the relatives and fellow villagers of the victims at length. The delegation also visited the scene of the massacre.

In the course of the next few days, the fact-finding mission was able to confirm some of the details already reported and to uncover several items of previously undisclosed information:

☐ *Detentions*

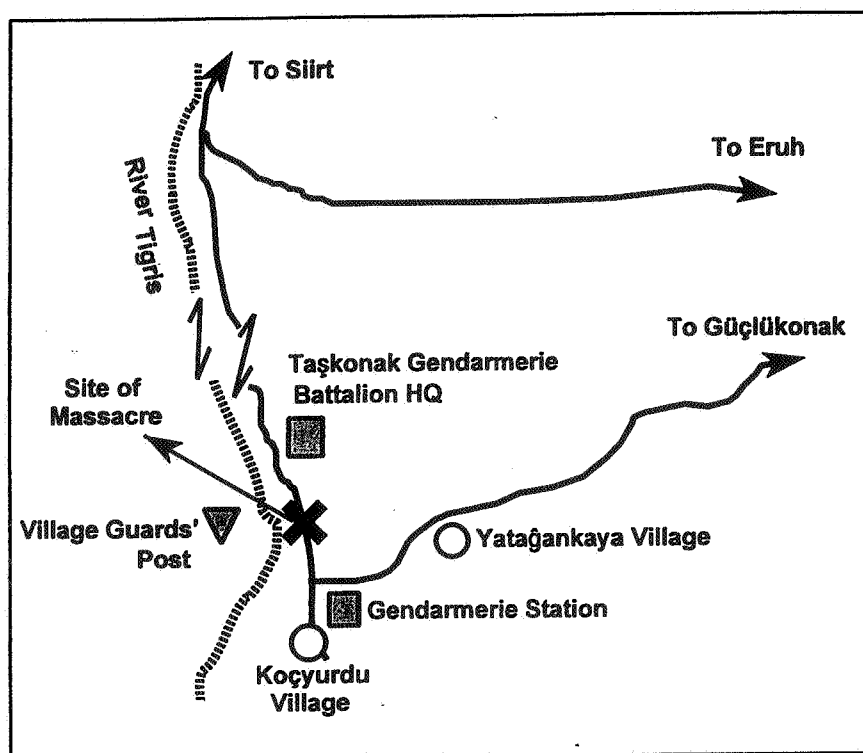
On 13 and 14 January 1996 six of the victims of the massacre - Abdullah İlhan and Neytullah İlhan from Gümüşyazı village; Halit Kaya and Ahmet Kaya, from Yatağankaya; and Ali Nas and Ramazan Oruç from Çevrimli village - had been detained by gendarmes in Güçlükönak. Neytullah İlhan, Ahmet Kaya, Halit Kaya, Ramazan Oruç and Ali Nas were reportedly former village guards. Abdullah İlhan, a farmer, had not served as a village guard. The reasons for the arrests are unclear: Amine İlhan, widow of Abdullah, was told that her husband was suspected of arms smuggling; others suggested that the men were detained because they were suspected of aiding relatives who were PKK members.

All the detainees were transferred to the gendarmerie battalion headquarters at Taşkonak. Bahattin Altuğ, the mayor of Güçlükönak and a well-known village guard chief, spoke by radio on behalf of worried relatives to the gendarmerie commander in Taşkonak about one particular detained village guard and was assured that this man would shortly be released. The man was indeed released and later reported having been tortured while in custody.

☐ *Sequence of events leading to massacre*

From interviews with relatives, villagers, and local village guards the delegation established the following sequence of events:

On 15 January at around 6am a gendarme from Taşkonak called the gendarmerie post in the neighbouring village of Koçyurdu and asked for a minibus to be sent to transport the six detainees to Güçlükönak. Shortly afterwards the minibus driver, Beşir Nas, who lived in Koçyurdu, was summoned. Reportedly on the orders of the Koçyurdu gendarmerie commander, he picked up an escort of four village guards from Koçyurdu: Mehmet Öner, Lokman Özdemir, Abdulhalim Yılmaz and Hamid Yılmaz.



At around 7am the minibus left Koçyurdu for Taşkonak. Villagers reported that at this point an army helicopter appeared and hovered nearby. The minibus reached Taşkonak, where the detainees, village guards and driver were joined on board by a Turkish army special sergeant and two conscript soldiers. One account of the incident states that the initial six detainees had already been executed, and that the four village guards were killed when they arrived and expressed horror at the murders. If so, then Beşir Nas must have been forced by the gendarme sergeant and soldiers to drive the minibus with ten corpses back towards Koçyurdu. The gendarmes dismounted and presumably instructed Beşir Nas to drive on.

At around 10am several minibuses and tractors coming from the south were stopped by gendarmes at Koçyurdu village and ordered to wait. However, one minibus arriving a few minutes later was allowed to proceed up the road towards Taşkonak because it was carrying official documents. The civilian driver subsequently went into hiding, but he reportedly told locals that he passed the minibus on the road and that "all the passengers in the minibus were blindfolded".

Shortly after 10am the villagers at Koçyurdu say that they saw the helicopter again and heard prolonged machine-gun fire. They also claim they heard the explosions of two or three rockets.

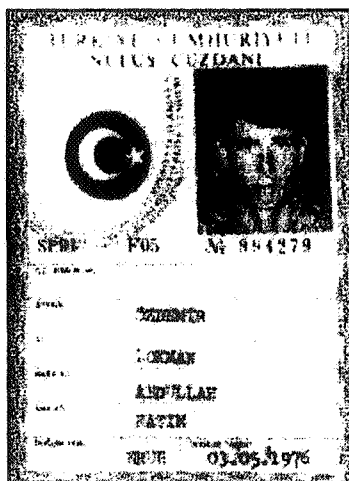
Village guards stationed across the river on the opposite hillside allegedly saw the smoke and the vehicle burning. They reported the incident to the gendarmerie post in Koçyurdu, but were told not to interfere. The same village guards saw a helicopter land two or three times nearby, disembarking soldiers.

□ *Aftermath*

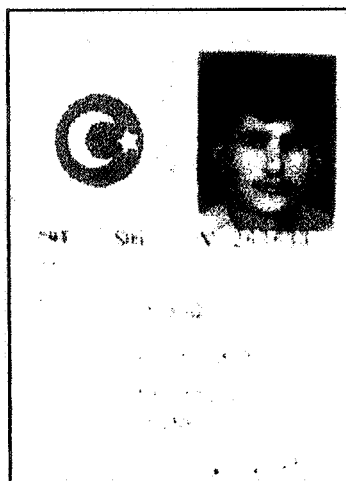
At 3pm soldiers finally allowed the large number of people who had gathered at Koçyurdu down the road towards the burned-out minibus. Apparently the special sergeant and two soldiers who had been on board the minibus shortly before the attack were at the scene, unharmed, and told villagers that there had been an incident.

The villagers reported that the bus was riddled with small arms fire, with all its windows smashed. They saw the unburned body of the driver, Beşir Nas, who had apparently tried to flee, a few paces from the vehicle. The other dead and badly charred bodies were still inside the minibus, in sitting positions. The village guard escort on the minibus still had their firearms between their knees.

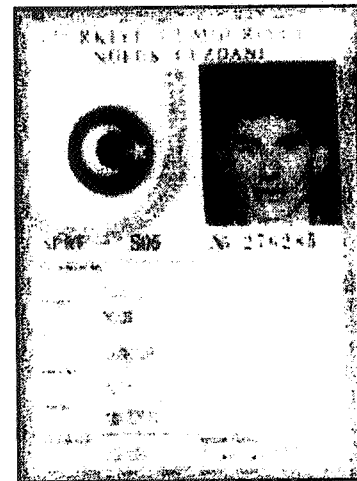
That afternoon the State Prosecutor arrived by helicopter to assess the scene. At this point the sergeant involved is said to have produced the identity cards of the victims, untouched by the fire, from the next room in the Koçyurdu gendarmerie station. (According to villagers, as soon as the State Prosecutor saw the unburned identity cards, he realized their significance and left the village shortly afterwards, abandoning any attempt at an investigation: "He understood everything!") The identity cards of Lokman Özdemir and Abdulhalim Yılmaz, two of the escort guards, were later returned to their families intact.



The unburned identity cards of victims Lokman Özdemir...



Abdulhalim Yılmaz...



and Beşir Nas.

Soldiers and villagers from Koçyurdu then reportedly took the bodies to the village, where they were lined up on the ground. The driver's body was taken away to be washed and buried, since it had not been burned. Koçyurdu was by now full of people from the village and surrounding areas, many of whom were upset - shouting and protesting. The crowd called for the battalion commander, the Governor and Public Prosecutor and a tense stand-off between the crowd and the security forces ensued.

The ten burned bodies seem to have been returned to the scene of the crime the following morning, 16 January, for the benefit of visiting journalists (the covered bodies, laid by the side of the road, are visible in press photographs of the scene). The correspondents were brought to the site by helicopter in the early afternoon. The journalists stayed for approximately half an hour, but were not allowed to speak to any witnesses: "We stayed there for a very brief time," one foreign journalist said, "and had no opportunity to make our own investigations. We saw no locals around." For their part, the villagers reported that they had been barred from going to the site at the time of the journalists' visit.

Later that day the village guards of Koçyurdu were told to take the bodies back again to the village but they reportedly refused, saying to the security forces: "You killed them, you bury them!" The bodies were buried by troops, without any medical examination to establish the cause and time of death.



"Together for Peace" mission delegates inspect the wreckage of the minibus.

□ *Inspection of the site*

The burned-out remains of the minibus were left at the site for some weeks and the vehicle was still there when the delegation arrived to carry out the inspection. No attempt had been made by the Turkish authorities to remove the vehicle for a full examination.

While conceding that the bus had probably been subjected to rocket fire, the delegation came to the conclusion that the bus had been deliberately set on fire by the attackers. The delegation also examined the numerous bullet holes on the vehicle.



The "Together for Peace" delegation at the site of the massacre

Around the vehicle were still found "...scattered remains of the victims: extremities, half-burnt pieces of human arms and legs, rags remaining from their garbs and cartridges seemingly fired from G-1, G-3 and AK-47 assault rifles, all used by the army, the PKK and the village guards alike".

The delegation also noted the topography of the site: "...between two gendarmerie outposts located three kilometres to the west and east of the spot. On the north side the site is overlooked by a steep hill while on the south it is banked by the River Tigris and the hills on the other side of the river are patrolled by village guards...."

□ *Witness testimony*

When the delegation visited Koçyurdu, all the villagers blamed the military for the killings and expressed outrage that their children, husbands and brothers, who had accepted arms in service of the state, had been, as they believed, murdered by the forces of the state. The following exchange takes place in a filmed interview with one of the villagers:

"My husband, Mehmet Öner, was a village guard for seven years, and the last three years here in this village."

"Who killed your husband?"

"Soldiers!"

"But they say the PKK did that."

"PKK? What PKK? Have you not seen the scene of the event? On one side runs the river Tigris below with village-guards' positions just across the river. On the other side: sharp rocks with military positions at the top. Two kilometres to the north, Taşkonak Gendarmerie. Three kilometres to the south, Koçyurdu Gendarmerie. PKK guerrillas must be birds or earthworms to carry out such an attack and disappear so soon...."

The brother of driver Beşir Nas recalled that:

"All the victims' burned bodies were found in a sitting position, as if they were tied to their seats. Imagine, they are burning to death and not moving even a finger!"

□ *Allegations of torture and intimidation of witnesses*

In the days following their return from the fact-finding mission, the delegation wrote to the Interior Ministry, the Prosecutor of the State Security Court in Diyarbakır, the Emergency Region Governor and the Chief of General Staff, not only about the original incident but about intimidation and alleged torture of a witness they had spoken to during their visit to the region. No replies were received to these letters.

One of these witnesses, a village guard, had informed the delegation that he had been detained in Taşkonak Gendarmerie at the same time as the other six detainees, and had been tortured, suffering injuries to his testicles, legs, forearms and hands. His family had persuaded Bahattin Altuğ, a village guard chief, to appeal on his behalf. This village guard believes that as a result of this intervention he narrowly escaped becoming the twelfth

victim. Apparently as a reprisal for his talking to the delegation, his home village of Yatağankaya was raided by security forces the following week and five houses burned.

Mission findings

Upon their return to Istanbul, the delegation submitted their findings in writing to the authorities, pointing out the inconsistencies in the official version of events, calling for further investigation and for the perpetrators to be unmasked and brought to justice.

The delegation also called a press conference on 16 February to announce their findings. The video evidence collected by the delegation was shown to the media. The delegation drew attention to the elements which they believed implicated the security forces in the massacre:

1. Six of the victims were people detained for allegedly supporting the PKK -- unlikely targets for an attack by the PKK.
2. The delegation considered the scene of the massacre as particularly unsuitable for a PKK attack and escape in broad daylight. The road was bound by a wide river and steep cliffs with a gendarmerie post at either end. The hillsides were patrolled by village guards, who maintained outposts dominating the scene.
3. The delegation found that the vehicle had been destroyed by fire. They thought it inconceivable that four armed guards would burn in their seats with their weapons - apparently undischarged - between their knees without moving or attempting to retaliate.
4. The appearance of unburned identity cards when the bodies of the victims sat incinerated in the minibus was clear confirmation to the delegation that the official account was flawed. While identity cards of the six detainees would certainly have been taken from them when they were taken into custody, the escort guards and driver could not have been expected to venture out onto heavily controlled roads, pass checkpoints and enter gendarmerie stations without their identity cards on them.
5. Village guards in established positions on the opposite bank of the Tigris who offered to intervene were told not to move. Village guards in Koçyurdu who saw the smoke and asked to intervene were likewise prevented from doing so by the Koçyurdu gendarmerie post. To the delegation, this suggested that a security force operation was being conducted, rather than a PKK action. The presence of the helicopter was in the delegation's view further confirmation of this.

Issuing a call for an official investigation, Şanar Yurdatapan said: "Any commission of investigation must have powers to protect witnesses, to question the military, to demand evidence and to initiate prosecutions. This is unlikely to happen unless very intense pressure is applied by non-governmental organizations inside Turkey and also by international organizations like Amnesty International. The people who committed this massacre must be found and tried. If no investigation is initiated then we must blame the General Staff of the armed forces."

Prosecution of mission delegates

No action was taken by the authorities in response to the delegation's findings. Three months later, on 16 April, exasperated at the lack of official action, three leading mission delegates, Münir Ceylan, former president of Petrol-İş (the Petroleum Workers' Union), Ercan Kanar, lawyer and president of the Istanbul branch of the Human Rights Association, and Şanar Yurdatapan, musician and coordinator of "Together for Peace", submitted a formal complaint to the Chief State Prosecutor in Istanbul accusing Turkey's Chief of General Staff of responsibility for the massacre and of engaging in a cover-up. They made these charges on the basis that on 16 January, on the orders of the General Staff, journalists had been airlifted to the scene where three high-ranking officers had briefed the journalists with a version of events that the delegation believed was manifestly flawed and calculated to mask the real perpetrators.

"This case was a legal scandal the like of which I don't think has been seen in the history of Turkish law. The proper practice would have been to deal with our accusation first, to establish whether or not our allegations were well founded. The courts ignored the original far more serious crime, and decided to put us in prison instead."

- Ercan Kanar

Again, no official response to this formal complaint was forthcoming. But the authorities did not remain entirely idle. The Public Prosecutor charged Münir Ceylan, Ercan Kanar and Şanar Yurdatapan with "insulting the armed forces" under Article 159 of the Turkish Penal Code. This charge seems to have been made at the prompting of the Deputy Chief of General Staff, who had written to the Ministry of Justice. Whole phrases of his application to the Ministry were later repeated word for word in the formal accusation against the three men.



IN COURT: Ercan Kanar (left), a lawyer, has been a member of the Turkish Human Rights Association (HRA) since its foundation in 1986. Since 1990 he has been president of the Istanbul branch of the association and from 1992 to 1995 was Deputy President of the association as a whole. He has twice previously been convicted under Article 159 of "insulting the organs of state" but these sentences were suspended. If the sentence in connection with the Güçlükönak Massacre is confirmed, he may also have to serve these sentences. Meanwhile, he faces approximately twenty other prosecutions arising from HRA activities.

Şanar Yurdatapan (centre) is a well-known composer and song writer. In addition to contributions to popular and traditional music he has written music for films and plays and was a winner of the Golden Orange Award at the Antalya Film Festival. Following the military coup of 1980, he and his wife, the singer and actress Melike Demirağ, spent more than 11 years in exile in Germany. The Turkish authorities stripped them of their citizenship in 1983. They returned to Turkey in 1991. Şanar Yurdatapan is spokesperson for "Together for Peace" and "Freedom for Freedom of Expression", a civil disobedience movement in which 1080 intellectuals have published a book containing convicted writings, and forced the courts to try them.

After a career in the Turkish petrochemical industry, Münir Ceylan (right) was elected President of Petrol-İş trade union in 1986. He served as President until 1994 when he was convicted under Article 312 of the Turkish Penal Code for alleged "incitement to enmity" in a magazine article which he had written. He served eight months in prison as a prisoner of conscience. As a consequence of this conviction he was barred for life from political or trade union activities. He has 17 other ongoing trials because of his speeches and writings and three convictions totalling more than four years' imprisonment which are awaiting the judgment of the Appeal Court.

The case opened in February 1997 at Istanbul Criminal Court No 4. At hearings over the course of a year, attended by Amnesty International observers, the three defendants were keen to defend the charge on the grounds that the massacre did indeed appear to have been carried out by the security forces. The court refused to admit any of the evidence collected by the delegation and on 3 February 1998 the three were each sentenced to 10 months' imprisonment. They are currently at liberty pending an appeal which is likely to be heard over the course of the next year. All three have other sentences and prosecutions pending on freedom of expression charges for speeches and statements they have made on other issues.

"There was a massacre - people shot and then burned. As a human being you have to respond to that, whatever your political views, and that's why we went to see what happened. I have no hesitation in pressing on with this issue until we get an answer, and I am willing to pay the price - imprisonment or whatever."

- Münir Ceylan

Conclusion and recommendations to the Turkish Government

The Güçlükonak Massacre is one example of how prosecutors and judges in Turkey have failed properly to investigate the many allegations of extrajudicial execution in the region under state of emergency legislation. According to the United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, there should be "a thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances". The principles go on to describe in detail how such an expert and impartial commission of investigation should be composed, their methods, and their powers to seize evidence and protect witnesses. Amnesty International has repeatedly urged the government to establish commissions in line with the UN Principles, to investigate official involvement in the two thousand political killings committed since 1991, but no such commissions have been established.

In the case of the Güçlükonak massacre, there appears to have been no official investigation at all. The Turkish Government has indicated to the UK Government's Foreign & Commonwealth Office that "they consider the case closed and are not prepared to initiate an independent enquiry"⁴. The UN Special Rapporteur on extrajudicial, summary or

⁴ Unpublished letter from the Rt Hon David Davis MP, Foreign & Commonwealth Office, to Lord Avebury, Chairman of the UK Parliamentary Human Rights Group, 17 April 1996. Cited in the Parliamentary Human Rights Group June 1996 report on the massacre.

arbitrary executions raised the case with the Turkish authorities who replied only that the victims had died in an attack by members of the PKK, and that the case was "*sub judice*"⁵.

Amnesty International deplores the fact that the Turkish authorities have ignored internationally recognized standards, preferring instead to prosecute members of a delegation which had tried, in good faith, to cast some light on the events at Güçlükönak that winter morning. Amnesty International urges that the verdicts against Şanar Yurdatapan, Münir Ceylan and Ercan Kanar be immediately quashed. If the verdicts are enforced, Amnesty International will consider the three as prisoners of conscience, since their imprisonment would be in breach of Article 19 of the Universal Declaration of Human Rights, which safeguards the right to freedom of opinion and expression, including the "freedom to hold opinions without interference and to seek, receive and impart information and ideas ...", and of Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, to which Turkey is a State Party.

Many questions regarding the killings at Güçlükönak remain unanswered. Amnesty International therefore calls upon the Turkish Government to abide by UN Principles and establish a thorough and impartial investigation into the massacre at Güçlükönak, the methods and findings of which should be made public, and to bring to justice those responsible for the killings⁶.

⁵ E/CN.4/1998/68/Add.1. The government also reported that compensation had been paid to the families of Mehmet Öner, Beşir Nas, Lokman Özdemir, Abdulhalim Yılmaz and Hamid Yılmaz.

⁶ The Social and Legal Research Foundation (TOHAV), a lawyers' organization based in Istanbul, registered a personal petition to the European Commission of Human Rights in September 1996 on behalf of the relatives of those killed and against the Republic of Turkey. The petition is still under consideration by the Commission.