

By the end of 2005, the proceedings were still pending.

Finally, on 21 July 2005, Mr. **Tatomir Lekovic**, a lawyer working with HLC, was attacked in Kragujevac by an unknown assailant, receiving serious injuries to his head and body. The attack was very probably linked to his work with HLC, in particular his investigatory work to establish responsibility for war crimes committed by Serbian forces in Kosovo. Before this attack, Mr. Lekovic had been harassed and threatened by some police officers, who were allegedly implicated in war crimes or other criminal matters.

Harassment of the Helsinki Committee for Human Rights in Serbia and of its members⁵⁰

On 11 July 2005, a Star of David was sprayed on the walls of the Helsinki Committee for Human Rights in Serbia (HCHR), along with anti-Semitic messages

In addition, the harassment and intimidation of Mrs. **Sonja Biserko**, HCHR president, continued in 2005. On 8 September 2005 in particular, the newspaper *Tabloid* accused her of being a “Croatian spy”. The birth dates of her parents and her address were published. She was physically assaulted on several occasions and her home was vandalised.

Furthermore, copies of the book *Military Secret*, confiscated on 26 March 2004 during a police raid on HCHR offices in Belgrade, had still not been returned. By the end of 2005, the investigation opened against its author, Mr. **Vladan Vlakovic**, on charges of “disclosing military secrets” (Article 224 §1 and §2 of the Criminal Code), was still pending.

Death threats and insults against Mr. Dragutin Vidosavljevic⁵¹

On 31 July 2005, Mr. **Dragutin Vidosavljevic**, a lawyer of the Committee for Human Rights in Vlasotince, was insulted on the street by Mr. Goran Velickovic, a local police officer, who was visibly drunk. The latter stated that he was going to “slit his throat as he had slit the throats of other people in Kosovo”. Mr. Vidosavljevic then

50. See Open Letter to the authorities of Serbia-Montenegro, 30 August 2005.

51. See Observatory statement before OSCE, under the item of the agenda “Freedom of association and peaceful assembly”, September 2005.

attempted to enter a shop but the policeman grabbed him by the neck and hit him in the face. Mr. Vidosavljevic then defended himself and hurried to the nearest police station. As he was waiting in the reception area, Mr. Velickovic appeared and struck him again.

The next day, the Leskovac police circulated a report accusing both Mr. Vidosavljevic and Mr. Velickovic of disturbing public order. The report stated that the police officer had been “slightly injured” but omitted any mention of the victim’s injuries. Two medical reports written by the doctors who examined Mr. Vidosavljevic referred to “cuts to the leg”, “bruises on the lips” and “trauma to the head”.

By the end of 2005, no inquiry had been opened.

TURKEY

Harassment of IHD members

Death threats against four IHD executives⁵²

On 19 and 21 April 2005, four executives of the Human Rights Association in Turkey, (*Insan Haklari Dernegi* – IHD), Mrs. **Kiraz Biçici**, vice-president, Mrs. **Eren Keskin**, president of the Istanbul branch, Mr. **Doğan Genç**, member of the General Executive Board, and Mr. **Şaban Dayanan**, member of the Board of the Istanbul branch, received death threats at their homes and their offices.

These letters, which followed other messages with threats that were e-mailed to the association over the previous two months, were signed by an armed ultra-nationalist group called the Turkish Revenge Brigade (*Türkçü Intikam Tugayı* – TIT). This group, responsible for the armed attack perpetrated against the IHD headquarters in Ankara in 1988, during which an attempt had been made on the life of the then IHD president, Mr. **Akin Birdal**, stated in their messages that the four members of the IHD might not be as lucky as Mr. Birdal, who had survived the attack.

By the end of 2005, Mrs. Biçici was still regularly receiving death threats on her mobile phone. Although she filed a large number of complaints, no action was taken.

52. See Press Release, 21 April 2005.

Mr. Doğan Genç also continued to receive similar threats in e-mails. An inquiry into these threats was allegedly opened at the end of 2005 in response to a complaint filed by the organisation.

Lastly, Mrs. Eren Keskin continued to receive death threats by letter and phone message. She was to be heard soon by the Prosecutor of Beyoğlu (Istanbul), as part of a joint judicial action brought by IHD, the Association of Human Rights and Solidarity for Oppressed Peoples (*Mazlum-Der*) and the Human Rights Foundation of Turkey (HRFT) against Mr. Semih Tufan Günaltay, head of the National Unity Party (*Ulusal Birlik Partisi* – UBP).

Mrs. Eren Keskin was also informed that further proceedings were initiated against her following the publication of an IHD press release on the assassination of an activist during a peaceful demonstration in Istanbul. She was accused of “publishing a press release without a permit”, even though the law does not require a permit for this kind of activity.

Ongoing judicial harassment of Mr. Ridvan Kizgin⁵³

In 2005, three new cases were filed against Mr. **Ridvan Kizgin**, president of the IHD Bingöl section.

On 1 February 2005, the Court of First Instance of Bingöl indicted Mr. Kizgin with “insulting an acting official in the press” after he had published an IHD urgent appeal, broadcast by a number of local press agencies, about the rape of a young girl to whom the organisation was providing legal aid.

On 26 April 2005, the Bingöl Provincial *Gendarmerie* Command initiated proceedings against Mr. Kizgin for “supporting and encouraging an illegal organisation, the Kurdistan Workers Party (*PKK-Kongra-Gel*)”, and on 30 June 2005, the General *Gendarmerie* Command, the Bingöl Provincial *Gendarmerie* Command and the Bingöl Police Department accused him of “praising a criminal and an insult against the State”.

Furthermore, many other judicial proceedings filed against him in 2004 remained pending by the end of 2005.

53. See Annual Report 2004.

Judicial proceedings against IHD members in south-eastern Turkey⁵⁴

Proceedings against Mrs. **Reyhan Yalcindag**, IHD vice-president, and Mr. **Anatolia Mihdi Perinçek**, head of the eastern and south-eastern regions of IHD, were initiated by the office of the Prosecutor in Diyarbakir following the publication of a press release and a report.

Mr. Perinçek and Mr. **Selahattin Demirtas**, president of the IHD section in Diyarbakir, was also charged by the Prosecutor office in Diyarbakir with “circulating secret information”, following the publication of a report on the assassination of a twelve-year-old child and his father, into which an investigation had been in progress.

Harassment of HRFT members

Judicial proceedings against Mr. Mustafa Cinkilic and Mr. Mehmet Antmen⁵⁵

On 4 October 2005, the first hearing was held in the case brought against Mr. **Mustafa Cinkilic**, a lawyer and a member of the Adana section of HRFT, and Mr. **Mehmet Antmen**, a doctor working with that section, before the Adana Criminal Court of First Instance.

Mr. Cinkilic and Dr. Antmen were charged with “concealing evidence” and “forging official documents” following the drafting of a medical report on the status of Mr. Sükrü Boyav’s health, held for two years in an E type prison⁵⁶, where he had been subjected to ill-treatments. Based on this report, Mr. Boyav had filed a complaint with the Prosecutor office against the penitentiary administration and prison guards.

On 16 September 2004, Messrs. Antmen and Cinkilic had been interrogated concerning the report and had stated that they had been unable to supply the original version. The police had then placed them in detention and requested an arrest warrant on charges of “obstructing” the investigation. The Court had rejected the request and ordered their release.

54. *Idem*.

55. *Idem*.

56. Prisons built in 2000, in which detainees are placed in solitary confinement.

Judicial proceedings against Mr. Alp Ayan and Mrs. Günseli Kaya⁵⁷

On 13 February 2004, Mr. **Alp Ayan** and Mrs. **Günseli Kaya**, both HRFT members, had been sentenced by the Aliaga Criminal Court of First Instance to eighteen months in prison for “using violence to resist law enforcement officers” (Articles 32-1 and 32-3 of Law 2911 relative to meetings and demonstrations), following their participation in the funeral, on 30 September 1999, of Mr. Nevzat Ciftci, a prisoner killed during a police operation at the Ulucanlar prison in Ankara on 26 September 1999. They had been attacked by a group of gendarmes attempting to prevent them from attending the funeral service. Sixty-nine persons had been arrested and fourteen of them, including Mr. Alp Ayan and Mrs. Günseli Kaya, had been placed in custody pending trial for four months.

Another defendant, Mr. Adnan Akin, sentenced to 3 years in prison, had appealed against the verdict.

By the end of 2005, the case remained pending before the Supreme Court of Appeal.

Legal proceedings against Mr. Yavuz Önen⁵⁸

On 24 September 2003, the State Prosecutor office in Izmir had appealed before the Supreme Court of Appeal, asking the court to overturn the decision of the Izmir Criminal Court of First Instance that had acquitted Mr. **Yavuz Önen**, HRFT president. Mr. Önen had been sentenced on 27 March 2001 to a prison term and a fine, the sentence being subsequently commuted to a heavy fine, for having expressed his indignation with respect to the charges brought against Mrs. Kaya and Mr. Ayan in an article published in the daily *Cumhuriyet* on 19 January 2000.

By the end of 2005, the proceedings were still pending.

Confirmation of the verdict against Mrs. Sefica Gürbüz⁵⁹

On 19 January 2004, the State Security Court in Istanbul had sentenced Mrs. **Sefica Gürbüz**, president of the Turkish NGO GÖC-

DER (Immigrants for Social and Cultural Co-operation), to a fine of 2,180 million Turkish liras (1,280 euros). Mr. **Mehmet Barut**, member of the organisation, had been acquitted.

Mrs. Sefika Gürbüz and Mr. Mehmet Barut had been charged under Article 312/2 of the Turkish Criminal Code with “inciting hostility and hate on the basis of class, race, religion, beliefs, and regional origin”. The charges had been brought following statements made during a press conference organised by GÖC-DER in April 2002 for the presentation of a report on the forced displacement of the Kurdish population. The court had convicted Mrs. Sefica Gürbüz despite the fact that the amendment made in August 2002 to Article 312/2 restricted its application. Since that date, no one can be convicted on the basis of this article unless the incitement in question may endanger the peace and public order.

In November 2005, the Eighth Chamber of the Supreme Court of Appeal, to which Mrs. Gürbüz had appealed, upheld the verdict handed down by the State Security Court in Istanbul.

Cancellation of the dismantling of the trade union Egitim Sen⁶⁰

On 25 May 2005, the Supreme Court in Ankara ruled that the statutes of Egitim Sen, the largest teachers’ union, were in breach of several provisions of the Constitution as well as provisions of the law on the recognition of trade unions, and ordered the organisation to shut down. The Court based its decision on Article 20 of Law 4688 on civil servants trade unions, which stipulates that the administration and activities of trade unions established under the law may not conflict with the basic democratic principles of the Turkish Republic as provided in the Constitution.

The court ruled that one of the provisions in the statutes of Egitim Sen, to the effect that the organisation “defends the individual’s right to education in his or her mother tongue and to the development of cultures”, violated Articles 3 and 42 of the Constitution, which establish that the Turkish nation is an indivisible entity and that the Turkish language is the only one to be taught to citizens.

On 3 July 2005, at an extraordinary congress, a majority of representatives of the organisation voted to remove this article from the

57. See Annual Report 2004 and Report of the judicial observation mission of the Observatory, Turkey: Human Rights Defenders on Trial, February 2005.

58. See Annual Report 2004.

59. *Idem*.

60. *Idem*.

statutes. Following this move, the union filed a new request with the Second Labour Court in Ankara that the Supreme Court decision be overturned.

The same day, Egitim Sen filed a request for summary action with the European Court of Human Rights.

On 26 October 2005, the Second Labour Court in Ankara overturned the Supreme Court decision, ruling that the charges against Egitim Sen were no longer valid in view of the changes made to its statutes. The Prosecutor, who had eight days to appeal against the decision to the Supreme Court, abandoned the case. As a consequence, the organisation remained open.

TURKMENISTAN

Restriction on the freedom of movement of several defenders⁶¹

Just prior to a visit to Turkmenistan by Mr. Rolf Ekeus, OSCE High Commissioner on National Minorities, several members of NGOs were ordered by the Ministry of National Security (MNB) to stay at home the day of his visit and to refrain from seeking to meet with him or persons accompanying him.

On 31 May 2005, as Mr. Ekeus was being received by the President of Turkmenistan, the homes of several activists were cordoned off by the police and plain-clothes MNB agents.

In particular, Mrs. **Nathalia Shabunts**, director of the human rights NGO Civic Dignity, was prevented from leaving her apartment and was therefore unable to take part in an international seminar.

61. See Annual Report 2004 and Urgent Appeal TKM 001/0603/OBS 027.1.

UNITED KINGDOM

Status of the investigation into the murder of Mrs. Rosemary Nelson⁶²

In November 2004, following lengthy proceedings aimed at obtaining the opening of a public inquiry into the assassination of Mrs. **Rosemary Nelson**, a panel was established, with “full powers to impel disclosure of documents and attendance of witnesses”. Mrs. Nelson, a lawyer and a member of the Committee on the Administration of Justice (CAJ), was murdered on 15 March 1999 in Lurgan, Northern Ireland.

On 19 April 2005, the chairman of the panel opened a preliminary inquiry into the death of Mrs. Nelson under the Inquiries Act, which was adopted by the British Parliament Royal Assent on 7 April 2005 and came into effect on 7 June 2005⁶³. The panel examined evidence and information supplied by the police at the end of 2005 and was expected to publish the conclusions of the preliminary inquiry in January 2007, after which time the public inquiry could begin.

Status of the investigation into the murder of Mr. Patrick Finucane⁶⁴

In 2004, the British government had agreed to open a public inquiry into the murder of Mr. **Patrick Finucane**, a lawyer known for his views in favour of human rights who was murdered in Belfast in 1989, once the trial of the presumed perpetrators of the murder would be over. On 23 September 2004, after Mr. Kenneth Barrett, a former paramilitary loyalist, had been sentenced to a life prison term, the Secretary of State for Northern Ireland had announced that an inquiry would be opened only on the basis of a new law “that would have to be passed by Parliament” and not on the basis of the existing law.

62. See Annual Report 2004.

63. According to this text, public inquiries are overseen by the government, which appoints - and removes - each member of the panel. The government may also restrict public access to inquiry evidence and testimony, and may decide, “in the public interest”, not to publish the inquiry’s findings.

64. See Annual Report 2004.