ALMANAC TURKEY 2006-2008

SECURITY SECTOR AND DEMOCRATIC OVERSIGHT

Editors: Ahmet İnsel, Ali Bayramoğlu

TESEV
Türkiye Ekonomik ve
Sosyal Etüdler Vakfı
Turkish Economic and
Social Studies Foundation

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EDITORS

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Foreword

The Democratization Program of the Turkish Economic and Social Studies Foundation (TESEV) argues that within the scope of its Security Sector Reform Projects, all institutions in the security sector -- from the Armed Forces to the General Directorate of Security, from intelligence agencies to the Ministry of Defense, and from private security firms to village guards -- should be subject to civilian and democratic monitoring and oversight. In line with this objective, since 2004 TESEV has been providing security sector institutions, policy-makers, civil society, and the media with information about this sector, in order to identify issues and develop solutions, as well as to raise awareness and build capacity for the democratic oversight of the security sector. Our publications on this subject are a key means of furthering these ends. The concept of "security sector reform" advocated by TESEV transcends civil-military relations, which are much debated publicly and in academic circles, and the dilemmas resulting from the military's guardianship of the political system arising from these relations. Security sector reform means the establishment and efficient functioning of democratic mechanisms to ensure the civilian oversight and monitoring of domestic security institutions at a policy-making level. In its security sector work, TESEV looks for ways to transform the concept of security, considered a civic right, from an approach based on national security, assumed to arise from circumstances unique to Turkey, to an approach centered on citizens. The aim of our Security Sector Reform Projects is to bring a scientific and objective approach, and one based on universal principles, to subjects such as security sector oversight, transparency, and accountability, which have encountered obstacles in the debates about and process of harmonization with democratic standards. These projects also prepare the ground for the normalization of the debate on civil-military relations, which in Turkey are generally subject to political controversies, ideological interference, and conflicts among the parties concerned.

In Turkey, political crises between the military (and the judicial power) and the parliament and the failure of institutions and processes within the scope of the decision-making mechanism to function in accordance with democratic principles create obstacles that need to be solved through reforms. In a democratic model where political power is transferred from the public to the parliament, and from there to the executive power and administrative institutions, in the absence of external oversight, these administrative institutions acquire power and autonomy that blocks the realization of a democratic, citizen-centered concept of human security based on the rule of law. For the democratization of security institutions, including the armed forces, the police force, the gendarmerie, and intelligence agencies, it is necessary for the parliament, the executive, judicial authorities, civil society, and the media to be actively involved in the oversight of security institutions' budgets, policies, practices, and decisions and for these institutions to base security services on civil society's requests. It is also extremely important that the concept of national security be redefined accordingly and be centered on citizen security.

On the other hand, civilian actors' active role in oversight and monitoring mechanisms requires knowledge, experience, and expertise that would enable the critical analysis of data, policy, procedures, structures, etc. For a democratic expansion in this sense, it is necessary for civilian actors to break the military monopoly on security and defense and to develop expertise and independent sources of public information on these subjects. TESEV's primary aims are to make security institutions transparent and accountable, to put the need for civilian oversight on the agenda of policy-makers, the media, civil society, and public opinion, and to address the deficit of information on this subject. In close cooperation with the Geneva Center for Democratic Control of the Armed Forces (DCAF), whose founding members include the Republic of Turkey since November 20, 2003, TESEV has published handbooks comparing global and European security sector reforms and governance, providing parliamentarians with guidance on security sector oversight, and including recommendations for increasing the accountability of intelligence agencies, as well as the Turkish translation of the Code of Police Ethics. Since 2007, with the support of the European Commission, TESEV has also been organizing activities designed to

provide non-governmental organizations and the media with information on the security sector's democratic oversight, to identify obstacles to such oversight, and to develop solutions.

The first in the series *Almanac Turkey: Security Sector and Democratic Oversight*, edited by Prof. Dr. Ümit Cizre, lecturer at the Bilkent University, was published by TESEV in 2006 with the aim of meeting the need for information and analysis. *Almanac Turkey 2005: Security Sector and Democratic Oversight* presented within an objective framework the organizations, activities, and legal structures of security sector units, their principles and understandings, and the reforms that Turkey has carried out or is expected to carry out as part of the EU accession process.

Following the publication of this work, which was met with hostile reaction on the part of military circles and some civil circles, legal investigations as well as defamation campaigns were conducted regarding the authors of the *Almanac* and TESEV. On the other hand, positive events also took place and provided the incentive for the preparation of the second issue of the *Almanac*. The *Almanac 2005*, which is the only reference book on Turkey's security sector, attracted a great deal of public attention in Turkey and throughout the world and has become an important resource for a number of academic studies, university curricula, and media debates. While the processes of democratization and civilianization have been inching along, one positive development is the fact that independent media and rights-based non-governmental organizations, whose numbers and variety have been increasing over the years, have taken on, with seriousness and responsibility, the violation of rights and abuse of power by security institutions. Furthermore, the continuation of armed clashes in Turkey over many years has increasingly given priority to the role of civil society initiatives for dealing with security issues. On the other hand, since the publication of the first *Almanac*, the government has also taken important steps that show its determination regarding the civilian oversight of domestic security. The 2008 National Program regarding the Adoption of the EU Acquis included the "organization of civil-military relations" under a separate heading for the first time. The Program pledged to create and implement the national security strategy under the responsibility of the government; continue the Court of Accounts' oversight of military expenses and complete efforts to overcome shortcomings in implementation; implement domestic security services in line with policies to be established by the government, under its oversight and monitoring; amend legislation and practices that make it difficult for civil administrators to efficiently fulfill their duties, powers, and responsibilities concerning domestic security; and continue reforms to redefine the duties and powers of military courts. However, a detailed strategy plan on these reforms regarding the summarized points and the identification of shortcomings in legislation and practice has not yet been made public.

This volume, *Almanac Turkey 2006-2008: Security Sector and Democratic Oversight*, the second in the series, takes into consideration all these developments and opportunities. It contains events, issues and objective data necessary for their debate from the years 2006-2008 and in some cases from the first months of 2009. We hope that this book, prepared very meticulously following a long period of research under the editorship of two expert academics, Ahmet İnsel from Galatasaray University and Ali Bayramoğlu from Kültür University, will be of use in the development of a security concept centered on democratization and citizens. We hope that by exposing legal issues and shortcomings in defense and security matters, the *Almanac* will provide policy-makers with information, guidance, and expertise.

Democracy will be strengthened through the harmonization of civil-military relations in Turkey with EU standards and global democratic rules; the establishment of a sound relationship between civil society, the government and the parliament on the one side and the security bureaucracy and institutions on the other; and the realization of judicial and bureaucratic reforms to the security sector. Security sector reform will only be achieved as part of an integrated process based squarely on the principles of democracy and the rule of law, where human rights are protected and public resources are used efficiently and transparently.

We would like to thank editors Ahmet İnsel and Ali Bayramoğlu; Hale Akay, who coordinated the publication; Koray Özdil from TESEV's Democratization Program who coordinated this project; Özge Genç, Volkan Aytar and Duygu Güner, who contributed a great deal to the preparation of this work for publication; the Delegation of the European Commission to Turkey; the Open Society Foundation in Turkey; and the members of TESEV's Supreme Advisory Board.

CAN PAKER
TESEV CHAIRMAN

Introduction

Ali Bayramoğlu, Ahmet İnsel

The first edition of the *Almanac Turkey: Security Sector and Democratic Oversight* was published in May of 2006. This *Almanac*, which essentially covered the year 2005, was prepared under the direction of the editor, Ümit Cizre, and is the first of its kind in the history of the Turkish Republic. In the introduction to the *Almanac 2005*, Ümit Cizre described the purpose of the study as "a presentation of objective and reliable information and analysis of the ways in which the units within the security sector are organized, their acknowledged and secret operating principles and activities, the civilian authority to which they are subject to, the legal framework and basic philosophy they have adopted (...), as well as the changes and roadblocks that have occurred along the path to full membership in the European Union." Ümit Cizre describes how ensuring that the public is made aware of this information and analysis increases public interest and appreciation for the issues of security, threats, defense and insecurity, which is one of the most crucial dimensions of the process of democratization. She reminds the reader that "security is neither a purely military concern nor a need met only by uniformed units carrying weapons and military paraphernalia." Indeed, developments subsequent to the Cold War have demonstrated the need to view security problems in the democratic political arena from a "humanitarian security perspective" and not just as a military consideration. This has, in turn, lead to a broader interpretation of security. Furthermore, the conception of insecurity has also broadened from the former, narrow perspective focused solely on threats to life to one that includes considerations of quality of life, protection of freedoms, protection from poverty and deprivation, and protection from violence.

Today, this humanitarian view of security has been adopted by organizations operating under the umbrella of the United Nations and has also led to a redefinition of the security sector. By definition the security sector comprises all units with the legal authority to use force, give orders for the use of force and threaten the use of force. In a democratic society, civilian political actors have the authority to oversee the activities of actors in this sector, and thus actors in the security sector must comply with the requirements of regular accountability realized according to the principles of transparency. The development of the modern state was made possible by bringing the security sector under state supervision and by the complete monopolization over the use of force by the state. Within the framework of the free market doctrine dominant following the 1980s, the state monopoly over the security sector began to dissolve, and security services began to be offered in accordance with market conditions. During the last quarter of the 20th century up until today, market actors have on occasion replaced state actors in the security sector. More generally, state and market actors have begun to form an integrated whole. However, partial privatization of the security sector has not led to the transparent and democratic oversight that was expected. On the contrary, the new security sector, consisting of a combination of the state and the market, has become less transparent than the old system because of the organizational flexibility it has achieved. Two striking examples of this are how the security sector intervened in the decisionmaking process that led to the US invasion of Iraq and the practices implemented in Iraq after the attack.

Today it is vitally important that citizens examine the security sector with an aim towards democratization. In order to make such an examination more than just an useless exercise, it must be informed by objective data. Therefore, studies like the *Almanac* are an indispensable part of examining, debating and researching alternatives to the policies that public and private security actors impose on society, the instruments related to these policies and the solutions that these policies are aimed at. This second *Almanac* covers the three-year period from the beginning of 2006, when the first study was concluded, to the end of 2008. It also gives some information regarding the first half of 2009. In addition to examining the developments which occurred in the

Turkish security sector during this time, the *Almanac* also focuses on the discussions surrounding the position of security actors in political and social life. It attempts to summarize the historical background that triggered these developments and thus to elucidate both the continuities and the various divergences from historical patterns and trends in Turkish security sector policy. The most crucial debates in the history of the Republic regarding the political and social position of the security forces in Turkey took place between 2006 and 2008. The debates which followed the discovery of diaries belonging to retired admiral, Özden Örnek, gained new significance with the discovery in 2007 of weapons and ammunition that some retired and active-duty officers had hidden in their houses or buried. A clandestine network of relations between retired and active-duty military officers, police officers and civilians is at the center of the legal proceedings that have become known as the Ergenekon case, which remains on-going. The plans for a coup evidenced by other diaries and documents that came to light after the Özden Örnek diaries and during the Ergenekon investigation, as well as preparation for actions aimed at creating a general sense of insecurity in society, have demonstrated with amazing clarity just how important it is that security sector actors in Turkey be under the supervision of civilian political powers and, most importantly, the parliament.

* * *

The issue of security is one of the most pressing problems in the Turkish political system. The problem of security is not limited to the role and organization of the security sector. Rather, it is also related to the guiding function and autonomous role that the security sector plays in the political structure as a whole.

We see the guiding function of the security sector and security institutions on three different levels. The first one can be referred to as historical and conceptual. The operations and perceptions of different parts of the system (state, political parties, institutions, society) and the different sectors (education, business, and foreign policy) are all security-centered. In this regard, security as a concept is broad and all-encompassing and must be considered carefully from two perspectives. On the one hand, security is the principle lying at the foundation of all the other elements of the system and is expected to serve as the guiding force for these elements. The regulatory and governing characteristics of security, and national security in particular, have penetrated the entire legal framework, from the Constitution and statutes to regulations and protocol. On the other hand, security has been defined by the constitution and statutes with generalizations such as "the peace and prosperity of society" or ambiguous and subjective expressions such as "the Turkish nation, national interest, national benefit, national strength and organization." The concept of security´s ambiguity is clarified, or to put it more aptly, "taken advantage of" by the regulatory power of the administration. Accordingly, regulations, directives, memorandums and protocols, some of which are secret, prioritize "the aspect of public order and the military" in actual practice. In addition, political and social knowledge filtered through these two aspects is monopolized by the state. The monopolization of information also has consequences related to the second level guiding function of the security sector and institutions in the Turkish political system.

The way the upside-down hierarchy that exists between the constitution, statutes, regulations, memorandums and protocol operates is very similar to the way that the security field is organized. The relationship between military bureaucratic structures as it relates to political authority and security is inverted. Firstly, there is no differentiation in power/authority between the lawmaker and the law-enforcer. Additionally, the security structures serve a law-making as well as regulatory function that, in Turkey, is as broad, regulatory and governing as the concept of security itself. Ever since the foundation of the Turkish political system, a clear distinction has been made between the sphere of the state and the sphere of politics, and thus a hierarchy of control of the former over the latter has been carefully organized and protected. Using the justification of security or national security, issues can be confined to the sphere of the state and thus closed off from political debate. The Kurdish problem, the definition of secularism, foreign policy and education are among the issues that fall within this category.

The third level encompasses security institutions and their relationship to political structures. In spite of all the attempts at improvements, military authority continues to play a dominant role in the civilian and political arenas as an integral part of the Turkish political structure. The dominance of the military is based on two primary pillars. The first pillar is the autonomous role that the Armed Forces play in the mechanism of state.

This autonomy is fostered by the governing role the military plays in formulating military as well as domestic

and foreign policy and by the fact that it plays this role directly, without any intermediary political institution. Even though the constitution recognizes in principle the fact that military authority is subject to political authority, on the institutional level and in practice the relationship between these two authorities operates in reverse. Therefore, the military element has come to dominate the political element, and the principle that an authorized body is responsible for its own authority, in other words the balance of authority vs. responsibility, has been disrupted. The second fundamental pillar is the extreme centralization of the Turkish army. This second pillar of centralization refers to a military structure and policy in which authority is concentrated in the hands of a few. In this regard, centralization is the accumulation of powers related to the sphere of national defense into a single authority and the creation of hierarchy within the military around and in proportion to this concentrated authority. From another perspective, centralization implies that accumulation of power defines and guides the relations between military authority and civilian authority.

The *Almanac* addresses the structures that result from these three functional levels and seeks answers to questions regarding their implications.

* * *

The articles in the *Almanac* are organized under five headings.* First, the *Almanac* examines the institutions that provide the legal framework for and oversee the activities of security structures and actors. The primary organization in this regard is the Turkish Grand National Assembly, which exercises legislative authority. Nezir Akyeşilmen scrutinizes the legal regulations that were important for democratic control over the security sector in Turkey during the three-year period between October 2005 and January 2009. He additionally looks at oversight mechanisms, budget negotiations, the structure and function of the National Defense Commission, which handles a significant portion of the legal regulation, the role of the parliament in the preparation of the National Security Policy Document, and parliamentary questions related to security. Unlike the period that was examined in the previous *Almanac*, from the end of 2005 until today not only has there been no noteworthy progress on the path to ensuring civilian control over the security sector, but in fact there has been an increase in the number of setbacks. This can be observed in developments in the relations between the military and civilian authorities and in the sphere of internal affairs. Examples of these setbacks include an expansion of police authority that works against human rights, an increase in incidents of torture and ill-treatment and new practices that have emerged for eavesdropping.

The relationship of the executive branch with the security sector is complicated by the dual executive system, a deep-rooted tradition in Turkey. As Meryem Erdal indicates in her section on the executive branch, a common perspective in Turkish society that conceives of security only on a military level makes civilian control of security activities more difficult. However, an understanding of security management that includes non-military dimensions can be a sign that there is a shift towards consideration of civilian concerns in the security challenge. That the popular understanding of security encompasses a very broad sphere also serves to make intervention by security forces into the executive sphere seemingly more natural. Even though the scope of this type of institutional intervention in the period being examined is narrower than it used to be, the military bureaucracy continues to be an actor that produces and debates policy in many areas that actually belong to the executive branch. The second article, by Meryem Erdal, examines how the issue of national security has, over time, occupied an increasingly larger role in Turkey`s constitutions. National security is not even mentioned in the Constitution of 1924, was first introduced with amendments to the constitution in 1971 and finally, in the Constitution of 1982, was comprehensively addressed.

Even though almost one-third of the articles in the current constitution have been amended over time, we continue to see that the military has had a lasting and deep-rooted effect on the approach to security and

* **The English version of the Almanac does not include the sixth chapter of Turkish version published in 2009 titled, "The Media, Civil Society and Education". In that chapter, Alper Görmüş points out that while the media has a strongly critical attitude towards the police, it uses a very soft tone for the issues related to military. On the other hand, in the same chapter, Yılmaz Ensaroğlu analyzes the role of civil society organizations in the oversight of the security sector and their increasing impact on that area. Finally, Ayşe Gül Altınay displays the militaristic language used in text books in Turkey.**

In addition to the above mentioned chapter, some articles in the Turkish version are also not included in the English version as they needed updating due to the developments in Turkey since the end of 2008. Ahmet Faruk Güneş's article on EMASYA protocol is not included since this protocol is abolished in 2009; however a brief information about it is provided in Murat Aksoy's article in the English version. Beril Dedeoğlu's article on NATO and Turkish Security Policy is taken out as it is possible to find a great amount of literature on this subject in English. Ecevit Kılıç's articles on National Intelligence Organization and on the intelligence activities of the gendermerie is also removed because they needed updating. The framework articles written by Hasan Cemal, Haluk İnanıcı, Eser Karakaş, Umur Talu and Derya Sazak are not also translated for the English version.

other areas and institutions in the founding philosophy of the constitution. The issue of national security is widely addressed not only in the constitution and more comprehensive laws but also in law and regulations for more specific purposes. The legal review in this almanac includes a list of measures and practices related to national security in the Turkish Citizenship Law, the Law Regarding Regulation of Privatization Practices, the Title Deed Law, the Penal Code and the Criminal Procedure Law, the Political Parties Law, the regulations of internet publication, the Turkish Radio and Television Law, professional organizations that are in essence public institutions, independent regulatory boards, especially the Radio and Television Supreme Council, the National Education Council and the Instruction and Education Board, as well as in secondary school text books, and institutions of higher education. As can be seen from this review, the politics of national security in Turkey encompass a very broad area that exceeds military considerations.

Duality, as it exists in the executive system, is also present in the judiciary system. As can be clearly seen in the article by Ümit Kardaş, which examines the structure of military justice, military justice in Turkey has an autonomous nature that is not present in democratic parliamentary regimes. Furthermore, in addition to a military court structure that is subject to the chain of command, the fact that military jurisdiction is not limited to crimes that violate military and discipline requirements that can only be committed by soldiers compromises the right to a fair trial. The extensive autonomy and comprehensiveness given to military justice strengthens the military security forces´ penetration into the political arena.

Individual actors in the security sector, the Armed Forces and security organizations are subject to the direction of international institutions to which Turkey belongs. The most prominent of these institutions are NATO and the EU. NATO is still perceived by decision-makers in Turkey as an organization that only encompasses military measures and the "soft security" element of the organization is not taken seriously. The situation is slightly different with the EU because, as Hale Akay's collection demonstrates, the process of candidacy for the EU lays out an unambiguous roadmap with regard to altering the security structure in Turkey.

This roadmap includes demands to make the gendarmerie subject to the Ministry of Internal Affairs and to make the General Staff subject to the Ministry of National Defense. At the same time, an assessment of high-ranking military officials demonstrates that membership in the EU is perceived as a matter of security. Furthermore, Turkish Armed Forces gives the impression that it seeks balance between NATO and the EU for its own purposes. This can be explained by both the military's claim that the EU creates duplication in the area of defense, and their resentment that the process of EU membership is not progressing in the desired fashion.

It is natural that attention should be focused on the National Security Council (NSC) when the issue of security is raised in Turkey. This council is a product of the Constitution of 1961, but with the Constitution of 1982 it became the central body regarding the role of military authority in politics. Even though this position has been weakened somewhat by the recent changes made to the NSC law, Zeynep Şarlak's review indicates that the NSC´s influence/authority cannot yet be said to have receded to the level of similar institutions in democratic parliamentary regimes. When the details of the NSC meeting agendas and memos are examined for the period from 2006-2008, it is obvious that this council still operates with an extremely broad understanding of what constitutes national security. In addition, the continued existence of the National Security Policy Document, which is drafted by military authorities without any input from the parliament and largely outside of the initiative of the executive branch, indicates that security state politics act as an instrument for restricting the legislative and executive branches.

In the section of the *Almanac* that discusses security institutions, Hale Akay gives a valuable panoramic view as well as a detailed examination of the institutional and military dimensions of the Turkish Armed Forces (TAF). In spite of the challenges encountered in accessing certain information and the inevitable gaps in knowledge, this article is a collection of accessible data in a comprehensive area that ranges from the personnel policies of TAF, weapons procurement policies, and political communication mechanisms to practices that seem to distinguish the military as an autonomous social class, and education and indoctrination policies, making it clear why TAF activities must be subject to mechanisms of democratic oversight.

We are able to see from diverse points of view the political, financial and social results of perceiving security from a primarily military perspective. The political front of the TAF becomes important depending on how we read the

interventions by the army into politics and soldier-civilian relations within the context of the political tensions within the TAF itself. The article by Ferda Balancar and Esra Elmas shows how the Armed Forces are both the subject and the object of change in the reform policies realized in the process of EU accession. Furthermore, it examines the TAF´s attempt to preserve their role within this process and to control the process of change as the army sallied out of the barracks, retreated to the barracks and experienced tension within the barracks. Balancar and Elmas present what is essentially the story of the process of change in the security sector.

Gülay Günlük-Şenesen addresses the financial aspect of TAF and observes that there has been a relative decrease in the amount of resources that Turkey has devoted to defense since 2000. However, it is also clear that public institutions are still not sharing information with the public in a detailed and regular fashion, which would be fundamental to assessments of defense expenditures and components. Even though there has been a certain amount of improvement in this area compared with the past, it cannot be said that the principles of transparency and accountability have been sufficiently implemented. The clearest indication of this is the fact that Court of Auditors' oversight of military expenditures continues to exist only on paper.

A lack of transparency exists not only for expenditures but also for defense industry practices, an area where it can hardly be said that sufficient civilian, democratic control has been achieved. As Lale Sarıibrahimoğlu stresses in her article on the Office of the Defense Industry Undersecretary, there is the continuing problem of basing weapons procurement primarily on the threat perceptions specified by the military bureaucracy. With regard to domestic security, authority is shared between the police and the gendarmerie. The role of the gendarmerie has been the most important and serious issue of recent years with regard to both the military characteristic of the security organization and the political intervention and influence of military authority. The article by Murat Aksoy examines the legal and political nature of the issue and highlights its problems. The police-gendarmerie conflict, the militarization of the public-order sphere through the gendarmerie, the confusion resulting from the existence of multiple and separate intelligence organizations, and the debate on Gendarmerie Intelligence and Counterterrorism unit (JITEM) have all taken place within this framework.

The article by Biriz Berksoy, which examines the structural transformation of the police organization and its subculture, explains the new understanding of security that has undergirded police restructuring and the expansion of its authority since 1980. The Special Operation Units play a unique role in the new restructuring, which includes an element of partial militarization. Additionally, the authority and discretion of the police, including the use of weapons, was expanded with the changes made in 2006 to the Law on Police Duties and Powers. Berksoy´s article contains a list of rights violations due to use of violence by the police between 2006 and 2008, and thus demonstrates that this problem persists in spite of democratic reforms. It is also evident that police accountability and oversight mechanisms do not function at levels befitting a democratic society.

In addition to the official security institutions and forces, there are two less formal developments that should be carefully considered: one is a situation unique to Turkey and the other is a universal development experienced as a result of policies based on the expansion of market relations. The element of the problem that is unique to Turkey is the village guards. The system, examined by Dilek Kurban, was implemented starting in 1985 as "temporary village guardianship" and is the most striking indication of the state's security-focused approach to the Kurdish problem. The system could be described as a state security measure that aims to divide those living in the region into "those who support the state" and "those who oppose the state" instead of as a security measure for the people. This has served to transform the guard system into part of a policy of punishment, oppression and intimidation directed at civilians. The fact that the guard system in the security state has occasionally turned into an element of insecurity is thought-provoking in terms of an approach to security. Across the globe, on the other hand, market forces have led to the privatization of security services, and the operation of private security institutions is a rapidly growing market. In his article, Mehmet Atılgan addresses the development of these private security institutions, the regulations they are subject to in Turkey, and problems of their oversight. What is remarkable is how the private security services have developed as a market segment with a heavy state existence. This also makes the regulation by the official security apparatus that is responsible for regulating this sector problematic, and makes the need for civilian oversight in this sector even more urgent.

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The perception of security in Turkey is still largely determined by the perception of the national security state. Changing this perception by giving civilian political forces the authority to discuss, assess and propose security issues is one of the most significant steps in the process of democratization. However, in order for this to occur, civilians need political actors who will not simply refer security issues to experts but will act on the awareness that this is a common problem for all of society. We hope that this *Almanac* and similar efforts will prepare the foundation for just such a development and will encourage similar initiatives.

FRAMEWORK INSTITUTIONS

Democratic Oversight: A Theoretical Assessment

Hale Akay

The main issue behind civil-military relations is the possibility that an institution set up to protect the society might – if it acquires sufficient strength – become a threat to that society. The solution to this issue requires a balance between two critically important social objectives that are likely to be in conflict: societies need security forces that are powerful and effective enough to ensure their safety, but they also need that this power be confined, so as not to impose its will on society.[1] This balance can only be achieved via the establishment of a democratic capacity that will ensure the efficient and effective oversight of the armed forces and of all organizations authorized to use force.

From a theoretical point of view, democratic oversight means that at times of both peace and war, all decisions concerning national security are to be made by the representatives chosen by the people and by the governments appointed by those representatives, rather than by the military.[2] In practice, democratic oversight denotes a process that has caused long-term conflicts between civilians and the military and that evolves along with changing conditions.

Although a level of mutual understanding has been achieved regarding democratic oversight, different views exist on how this oversight should be implemented in practice. This concept, which began to be discussed extensively during the Cold War period, when the nation-states' possibility of expansion was greatly limited and the missions of existing armed forces were redefined, has developed and gained depth in line with changes taking place over time in the balance of world power and in security threats and as a consequence of debates in the literature on this subject.

The person cited most frequently on the subject of the democratic oversight of the armed forces is Huntington, who put forward a concept of objective control, which relies on a division of labor between civilians and the military based on professionalism.[3] Objective control is based on the assumption that civilian oversight is only possible when the military achieves the highest degree of professionalism. This view not only objects to the armed forces' intervention in political decisions, as soldiers "are not sufficiently equipped to participate in policymaking because their training is not designed with this role in mind,"[4] but also argues that politicians should keep their distance from the areas of expertise of the armed forces. The alternative to this view is subjective control, where civilian control is raised to the highest level and autonomous areas of professionalism of the military are abolished. Subjective control is disapproved of on the grounds that this approach would result in the politicization of the armed forces.

The view of objective control has been criticized from many perspectives. For example Janowitz,[5] who introduced a literature based on the sociological analysis of relations between society and the armed forces, pointed out that professionalism in the military means different things in different technological or political contexts. While civilian oversight is a must under all circumstances, it is only possible through a convergence between civilian values and military values. It is therefore imperative that the military comply with civilian values.

Civilian-military relations also present characteristics that further complicate a full separation based on a division of labor. Even if the armed forces accept civilian authority, they are included within the political process

1 Peter D. Feaver, "Civil-Military Relations," *Annual Review of Political Science*, 1999, p. 214.

2 Richard H. Kohn, "How Democracies Control the Military," *Journal of Democracy*, 1997, p. 143.

3 P. Samuel Huntington, *The soldier and the state*.

4 Richard Hooker, "Soldiers of the state: Reconsidering American civil-military relations," *Parameters*, 2003.

5 Morris Janowitz, *The Professional Soldier: A Social and Political Portrait*; see also Feaver, Peter D., ibid.

because of their role as an institution that provides fundamental intelligence in the establishment of defense policies in particular and "this political role of the military in a sense weakens their own professionalism."[6] The wider the autonomy conferred to the armed forces, the stronger the tendency to participate and intervene in the political process will be. This could result in the military acquiring the opportunity to indirectly – if not directly – shape civilian decisions.

Another very important factor ignored by the oversight approach based on professionalism lies in the fact that military operations are not only technical issues but also essentially political decisions, because of their consequences. Under truly democratic oversight, civilians establish political objectives and the military carries them out.[7] Due to their profession, the military may be equipped with the necessary expertise to identify a threat and the risks of an appropriate response to that threat, but the decision concerning what level of risk is acceptable for a society should be determined only by civilian authorities.[8]

Finally, as with other organizations that are part of the administration, the armed forces and other security forces all constitute separate interest groups. The armed forces in particular are an active and political interest group with conservative tendencies; they wish to preserve and expand not only national security but also their own area of scrunity and their autonomy. That is why democratic oversight is only possible via the acknowledgment of this political feature of the armed forces and the establishment of appropriate mechanisms.[9]

The end of the Cold War, globalization, the change in the perception of threats especially after the September 11 attacks, the experiences acquired during the democratization process that took place in developing countries and especially in the former Eastern Bloc countries, the transition to an information society, technological innovations and especially the change experienced in military culture following the abolishment of compulsory military service in developed countries, have resulted in a change in the approach to civilian-military relations. Nowadays, security is considered a wider concept that takes into consideration also non-military elements. Political, economic, social and environmental risks of a non-military nature are also included among the elements forming the concept of security and the traditional concept of national and international security is being replaced with the concept of human security. The boundary between domestic and foreign threats, as well as the boundary between security of a military and a non-military nature are so blurred as not to allow for the professionalism required by objective control. Especially in cases where democratic oversight is weak, this may cause the institutions responsible for security to attempt to expand their own areas so as to include new threats to security.

Along with this change in environmental conditions, nowadays we are concerned not only with democratic oversight but also with democratic governance of the security sector. From an institutional point of view this concept includes all public bodies with the authority to use force, which is the fundamental attribute of the modern nation-state. But from a security perspective, this concept includes not only the military sphere but national security in the widest sense.[10] The oversight of the security sector includes all decisions concerning security and the structures, processes, and behaviors shaping the implementation of these decisions. Hänggi has listed the following organizational structures involved in democratic governance of the security sector:

1. **Legal framework:** constitutional and legal reforms that form the basis of the division of powers and that clearly define the duties, rights, and tasks of the security sector within the scope of institutional oversight.

2. **Execution:** Civilian oversight and administration of the security sector by the government (although there is a clear distinction between the professional responsibilities of civilians and those of military authorities, the ministry of defense, other ministries related to security and civilian oversight over all of the armed forces and bureaucrats in political and administrative positions of critical importance).

3. **Legislation:** Parliamentary control and oversight of the security sector (defense and other relevant budgets, defense legislation, defense strategy and planning, restructuring of the security sector, arms

6 Gene M. Lyons, "The New Civil Military Relations," *American Political Science Review*, 1961, p. 54.

7 Noboru Yamaguchi and David A. Welch, "Soldiers, Civilians and Scholars: Making Sense of the Relationship between Civil-Military Relations and Foreign Policy," *Asian Perspective*, 2005, p. 227.

8 Peter D. Feaver, *ibid*, p. 215

9 Bengt Abrahamsson, *Military Professionalization and Political Power*, p. 160.

10 Heiner Hänggi, "Making Sense of Security Sector Governance," within Heiner Hänggi and Theodor H. Winkler (ed.) *Challenges of Security Sector Governance.*

purchases, decisions concerning the domestic and foreign deployment of the military, and authority to approve international security treaties; and instruments aiming to achieve transparency, such as meetings, inquiries, investigations, and reports carried out by committees established in areas related to security).

4. **Jurisdiction:** Jurisdiction oversight consisting exclusively of civilian courts, not special courts in which the security sector is a part of the civilian legal system.

5. **Public sphere:** Public oversight based on the existence of civil society organizations related to security (political parties, non-governmental organizations, independent media, specialized think tanks, and universities) and allowing for public debate of subjects related to the security sector.[11]

According to Andrew Cottey, democratic and civilian oversight consists of three different but inter-related elements: the non-intervention of the military in domestic politics, the democratic and civilian oversight of defense policies, and the restriction of the military's influence on foreign policy.[12] The oversight mechanisms to achieve this objective can be divided roughly into two groups: 1) mechanisms influencing the armed forces' ability to prevent oversight and 2) mechanisms influencing the armed forces' tendency to obey civilians. While the first of these provides the legal framework that forms the basis of civilian oversight,[13] the second contains mechanisms related to the efficient and effective implementation of that legal framework, including the civilianization of positions that provide intelligence for strategic decisions and especially defense policies. A state of balance in civilian-military relations is based on the development of both administrative and social capacity regarding the implementation of the second type of mechanism. Democratization does not only consist of institutional structures and the legal framework organizing them; it also depends on the democratic quality of the operation of these structures and the implementation of laws.[14]

In other words, it is the efforts and perseverance shown by civilians in these fields that ensure the feasibility and sustainability of security sector governance. From this point of view, major responsibility lies with the legislative, executive, and judicial powers. These powers are responsible not only for the effective implementation of all their legal responsibilities, but also for creating a tradition of civilian oversight, for developing and implementing procedures and mechanisms related to security sector oversight, and for ensuring that all bureaucratic structures comply with democratic oversight on a micro as well as macro level. Major lapses in security sector oversight occur when these powers use their legal means insufficiently; fail to employ effective oversight mechanisms; lack the will or ability to oversee military matters; fail to carry out effective investigations when necessary or to penalize the military for disobeying civilian authority; and fail to generate alternative, non-military solutions concerning conflicts that result in domestic security threats,[15] which end up weakening civilian influence and delegating the resolution of such conflicts to the military.

11 *Ibid*, p. 17.

12 Andrew Cottey, "A Framework for Understanding Democratic Control of Armed Forces in Post-Communist Europe" ESRC *"One Europe or Several?" Programme Working Papers*, 2000.

13 Peter D. Feaver, *ibid*, p. 225

14 Andrew Cottey, Timothy Edmunds and Anthony Forster, "The Second Generation Problematic: Rethinking Democracy and Civil-Military Relations, *Armed Forces & Security*, 2002, pp. 32-35.

15 Michael C. Desch, 1999, Civilian Control of the Military: The Changing Security Environment, Baltimore, MD: Johns Hopkins University Press, pp. 121-122.

Legislation: The Turkish Grand National Assembly

Nezir Akyeşilmen

THEORETICAL BACKGROUND

Civil-military relations are of critical importance from the perspective of a functioning democracy, political stability, defense and security policies, good governance, and international cooperation. Nowadays, democratic values such as human rights, the rule of law, minority rights and democratic oversight are elements that are as important as the formal dimensions of democracy, such as elections. In short, the civilian and democratic oversight of the security sector is one of the distinguishing characteristics of contemporary democracies, perhaps the most important one.

The civilian oversight of the armed forces is an essential requirement for the guarantee of human rights and freedoms. In democracies, sovereignty belongs to the representatives of the people and no sector of the state can be excluded from their supervision. A state where the security sector is excluded from parliamentary oversight can at best be defined as an incomplete democracy or one that is in its construction phase;[1] in such societies it is very difficult to guarantee individuals' fundamental rights and freedoms.[2]

Although there is no single universally accepted model of civil-military relations, the following are pre-requisites for achieving civilian oversight of the security sector in a democratic system:

- The parliament is the sovereign power and therefore has the final word regarding defense and security policies.
- The parliament holds the government responsible for creating, developing, and implementing defense and security policies and strategies.
- The parliament is the only institution with a constitutional role in matters such as the establishment and oversight of defense and security expenses and the declaration of a state of emergency and of war.
- The state holds the monopoly on the use of force. In using this force, the state should be under the oversight of a legitimate, democratic government.
- All institutions and bodies of the state, including the security sector, must be subject to the principle of good governance and to the rule of law.
- The armed forces are a vehicle of national defense and security policies.
- Legitimate democratic institutions are the only actors that can decide whether the society needs more arms or not.[3]

Parliament makes use of a variety of mechanisms in fulfilling its oversight duty. Chief among them is carrying out the legal reforms needed to ensure the democratic oversight of the sector. The second mechanism consists in overseeing the administration's activities in the security sector, as in all of its other operations. From this point of view the parliament should be the final authority in the establishment of defense and security policies and strategies and in decisions regarding the budget of the security sector, including the purchase of arms necessary to ensure society's security. The armed forces' and security forces' respect for and obedience to state institutions and to the democratic process, including internationally recognized fundamental rights and freedoms, constitute elements that are essential for effective parliamentary oversight.

1 Hans Born and Philipp Fluri, "Oversight and Guidance: The Relevance of Parliamentary Oversight for Security Sector Reform," *Geneva Center For the Democratic Control of Armed Forces Working Paper*, issue 111, p. 7.

2 Michael F. Cairo, "Civilian Control of the Military," *Democracy Papers*.

3 Hans Born, "Representative Democracy and the Role of Parliaments: An Inventory of Democracy Assistance Programmes".

PARLIAMENTARY OVERSIGHT IN TURKEY

This study will examine various issues related to security sector oversight in Turkey, including legal reforms, oversight mechanisms, budgetary meetings, the structure and functioning of the National Defense Commission, the role of the parliament in the preparation of the National Security Policy Document and parliamentary questions regarding the subject of security, within the three-year period from the fourth year of the 22nd term (1 October 2005) to the third year of the 23rd term (January 2009).

STANDSTILL IN THE DEMOCRATIZATION PROCESS

The Turkish security forces have largely not been subject to oversight and are keen to avoid it. Because this state of affairs renders democratic governance difficult, it was challenged by a number of reforms prompted by the process of Turkey's accession to the European Union (EU). Especially following the Helsinki Summit of 1999, Turkey began undergoing a process of intensive reform and has carried out a great number of legal reforms in order to comply with EU criteria. The process of harmonization gained momentum under the Justice and Development Party (*Adalet ve Kalkınma Partisi, AKP*), which obtained a large majority in the parliament in 2002, and in the following two-year period considerable ground was covered in the area of democratization. In the *Almanac 2005*, legal amendments carried out during this process were summarized by Ahmet Yıldız as follows:

- *The cessation of the practice of appointing military members to the Higher Education Council* (Yüksek Öğrenim Kurumu, YÖK), *the Turkish Radio and Television Corporation* (Türkiye Radyo Televizyon Kurumu, TRT), *and the State Security Courts* (Devlet Güvenlik Mahkemeleri, DGM).
- *The composition of the National Security Council* (Milli Güvenlik Kurulu, MGK) *was altered to give civilians a majority.*
- *For the first time, the MGK's General Secretary was not appointed from the military.*
- *The MGK Psychological Warfare Directorate, which carried out active psychological warfare planning during the February 28, 1997 process,*[4] *was abolished and its functions were transferred to the Prime Minister's Office.*
- *The Court of Accounts' was giving responsibility for oversight of military assets.*
- *Legal reforms requiring a set number of civilian patients be accepted by military hospitals were put in place in order to put to use these hospitals' idle capacity .*
- *Students terminated by the Gülhane Military Medical Academy were allowed to transfer to other medical faculties.*
- *Prohibited military zones were opened to touristic use with the authorization of the Chief of General Staff.*
- *Special security services were re-regulated.*
- *A new regulation was enacted to ensure the oversight of all industrial enterprises dealing with the production of warfare weapons and ammunition in the private and public sector, via Law No. 5201 on the Oversight of Industrial Enterprises Producing Warfare Tools and Equipment and Arms, Ammunition, and Explosives.*
- *Perhaps for the first time in the history of the Republic, the share of the budget allocated to defense ceased being the largest and was reduced to below that of the Ministry of National Education* (Milli Eğitim Bakanlığı, MEB). *This was also true for the budget of 2005.*[5]

Although great progress was made in the first years of the AKP government, it slowed to the point of standstill, if not decline, after the Şemdinli incidents of November 2005.[6] Not only have there not been any significant developments in the civilian oversight of the security sector since then, but changes have taken place in the opposite direction - military activities in the political field have visibly increased. The e-memorandum issued by the Office of the Chief of General Staff on April 27, 2007, during the election process of the President of the Republic, the *coup d'état* diaries, and subsequent developments that resulted in the closure of *Nokta* magazine are among the main events that brought about an increase in the armed forces' visibility in the civilian and political sphere. These kinds of interventions, which one could not even conceive of in democratic societies, have not been subjected to any democratic oversight or prosecution by the parliament. In short, although the autonomous position of the military within the state was partly restricted via reforms carried out from 2001-

4 During a MGK meeting held on February 28, 1997, Prime Minister Necmettin Erbakan was asked to sign a plan to fight acts against secularism and social pressure was subsequently exercised on the government via the TSK, as a result of which the Erbakan government resigned in June 2007.

5 Ahmet Yıldız, "Türkiye Büyük Millet Meclisi," (The Turkish Grand National Assembly) Ümit Cizre (ed.), within *Almanak Türkiye 2005 Güvenlik Sektörü ve Gözetim* (Almanac Turkey 2005: Security Sector and Democratic Oversight), pp.12-13.

6 The person who threw a bomb to the Umut Library and caused the death of one person was caught by the public and it was revealed that he was a petty officer. The prosecutor preparing the criminal charge implied that together with the petty officer, the then army commander also held responsibility in this event. He was therefore dismissed from his position as a civil servant by the Supreme Council of Judges and Public Prosecutors and he was deprived of his right to exercise his profession as a lawyer.

2004, impact of those reforms was reduced following the Şemdinli incidents in late 2005.

The same thing can be said also about domestic affairs. Although not due to similar reasons, the expansion of the power of the security forces via amendments made to the Law on the Police Force's Duties and Authorities, the increase in the number of cases of maltreatment and torture (which had been on the decline until 2005), violent police actions against mass demonstrations, and debates on the issue of interceptions[7] are examples of the backsliding that has taken place in this area.

PARLIAMENT'S ROLE IN ESTABLISHING DEFENSE AND SECURITY POLICIES

The traditional view of national security and the sacred role conferred to it constitute one of the main reasons that make civilian oversight difficult and prevent the democratization of this process. This traditionalist approach considers state security and national security to be among the highest values of society. That is why, despite the series of democratic reforms implemented as part of the EU accession process, the prevailing state-centered perception of national security has not yet been transformed into a contemporary, democratic, and civilian approach to human security. That is also why, in Turkey, the military is perceived as the chosen defender of the regime, and of certain institutions and values, against both foreign and internal threats and the legal reforms through which this duty is assigned to the military are not questioned.

The above legal reforms are the subject of criticism also in the progress reports prepared by the EU Commission. The 2007 Progress Report emphasizes that the Law on the Turkish Armed Forces (*Türk Silahlı Kuvvetleri,* TSK)/ Internal Services and the laws concerning the National Security Council define national security in a very broad sense and grant the army a vast operational area. According to its definition in the Law on the National Security Council, national security covers all stages and aspects of life, from domestic and foreign threats to the establishment of national existence and unity, from political and social spheres to culture and economics. The TSK's extensive powers, based on Article 35 of the Law on Internal Services, have been internalized by political leaders in Turkey and both the government and the opposition fully agree on this matter. We will see this conformity more clearly in later chapters dealing with legislative activities and budgetary discussions.

THE PARLIAMENTARY OVERSIGHT OF MILITARY EXPENSES

Article 160 of the Constitution states that on behalf of the Turkish Grand National Assembly (*Türkiye Büyük Millet Meclisi,* TBMM), the Court of Accounts is responsible for overseeing the income, expenses, and the assets of all public administrative and social security institutions that fall within the scope of the central budget and for making final decisions on the accounts and operations of those that are accountable and for fulfilling the duties of inquiry, oversight, and judgment, as set forth by law.[8] The armed forces are not exempt -- they too are a public institution falling under the central budget. However, in line with the constitutional amendment to the 1967 Law on the Court of Accounts made after the March 12, 1971 military intervention, the public oversight of state assets in possession of the armed forces was ceased, replaced with a method of oversight "regulated by law and in line with the principle of confidentiality, as required by national defense services." In accordance with another amendment made to the same law in 1985, military purchases, known as military expenses, and related contracts were excluded from public oversight.

The Appendix of Article 12, added to the Law on the Court of Accounts in 2003, rules that both oversight and its regulation should be "classified." According to the relevant section of this law, "The oversight of the assets in possession of the armed forces is carried out in accordance with the principle of secrecy, as required by national defense services. The principles and methods concerning this oversight are identified by the Ministry of National Defense, after the Office of the Chief of General Staff and the Court of Accounts are consulted, and they are established on the basis of a classified regulation approved by the Cabinet of Ministers." It is open to question whether oversight carried out in a classified way and on the basis of a classified regulation can be considered democratic.

LEGISLATIVE ACTIONS REGARDING THE SECURITY SECTOR AND DEBATES ON THE DEFENSE BUDGET

The National Assembly plenary sessions debate laws concerning security institutions much less than other laws. Both the government and the opposition limit

7 The legal grounds of interceptions, discovered to be widely applied, and the legal issues arising from the fact that the prosecution's bills of indictment contain private conversations irrelevant from the point of view of the crimes the defendants are accused of, have become a subject of wide debate in Turkey.

8 The Constitution of the Republic of Turkey, Article 160.

themselves to a few words of praise and no one opposes these regulations. For example, when Article 301 of the Turkish Penal Code (*Türk Ceza Kanunu*, TCK) was amended (via Law No. 5759, dated April 30, 2008) on the grounds that they limited freedom of expression, it was discussed for 15 hours in the commission and for two days in the plenary. Yet four laws concerning the TSK (No. 5598, Law on the Amendment of the Law on Turkish Armed Forces Personnel;[9] No. 5590, Law on the Compensation for Flight, Parachute, Underwater, Diver and Frogman Services; No. 5591, Law on the Amendment of the Law on Military Service; and No. 5592, Law on the Amendment of the Law on the Allowances of Private Soldiers, Corporals and Sergeants) were passed by the TBMM plenary on March 1, 2007[10] without any real debate. The debate began at 19.30 and ended at 19.50. Apart from two individual speeches, no one took the floor on behalf of any party.[11] Although there are some exceptions, legal reforms concerning the security sector in general and the TSK in particular are enacted very easily and without being debated.

Similarly, the plenary session and the Planning and Budgeting Commission review the military budget in very general terms and do not examine any programs or projects. A closer examination of the minutes of both shows that the representatives of both the government and the opposition always convey their best wishes and state that the budget of TSK should actually be larger. In the debate on the budget of the Ministry of National Defense, it is difficult to distinguish the government from the opposition. The following quotations from the debate on the 2008 defense budget held by the Planning and Budgeting Commission on November 2, 2007 present this situation clearly:

"Honorable Chairman, esteemed Members of Parliament, before I begin my speech, I would like to thank all my colleagues who showed a special interest in the budget of the Ministry of National Defense, all of the esteemed Members of Parliament who supported us in their speeches, who offered their criticism and their suggestions, both in the Budgeting Commission and in the Plenary Session.... In a world that arms itself, disarmament can be nothing more than an ideal. The world is spending trillions on arms and Turkey must not be excluded from this process. Research has shown that there are 18 areas of conflict in the world. Thirteen of these areas of conflict are around Turkey. As our forefathers said, "If you wish to have peace, be ready for war." If Turkey is an island of peace and stability in the midst of a region where there is intense conflict, as is the case for the Balkans, the Caucasus, and the Middle East, that draws the attention of the whole world, and if Turkey constitutes a model of democracy, this is due to a great degree to the funds you allocate for defense."[12]

Mustafa Özyürek (Republican People's Party, CHP) thanked the ruling party for the importance attached to the defense budget and expressed the importance of the Armed Forces:

"I would like to thank everybody who has contributed to the preparation of the budget of the Ministry of National Defense and I wish success, in your person, to the Turkish Armed Forces, who play a major role and have great responsibility for Turkey's national security during such critical times. The stronger the Turkish Armed Forces are, the more significant Turkey's influence and power in this region will be. In contrast to many other countries, we have the Turkish Armed Forces, which is a modern, contemporary, and powerful army. It is extremely important that this situation is maintained and strengthened. From this point of view, I believe that neither our Commission nor our National Assembly will hesitate to allocate the funds needed to preserve the efficiency and power of the Turkish Armed Forces."[13]

Like his colleagues, Emin Haluk Ayhan (Nationalist Movement Party, *Milliyetçi Hareket Partisi*, MHP) also began his speech by emphasizing that a strong defense needs a large budget: *"Turkey's geostrategic position, its responsibilities arising from its historical and cultural heritage and its contribution to peace in the region and in the world require a strong defense system."* Ismail Göksel (AKP) was not content with the state of defense and highlighted the need for Turkey's readiness for war: *"[O]ur duty as the National Assembly is to prepare our Armed Forces with the assistance of our Ministry of National Defense.... It is because of the efforts of the commanders in charge before our time and of our administration to prepare for war that we can live in peace.... They are equipped with training, knowledge and skills that are unique in the world. And all they need from us is moral support."* Onur Öymen (CHP) said: *"We hope that the budget of the Ministry of National Defense will be auspicious for our country and once again we would like to offer our best wishes and our hopes for*

9 As a consequence of the said change, the age of sons of TSK personnel to receive family assistance was raised from 19 to 25 and the age limit of daughters was abolished and it was decided that assistance to daughters would continue until they marry.

10 Note: This occurred during the 70th Session of the Fifth Legislative Year of the 22nd Term.

11 *TBMM Tutanak Dergisi* (TBMM Bulletin of the Minutes of Proceedings), B:70, pp. 49-54.

12 TBMM Minutes, 36th Session, 2nd Legislative Year, 23rd Term.

13 For the relevant minutes of the Planning and Budgeting Commission, see http://www.tbmm.gov.tr/butce/htm/pbk02112007.htm.

success to the honorable Minister, who needs to accomplish great things during these difficult times."[14]

In an interview with Neşe Düzel of Radikal newspaper, former Defense Minister Zeki Yavuztürk said: *"As Minister of Defense you have authority to sign papers, but you don't know which funds will be spent for what. If you ask why a certain expenditure is of a certain amount, they give you the reasons for it. But in order to understand those reasons you need to have a team of civilian experts working together with the military. But within the Ministry of Defense there is no such personnel appointed by the Minister. All of the experts are from the military. When the institution responsible for security says, 'These are my needs,' I, as the Minister, cannot say, 'Why do you need so much?' Because I don't understand these matters. How can I say anything, if I don't understand these matters?"*[15] Current Defense Minister Vecdi Gönül, in an interview with Taraf newspaper, emphasized that military expenses are subject to oversight not only by the Court of Accounts but also by the National Assembly, saying: *"The function of the TBMM is not only to legislate but also to exercise its right concerning budgets. Unfortunately this right is not exercised properly."* According to Gönül, if members of parliament participate more actively in the examination of the defense budget, this will contribute to the achievement of European standards for the transparency and oversight of military expenses.[16]

In contrast to the extreme caution, deference to the military, and absence of debate, to the point of negligence, by members of parliament from the ruling and opposition parties during the discussion of the defense budget, they conduct deep analyses and detailed inquiries, as is proper, during the discussion of the budget of the Ministry of Internal Affairs and its security forces. They do not offer their appreciation to those who prepared the budget, which they discuss in more detail, at times with harsh debate between speakers and members of the Parliament.[17]

THE STRUCTURE, AUTHORITY AND DUTIES OF THE NATIONAL DEFENSE COMMISSION

The National Defense Commission (*Milli Savunma Komisyonu,* MSK) is one of the permanent specialized commissions stated in Article 20 of the bylaw of the TBMM. The current commission consists of 25 members of parliament, 16 from the AKP, five from the CHP, three from the MHP, and one from the Democratic Society Party *(Demokratik Toplum Partisi,* DTP).[18]

In accordance with TBMM bylaw, relevant draft laws and proposed laws presented to the Presidency of the TBMM are referred to the commission.[19] After being discussed in the commission, draft laws are then sent to the TBMM's Plenary Session. Apart from examining the draft laws referred to it by the Presidency of the TBMM, the commission is not authorized to establish any defense policies, including the defense budget, arms purchases, or the National Defense Policy Document (*Milli Güvenlik Siyaset Belgesi,* MGSB).

In parliamentary tradition, in accordance with Article 33 of the bylaw, minutes are taken of the work of the commissions and are included in the file of the relevant draft law or proposed law, so that they can be referred to in the event that a legal issue arises later on or they can be put to the use of researchers. However, the MSK does not comply with this parliamentary rule and no minutes are taken during its activities. What is most interesting here is that no one from either the opposition party or from the ruling party objects.

14 *Ibid*

15 Neşe Düzel, "Bakan Askeri Harcamayı Bilmez" (Ministers Don't Have Any Knowledge on Military Expenses), *Radikal*, 20 June 2005.

16 "Gönül: 'Meclis, savunma bütçesini yeterince denetlemiyor'" (Gönül: The National Assembly does not sufficiently oversee the defense budget), *Taraf*, 23 June 2007.

17 During the 2008 budget meetings, the budgets of the Ministry of National Defense and of the Ministry of Internal Affairs were dealt with on the same day. The difference in the behavior of members of parliament towards these two areas can be seen more clearly upon an examination of the questions asked at the end of the deliberations. TBMM, "2009 Bütçe Tartışmaları," (2009 Budget Meetings) *TBMM Tutanak Dergisi* (TBMM Bulletin of the Minutes of Proceedings), 31st Session, 19 December 2008.

18 Members of the National Defense Commission in the 23rd Term: Hasan Kemal Yardımcı, Memet Yılmaz Helvacıoğlu, Nurettin Akman, İsmail Göksel, Şevket Gürsoy, Mehmet Hanifi Alır, Mehmet Erdem, Mehmet Alp, M. İhsan Arslan, Yahya Doğan, Fuat Bol, Reha Çamuroğlu, Erdal Kalkan, Ahmet Büyükakkaşlar, Fuat Ölmeztoprak, Sabahattin Cevheri, Zekeriya Akıncı, Osman Kaptan, Ensar Öğüt, Derviş Günday, Erol Tınastepe, Bengi Yıldız, Yıldırım Tuğrul Türkeş, Kamil Erdal Sipahi , Sabahattin Çakmakoğlu.

19 Two law proposals presented to the National Defense Commission in the 23rd Term and still awaiting to be discussed are of particular interest. The Law Proposal on the Amendment to be Made to the Law on the Turkish Armed Forces' Internal Service (15 May 2008) proposes that Article 2 of the said Law is changed into, "The Military Service is the obligation to teach and to carry out the art of warfare in order to protect the national borders of the Republic of Turkey from foreign threats and dangers," and that Article 35 is changed into, "the duty of the Armed Forces is to protect national borders from foreign threats and dangers." On the other hand, the Proposed Law on the Amendment or Abolishment of Some Articles of the Law No 1111 on the Military Service, of the Law No 1632 on Military Penal Code and of the Law No 5237 on Turkish Penal Code concerns the conferral of the right to conscientious objection.

LEGAL REFORMS ADOPTED IN THE LAST THREE YEARS IN THE SECURITY SECTOR

Only two legal amendments carried out in the period October 2005-January 2008 are worth mentioning from the perspective of the democratic control of the security sector. The first of these is Law No. 5503, dated June 29, 2006, to amend the Law on the Establishment of Military Courts and on Criminal Procedure. This law has led to progress in the context of the authority of military courts to try civilians. According to Article 4 of the law, in times of peace civilians cannot be tried in military courts, except for when military personnel and civilians commit a crime together. This law also establishes the right to retrial in military courts. According to Article 55 of the law, if the European Court of Human Rights (ECtHR) passes a sentence in favor of military personnel or civilians tried by military courts, these persons may request a retrial.

The second is Law No. 5768, dated June 11, 2008, to amend the Law on Military Service and of Some Other Laws. This law stipulates that academics may postpone their military service until the age of 35, and athletes who are included in National Teams or who place among the top three in international competitions may postpone until the age 38.

LEGISLATIVE ACTIVITIES CONCERNING DEMOCRATIC OVERSIGHT OF THE SECURITY SECTOR OVER THE LAST THREE YEARS

In the three-year period from the Fourth Legislative Year of the 22nd Term (October 2005) to the Second Legislative Year of the 23rd Term (June 2008), of all the written and verbal oversight methods available (such as motions, general debates, parliamentary enquiries, motions of no confidence and parliamentary investigations), members of parliament employed only motions, relying heavily on written motions in particular. However, on May 13, 2008, Ufuk Uras, Chairman of the Freedom and Solidarity Party (*Özgürlük ve Demokrasi Partisi,* ÖDP) presented a parliamentary question to the Presidency of the TBMM, requesting the creation of a committee to investigate the documents known publicly as the *"coup d'état* diaries" and the military coup attempts that took place between 2003 and 2005. Up to July 11, 2008 only members of parliament from the DTP, the independent member of parliament from Hakkâri (Hamit Geylani), and the BBP member of parliament from Sivas (Muhsin Yazıcıoğlu) offered their support to Uras. His request for a parliamentary investigation was therefore not referred to the plenary.

Parliamentary questions and the oversight process that actually took place during this period present certain common characteristics. From October 2005 through June 2008, 48 parliamentary questions concerning the security sector were presented (44 written and four verbal). Of the 44 written questions, only five concerned the armed forces, 23 were related to the police force, eight the intelligence agency, and eight the special security forces. Of the verbal questions, two concerned the armed forces and two the police force. Only 20 of the parliamentary questions received responses and most of them were related to matters such as the rights of personnel, institutional exams, working conditions, building construction, service obligations and retirement, none of which constitute delicate issues from the point of view of security. However, parliamentary questions concerning "TSK personnel arrested because of the incidents in Şemdinli," "negative attitude and behavior on the part of Riot Squad Officers," "the police raid conducted in the residence of the Rector of the Van Yüzüncü Yıl University," "incidents claimed to have taken place in the police headquarters of Aşkale, Erzurum," "the investigation reported in the press regarding certain police officers," and certain negative developments that took place following police actions did not receive responses and were referred to as "published among incoming documents as no response was received within the set time" in the TBMM's website.

PARLIAMENTARY QUESTIONS CONCERNING THE ARMED FORCES

Two important parliamentary questions regarding democratic oversight of the armed forces were presented by Emin Şirin of the ANAP (*Anavatan Partisi,* Motherland Party), during the last three years. The first, question No. 7/12050 dated January 23, 2006, asked the Prime Minister about the Government's view of a range of issues regarding civil-military relations: the harmonization of civil-military relations with EU member countries, the need for further progress on the matter of transparency and accountability in the area of security, the full achievement of parliamentary oversight concerning military expenses, raising the level of civilian oversight of the military, the establishment and implementation of national security strategies (for example the preparation of the National Security Policy Document) to EU standards, changes to be made to the Law on the TSK and Internal Services, the full achievement of civilian oversight over domestic security policies, and limiting statements made by the military to military subjects

and to security matters only and for these statements to be authorized by the government. As no response was received to this question within the set time, it was published among incoming documents.

The second, No. 7/11459 dated December 1, 2005, was in regard to the incidents that took place in Şemdinli. Following the provision of some information based on news reports on the Şemdinli incidents, the parliamentary question refers to the relevant articles of the Turkish Penal Code (TPC) and to the Anti-Terror Law and questions the legal actions taken regarding the individuals involved in said incidents: "1) Has the administrative investigation conducted by the Turkish Armed Forces (TAF) concerning the Şemdinli incidents been completed? Has a separate investigation been conducted in parallel to the investigation by the Prosecutor's Office and if so what are its findings? 2) Is it plausible or possible for two non-commissioned officers to attempt to carry out an armed insurgency with the aim of changing the constitutional order? If such an attempt was indeed made, who or what else was involved in it? Is there actually a junta of which these two non-commissioned officers are a part? 3) According to the depositions of these two non-commissioned officers, not only was there no such attempt, but they themselves were on duty. If we take into consideration the principle of presumption of innocence until proven guilty and the probability that what the two non-commissioned officers have said might be true, is the TSK assisting the two non-commissioned officers in their defense? 4) Is the TSK considering getting involved in the case?"

Only five written parliamentary questions were presented during the aforesaid period on the subject of the military. Apart from the above-mentioned question on civilian-military relations, the other three parliamentary questions concerned the deployment of soldiers to Iraq and relations with the United States. Within the first year after the July 22 elections, two written parliamentary questions were presented on the subject of the armed forces and both concerned the deployment of soldiers to Iraq. In short, two legislative actions taken during the last three years regarding democratic oversight of the military have been confined to the written parliamentary questions Nos. 7/12050 and 7/11459, made by one member of parliament, Emin Şirin of the ANAP.

In the period between June 2008 and January 2009, Akın Birdal of the DTP presented question No. 4848 on August 7, 2008 to Beşir Atalay, Minister of Internal Affairs regarding claims that 914 people were "blacklisted" from 1999-2000 by a domestic security institution: "1) *Is it true that units responsible for domestic security subject people and institutions to political assessment and "blacklist" them? 2) Which institution carried out this "blacklisting"? 3) Does this "blacklisting" process cover only the years 1999-2000? Or have other "blacklist" processes been carried out since then? 4) Is the "blacklisting" of people or institutions by any organization considered legal from the perspective of official legislation? If it is, which institutions carry out this "blacklisting?" What is the objective of the "blacklisting" process? 5) Was your ministry aware of this "blacklisting?" 6) Has an investigation been conducted into the people or institutions that carried out this "blacklisting?" If so, what is the conclusion of this investigation? 7) Have any administrative or judicial investigations been carried out concerning the people or institutions that evaluated this "blacklisting" from a political point of view? 8) Do you believe that this "blacklisting" process can be accounted for from the perspective of human rights and freedoms – with particular emphasis on the right to life – and of individual safety and freedom? 9) Are you considering carrying out a parliamentary investigation in order to bring out into the open and prevent the repetition of this illegal practice which is contrary to human rights and democracy?"* This question was published among incoming documents because no response was received within the set time.

PARLIAMENTARY QUESTIONS CONCERNING CASES OF DEATH ARISING FROM POLICE ACTION

Özlem Çerçioğlu, CHP MP, presented inquiry No. 7/996 on November 23, 2007 on "the death of a person as a result of police action" to Beşir Atalay, Minister of Internal Affairs, with the following questions: "1) *What was the behavior displayed by Feyzullah ETE, who died, and Ali OTURAKÇI, who was with him, that necessitated an identification check? 2) Why have the police officers been released, since they inflicted violence that caused the death of a person considered suspect? 3) Has this behavior not weakened public confidence in the police force and harmed the reputation of the profession? Will penal sanctions be implemented concerning those at fault? 4) Will compensation be paid to the family of Feyzullah ETE, who died as a result of being kicked in the heart by the police officer A.M.? 5) Will you issue a circular to ensure that police officers behave more respectfully towards citizens when carrying out identification checks?"*

The second inquiry regarding the Ete case, No. 7/998, was presented by Mehmet Ali Özpolat, CHP MP, on

November 26, 2007. Özpolat requested that Internal Affairs Minister Atalay answer the following questions: "*1) How was the way the incident developed reported and recorded? On what grounds did the police officers feel the need to warn Feyzullah ETE and his friends and how did the incident then develop? 2) According to the police, does the fact that these young people were drinking mean that they deserved to receive a deathly blow? Can't the police force employ other methods to deal with people who disturb others? 3) Torture is said "to have ceased in police stations," but has it now spread to public spaces? If an organization inflicts torture on citizens in a public park, won't the public wonder what may happen in police stations? 4) What has become of those Human Rights lessons that were talked about with such eloquence? Has no progress been achieved in the establishment of the correct type of communication between police officers and the public or with suspects? 5) How many cases of similar deaths caused by police officers have taken place in Istanbul over the last five years? 6) Doesn't the fact that the police force, whose primary responsibility is to ensure the safety of citizens, is frequently involved in incidents of this type mean that the reliability of the Police Force is to be questioned? 7) Since the Istanbul Police Force is frequently featured in the press and has harmed the image of the police force because of its inadequacy in fighting crime and because of having caused death as a result of the use of improper force, is a review of the Istanbul Police Force, and especially of the Chief of Police being considered?*"

The third such parliamentary question, No. 7/997 presented by Bülent Baratalı, CHP MP, on November 26, 2007 concerned the Efe case of "the citizen killed with a police officer's kick in Istanbul" and "the shooting in the head and killing of the 20-year-old university student Baran Tursun in Izmir, on the grounds that he failed to obey a warning to stop." In his question, Baratalı asked Minister Atalay to respond to the following questions: "*1) Is shooting the driver in the head the first thing to be done to stop a vehicle, the model and license plate of which has been identified? 2) How can the police officers who were involved in the two incidents and responsible for these deaths be authorized and be instructed to kill people so easily? 3) These two incidents have clearly revealed a weak point in training. Do you feel any responsibility as a minister? 4) To what do you attribute the police force's use of excessive and extreme violence in reaction to ordinary events? What do you plan to do to prevent other people from dying? 5) What will the ministry do about the police officers involved in these two incidents?*"

The fourth question concerning "death as a result of police action" was presented by Ayşe Jale Ağırbaş, DSP MP. Question No. 7/999 dated November 27, 2006 contained the following questions on the death of Festus Okey, of Nigerian nationality, in the Beyoğlu Police Headquarters, requesting a response from Minister Atalay:

"*1) Has any research been conducted into the reasons why our police force, which fulfills its duty under such difficult conditions, is pushed to make mistakes? 2) Do you think that the amendments made to the Law on the Police Force's Duties and Powers may have affected these incidents? 3) Research has shown that there has been a sharp increase in the number of disciplinary infractions. What kind of measures have been taken in response to this increase over the last few years? 4) Are routine psychological tests conducted within the police force? If not, why not?*"

Since no responses were received to these parliamentary questions during the 10 days following the 15 days stipulated by the TBMM bylaw, they were published in the "incoming documents list."

In the last of these parliamentary questions, question No. 6/261 dated November 27, 2007, Kamer Genç, Independent MP, requested that Minister Atalay respond to the following questions on "the cases of death resulting from police action: "*1) What kind of legal actions have been taken concerning the deaths that have taken place recently within the scope of your Ministry? 2) Have high-level managers with responsibility for these incidents been penalized in any way?*"

On January 28, 2008, Atalay replied during the 55th Session of the Second Legislative Year of the 23rd Term: "*I would like to state that judicial and administrative inquiries concerning all of these incidents have been promptly initiated, that some have been completed and some are still ongoing. ...[S]aid incidents are all tragic events that resulted in the loss of lives. It is completely out of the question that these incidents should be approved of in any way. Whenever there is a loss of life, no excuses can be accepted. Our country is a state of law and the rule of law is above all. The duties of civil servants are defined by legislation. Everybody who aspires to become a civil servant is required to know and to comply with this legislation. Regardless of who commits a crime, everyone receives legislative and administrative punishment within the framework of positive legislation and there is no escaping this. .... In spite of all the attention and care shown, from time to time distressing events happen that neither any of us nor the public would approve of. We have never been and will never be complacent and say, 'Such things can happen, we have to excuse them.' Whether they become public knowledge or not, incidents that take place*

between citizens and security personnel and result in damage to citizens receive prompt intervention. There should be no doubt about that. We are very sensitive to this matter. We have to take all our precautions concerning security within the framework of legal principles and on the basis of human rights and freedoms. I have conveyed this previously to the plenary session. As a government and a Ministry, we attach great importance to the balance between security and freedom, to the fact that these should not crush each other and that we should always act on the basis of a state of law and of its rules. Public investigators have immediately been appointed to look into these incidents, inspections have been carried out, administrative and disciplinary procedures have been conducted. Let me also say this in particular: within our Inspection Board we have a special office called 'Office of Investigation of Human Rights Infractions,' which looks into incidents of this kind."[20]

CONCLUSION

One of the most distinctive characteristics of civilian, democratic oversight of the security sector in contemporary democracies is the parliament's supervision and oversight function. In Turkey, which is undergoing a process of negotiation to accede to the EU, the failure to establish more democratic civil-military relations constitutes one of the major obstacles to establishing a functioning democracy with sound institutions and rules, where minority rights and human rights are at EU standards. In other words, the obstacle lies in parliament's inability to fully implement its responsibility regarding the supervision and oversight of the security sector.

An examination of the last three years reveals that the parliament has not fulfilled its responsibilities to establish security policies and strategies oversee military expenses, effectively use legislative activities and oversight mechanisms, or responsibly to appoint high-level security bureaucrats. Rather, the parliament generally prefers to remain silent on matters related to the security sector. Even concerning events that have severely affected the social fabric, such as the Şemdinli incidents, the bombings in Ulus and Diyarbakır, the attempts to carry out military coups, and the Ergenekon trial, the members of parliament of both the ruling party and the opposition party have not presented any motions for enquiry or questions that would allow the parliament to fulfill its duty.

In today's world, transparency is an element of good governance. While many institutions, starting with those related to the economy, periodically provide information to the public, the security sector avoids fulfilling this responsibility. It is well known that the security sector does not consider accountability and transparency among its responsibilities and obligations, actually perceiving them as a security weakness. It frequently considers criticism regarding transparency and democratic oversight as an attack, responding harshly to such requests.

The democratic functions of the parliament – which represents the people, makes decisions "by the people and for people" and oversees how the taxes collected from the public are spent -- have been significantly limited via the Constitution of September 12, 1980. Even the EU accession process has failed to repair this defect. Bureaucratic resistance has always managed to exclude the representatives of the people from this process. When a sub-commission established by the TBMM Human Rights Investigation Commission (*İnsan Haklarını İnceleme Komisyonu,* İHİK) went to the Şemdinli region to investigate the incidents, it was not able to obtain any information or documents. The commission report states: *"Since the arms, bombs, documents and plans found in the vehicle with the license plate 30 AK 933 and reportedly involved in the incidents were taken into custody by the prosecutor's office, and since all other information and documents were also filed away by the prosecutor's office, and since all preliminary investigations are confidential, it was not possible for our commission to examine said information and documents."*[21] Colonel Ali Öz, Commander of the Gendarmerie for the Province of Trabzon, who claimed to have been informed in advance of the murder of Hrant Dink, initially refused to testify for the inquiry commission responsible for shedding light on the murder.

On the basis of the above analyses, it can be said that in fulfilling its duty to oversee security units, the TBMM discriminates among units, because while it does not energetically oversee the Armed Forces, it plays a more active role in the oversight of other security units affiliated with the Ministry of Internal Affairs. Despite this difference, oversight of neither types of unit is at acceptable levels.

A final matter that needs to be emphasized is the Turkish Armed Forces' attitude towards the TBMM. The fact

20 *TBMM Tutanak Dergisi* (TBMM Bulletin of the Minutes of Proceedings), No.77, Issue.13, 55th Session, 2nd Legislative Year, 23rd Term.

21 İHİK (Human Rights Monitoring Commission), "Hakkâri Şemdinli İnceleme Raporu" (Enquiry Report on Şemdinli, Hakkâri), p.18.

that the Office of the Chief of General Staff excludes members of parliament of the Democratic People's Party from the invitation lists of its receptions, that the Chief of General Staff and Force Commanders boycotted the TBMM and did not attend official ceremonies following the elections of July 2007, and the public announcement on March 16, 2007 by Yaşar Büyükanıt, former Chief of General Staff, that *"the presence of people within the TBMM who are still in contact with terrorists does not in any way befit the prestige and reputation of the honorable National Assembly,"*[22] reflect another dimension of the imbalance in civil-military relations.

APPENDIX: REPORTS BY THE HUMAN RIGHTS INVESTIGATION COMMISSION

According to Article 2 of Law No. 3686, the Human Rights Investigation Commission, one of the specialized commissions of the TBMM, has jurisdiction over matters regarding "human rights recognized as such internationally and human rights and freedoms established as such via the Constitution of the Republic of Turkey and multilateral international documents such as the Universal Declaration of Human Rights and the European Convention on Human Rights." Concerning its duties, the commission is authorized to request information from and conduct investigations at Ministries, General and Annexed Budget Departments, local administrations and offices of village headmen, universities and other public bodies and organizations and private organizations, and to summon and question officials from the above institutions, to consult experts when necessary, to act on its own initiative, to create sub-commissions and conduct inquiries and, in the event that it encounters evidence of crime, to file a criminal complaint with Chief Prosecutors of the Republic.[23]

The commission's reports and sub-commissions created since 2005 have resulted in some progress, though still insufficient, in terms of oversight of the security sector. Here we will mention briefly the report prepared by the commission regarding the Şemdinli incident.

On November 23, 2005, a National Assembly Investigation Commission was established to investigate the bombing of a bookshop in Şemdinli on November 9, 2005 and the incidents that followed in the Central, Yüksekova and Şemdinli Districts of Hakkâri. The commission presented its report to the Presidency of the National Assembly in April 2006. The final report, which was not debated in the National Assembly and was referred to as null and void in the records, was not fully disclosed. Only 19 pages of the "Investigation Report on Şemdinli, Hakkâri" can be accessed via the TBMM's website. The following statements in the last section of the report, on assessments and suggestions, are of particular interest:

"1. Whether for reasons of security or terrorist attacks, the forced evacuation of villages was a serious mistake.

2. The state is responsible for ensuring the safety of its citizens. The police force and the armed forces are the legitimate security forces of the state. On these grounds, it was a mistake to establish the system of village guards, because through this system, citizens began to be seen as siding with the state or as a potential threat to the state or at least they began to be perceived as such by local people.

3. The incidents taking place in the region should not be seen as a security issue alone. The issue of security is of course more important than anything else. However, security policies not supported by social, economic and cultural policies are bound not to be sufficiently successful in preventing such incidents. Short, medium and long-term plans should be implemented for the development of the region and these plans should be implemented seriously.

4. The issue of security in the region is not sufficiently well-coordinated. The coordination between civilian authorities and military authorities and between the military and the police force are inadequate. Governors and district governors, who are the chiefs of public administration, do not have any power of influence or control over the military or the gendarmerie. Governors and district governors in the region are practically excluded from the issue of security. This situation results in a state of inefficiency."[24]

Following the murder of Hrant Dink, editor-in-chief of *Agos* newspaper, on January 19, 2007, the National Assembly Human Rights Investigation Commission, which took office as a result of the July 22, 2007 elections, decided to independently examine the case. Issues concerning the activities of the police force and the gendarmerie were listed as follows in the commission's July 2008 report:

- *Insufficient share of mutual interest between security forces and public administrators.*

22 Tarhan Erdem, "İrtibat" (Communications) *Radikal*, 2 April 2007.

23 Law No 3686, dated 5 December 1990, Official Gazette No 20719, dated 8 November 1990.

24 İHİK, "Hakkari Şemdinli İnceleme Raporu" (Enquiry Report on Şemdinli, Hakkâri), April 2006.

- *The failure of public administrators to implement oversight mechanisms concerning unlawful and uncoordinated acts on the part of the security forces.*
- *The absence of defacto oversight of the gendarmerie, due to the fact that activities concerning the administrative duties of the gendarmerie, which is affiliated with public administration, are overseen solely by the Ministry of Internal Affairs and Governors, not by District Governors. The absence of information regarding how units carrying out duties related to the administrative duties of the gendarmerie should be overseen.*
- *Lack of information flow among intelligence units regarding auxiliary intelligence personnel.*
- *Issues and mayhem arising from the confusion among the areas of responsibility of security forces.*
- *Differences of authority over security forces among public administrators.*
- *Legal deficiencies regarding investigations to be conducted because of complaints concerning the security forces.*[25]

The final section of the "Report on the Investigation of Claims that Engin Çeber was Murdered as a result of the Violence Inflicted on him at the Metris Penal Institution and on the Examination of the Bakırköy Women's Closed Penal Institution," prepared by the commission, draws attention to the *"entry of a gendarme officer holding a cane into the room where Engin Çeber was held"* and to the impression that Çeber was also subject to maltreatment before he entered the prison and criticizes the attempts of various institutions to stand by their members with the objective of protecting them.[26]

Of the commission reports published between the beginning of the 23rd Term and the end of April 2009, the following are related to security oversight: Beşağaç Report; Inquiry Report on Sincan No. 1 and Sincan Women's Closed Penal Institution; Inquiry Report on Tekirdağ Nos. 1 and 2 Penal Institutions and the Edirne F Type Penal Institution; Inquiry Report on the Istanbul Police Headquarters' Foreigners Section Illegal Immigrants Shelter; Inquiry Report on the Kalecik Open Penal Institution; Investigative Report on the Claims of the Interceptions and Recordings of Communications and the Violation of the Freedom of Communication; Report on the Newrouz Incidents that Took Place in the Provinces of Van, Siirt and Hakkâri and the Yüksekova District of the Province of Van in 2008; Report Prepared Following the Inquiry into the Police Stations of Istanbul; Inquiry Report on the Bandırma M Type Penal Institution; Inquiry Report on the Diyarbakır E and D Type Closed Penal Institutions; Inquiry Report on the Silivri L Type Penal Institution; and Inquiry Report on the Erzurum E and H Type Penal Institutions.

25 İHİK, "Hrant Dink Alt Komisyonu Raporu" (Report of the Sub-Commission on Hrant Dink), 22 July 2008, pp. 188-184.

26 İHİK, "Engin Çeber'in Metris Ceza İnfaz Kurumunda Gördüğü Şiddet Nedeniyle Öldürüldüğü İddialarını Araştırma ve Bakırköy Kadın Kapalı Ceza İnfaz Kurumu İnceleme Raporu" (Report on the Investigation of Claims that Engin Çeber Was Murdered as a Result of the Violence Inflicted on him at the Metris Penal Institution and on the Examination of the Bakırköy Women's Closed Penal Institution) 4 December 2008, pp. 21-23.

The Executive Branch

Meryem Erdal

Turkey has adopted a dual execution system in the organization of the executive branch. According to this system, the executive branch consists of the president of the republic and the cabinet of ministers, as defined by Article 8 of the Constitution of 1982: "the executive power and duty is employed and fulfilled by the President of the Republic and the Cabinet of Ministers, in line with the Constitution and the legislation."

The President of the Republic is the head of the executive branch. His powers to appoint and oversee all three branches have transformed the President into the main stakeholder of political rule. The President has the principal role in the appointment of the members of all the bodies and institutions – including the Turkish Armed Forces (*Türk Silahlı Kuvvetleri*, TSK) – affiliated with the executive and legislative powers.

Political responsibility within the executive branch belongs to the government. The government is the highest decision-making and execution organ. From the point of view of its position and function, the government is the executive power that in effect employs the power of execution, is responsible for making and implementing political decisions of a binding nature, and is appointed on the basis of specific expertise or characteristics, or by election. According to the Constitution, the Cabinet of Ministers, which consists of the Prime Minister and other ministers, forms the government branch of the executive power. The Cabinet is responsible for implementing the broad political agenda of the government. The ministers are also individually responsible for activities within their own authority and for the actions and activities of the people under their authority.[1]

THE PRESIDENT AND SECURITY

The Constitution of 1982 has conferred an important position and powers to the President in matters of national security and security institutions. According to Article 104, the responsibilities of the President regarding national security and security institutions include the following: "Acting as the Commander in Chief of the Turkish Armed Forces on behalf of the Turkish Grand National Assembly, making decisions on the deployment of the Turkish Armed Forces, appointing the Chief of General Staff, convening the National Security Council, presiding over the National Security Council, declaring martial law or a state of emergency following the decision of the Cabinet of Ministers, which convenes under his presidency, and issuing statutory decrees..."

According to Article 117, the President is granted responsibility as Commander in Chief: "The office of Commander in Chief cannot be separated from the spiritual essence of the Turkish Grand National Assembly and it is represented by the President of the Republic. The Chief of General Staff is the commander of the Armed Forces and at times of war fulfils the duty of Commander in Chief on behalf of the President of the Republic..."

Apart from the above, the State Supervisory Council affiliated with the Presidency deals with security matters. The authority of the State Supervisory Council,[2] founded with the aim of overseeing the legal compliance of administrative operations, does not include the TSK and the legislative bodies. The oversight of activities carried out by the army and its affiliated organizations, associations, and foundations is therefore prevented – even though on behalf of the President of the Republic – in line with the concept of "the autonomy of the military."

1 Constitution of 1982, Article 104.

2 Law No. 2443, dated April 1, 1981, Official Gazette No. 17299, dated April 3, 1981.

THE GOVERNMENT AND SECURITY[3]

Taking into consideration the Prime Minister's duty to oversee the execution of the broad political agenda and the Cabinet's political responsibility in this matter, it becomes clear that the government possesses the authority to establish and implement the country's domestic and foreign policies.

In accordance, the "broad political agenda of the government," established by the Cabinet, would be expected to define the general framework of activities and policies regarding the country's domestic and foreign policies and to cover all areas of activities of the government. However, both the constitution and the laws concerning the organization of the ministries have proscribed the matter of "national security," which should be part of the broad political agenda of the government, making it a very broad exception. The Constitution and the foundation laws of ministries do not consider "national

National Security Policy Document

The National Security Policy Document (MGSB) is defined as follows in Article 2/b of Law No. 2945 on the National Security Council (*Milli Güvenlik Kurulu*, MGK) and the MGK Office of the General Secretary: "The State's National Security Policy is the policy comprising the principles behind domestic, foreign, and defense policy as specified by the Cabinet of Ministers, on the basis of views established by the National Security Council with the objective of ensuring national security and achieving national objectives." In the "frequently asked questions" section of the website of the MGK, in reply to the question, "Is the MGSB not presented to the members of the TBMM because it is considered a classified state document?," the reason for this is said to lie in the "principle of the division of powers:" "*Due to the principle of the division of powers in our parliamentary system, neither the TBMM, which fulfils the legislative duty, nor any of its related commissions, make any contribution or possess any responsibility concerning the preparation of the National Security Policy Document, which is created by the Cabinet of Ministers, that is to say, the executive body.*" That is why the National Security Policy Document, practically a road map for the Cabinet of Ministers, which is responsible for achieving national security, is not debated in the TBMM."[4] One can argue that an institution that accepts this answer turns a blind eye to the parliament's oversight duty over the executive power, conferred to it in democracies and by the Constitution. In democratic countries documents of this sort are not only presented to the parliament but they are also subject to parliamentary approval, because by definition, democratic oversight means that executive powers cannot conduct any activities secretly from the parliament. More importantly, according to Article 87 of the Constitution, the oversight duty of the Cabinet is above the duties and authorities of the National Assembly. The fact that the MGSB is outside the knowledge of the parliament makes it impossible to be overseen.

The website of the MGK contains also a question as to why the MGSB is a classified document. The answer gives "*the nature of security and the national interests of the Republic of Turkey*" as the reason behind the classified nature of the document and states that: "*the drawbacks from the perspective of both domestic and foreign public opinion, resulting from the non-restriction of the policy to be implemented against threats and risks concerning the survival of the Republic of Turkey and the prosperity of the nation, make it necessary for the National Security Policy Document to be confidential.*" Transparency and accountability of state actions constitute the main distinguishing characteristics of democracies versus authoritarian regimes. In democracies no subject, including security, can be kept secret from the parliament.

The fact that the MGSB identifies the main domestic and foreign threats and that – because of its role defining the policies aimed against these threats – it is influential in an area of politics that falls under parliamentary responsibility "is an indication that this document is much more important than an ordinary Decree issued by the Cabinet of Ministers," as stated by Ahmet Yıldız.[5] It is obvious that the MGSB's exclusion from parliament's knowledge and oversight prevents democratic oversight of the security sector.

3 Zühtü Arslan, "Hükümet" (The Government), Ümit Cizre (ed.), within *Almanak 2005 Güvenlik Sektörü ve Demokratik Gözetim* içinde (Almanac Turkey 2005: Security Sector and Democratic Oversight), pp. 22-31

4 "Sıkça Sorulan Sorular" (Frequently Asked Questions), website of the Office of the General Secretary of the National Security Council.

5 Ahmet Yıldız, *ibid*, p. 14.

security policy" as part of the "broad political agenda of the government" but as a separate and autonomous policy area, placing it above the latter. The National Security Policy Document (*Milli Güvenlik Siyaseti Belgesi*, MGSB) -- which is known as the "Red Book" or the "Secret Constitution" and establishes the scope of governments on national security, as well as the security dimension of political, social, economic and cultural matters -- plays a decisive role from this point of view.

MGK AND THE EXECUTIVE POWERS

The article on the National Security Council (MGK) contains a detailed analysis of the MGK and of its place within the system.

Yet, it is still necessary to state that the MGK constitutes the most important basis of the autonomous organization of the MGK's sphere of national security. Indeed, in the Law on the MGK, national security policy is defined as an independent policy that is excluded from the broad political agenda of the government and that actually provides guidance for it. According to Article 2 of the law, "National Security means the protection and safekeeping of the constitutional order, the national essence and the unity of the state and of all of its interests in the international arena, including its political, social, cultural and economic interests, and of its conventional law against all types of foreign and domestic threats, while the National Security Policy of the state is the policy comprising the principles behind internal, external and defense policy as specified by the Cabinet of Ministers, on the basis of views established by the National Security Council with the objective of ensuring national security and achieving national objectives..." It is within this framework that the MGSB is prepared and is considered legitimate.

THE CABINET OF MINISTERS

In spite of significant restrictions to its powers, starting with the MGSB and arising from the Constitution and from laws given below, according to Article 117 of the Constitution of 1982, the Cabinet has responsibility towards the TBMM concerning "the achievement of national security and the readiness of the Armed Forces to protect the country." However, this responsibility includes the consequences of the execution of given security policies and results in damage to the integrity of authority-responsibility.

Article 112 of the Constitution defines the duty of the Prime Minister as "ensuring collaboration among the ministries and supervising the implementation of the government's broad political agenda." Among the Prime Minister's duties there is no reference to national security policy. This matter is stipulated via provisions that regulate the duties of the Prime Minister and other ministers. Article 113 of the Constitution refers the matter of the establishment and duties of the ministers to the laws on the foundation of ministries.

The foundation laws that the Constitution refers to require that the Prime Minister and other ministers carry out their services in compliance with "national security policy" and the "broad political agenda of the government." As stated before, both the Constitution and the foundation laws do not consider "national security policy" as part of the "broad political agenda of the government," but as a separate and independent policy. This is valid also from the point of view of the bodies and institutions affiliated with the Office of the Prime Minister. Among the job definitions of the undersecretariats affiliated with the Office of the Prime Minister, apart from the State Planning Organization, those of the Undersecretariats of Treasury, Foreign Trade, Naval Affairs, Customs, and National Intelligence Services contain the expression, "fulfilling the requirements of national security policy." Moreover, according to the laws on the establishment of the Departments of Press and Information, Foundations, Youth and Sports, Forestry, Rural Services, National Lottery, and State Meteorology, all affiliated with the Office of the Prime Minister, the directors of these departments are responsible for complying with legislation, decisions of the board of directors, and national security policy.

THE OFFICE OF THE PRIME MINISTER

Law No. 3056, on the Amendment and Adoption of the Statutory Decree on the Office of the Prime Minister,[6] describes the Prime Minister's duties concerning administrative policies, including security, via the Office of the Prime Minister. The law defines the Prime Minister as the Head of the Cabinet of Ministers and the highest chief of the ministries and of the Office of the Prime Minister. Within the framework of this definition, the Prime Minister "ensures harmony and cooperation among the ministries, with the objective of protecting and safeguarding the supreme rights and interests of the Republic of Turkey, taking precautions to ensure the peace and safety of the nation, preserving public

6 Law No. 3056, dated October 10, 1984, Official Gazette No. 18550, dated October 19, 1984.

morality and public order, (...) *implementing the broad political agenda of the government,* and other objectives." (Emphasis added.) The duties of the Office of the Prime Minister include "ensuring cooperation among the institutions responsible for domestic security, foreign security, and the fight against terror." This regulation leads to the conclusion that on critical matters of administrative policy related to domestic and foreign security, the government is pushed to a secondary role. Indeed, this state of affairs is confirmed by the nature of the process establishing national security policy, as well as by the fact that the job definition of ministers who are members of the government and the administration of institutions affiliated with the Office of the Prime Minister stipulate that services be carried out in accordance with national security policy.

The Prime Minister's duties concerning domestic and foreign security are fulfilled by the General Directorate of Security Affairs, which is one of the main service units affiliated with the Office of the Prime Minister. This organization, previously a Department, was reduced to the level of General Directorate via legislative amendments in 2006. The General Directorate is responsible for carrying out the Office of the Prime Minister's relations with institutions in charge of domestic and foreign security and the fight against terror, ensuring coordination among these institutions when necessary, conducting inquiries and research, organizing meetings, ensuring that they are organized by others, evaluating them and making suggestions, compiling and evaluating information on subjects related to the declaration of martial law or of a state of emergency, ensuring coordination on these matters, conducting public information activities on these duties, and carrying out the secretariat work of the councils established in these fields.[7]

From the point of view of security, the jurisdiction of the Prime Minister includes also the organization of civilian intelligence. The National Intelligence Services (*Milli İstihbarat Teşkilatı*, MIT) is affiliated with the Office of the Prime Minister[8] and the Undersecretary of the organization is responsible only to the Prime Minister.[9] However, until the 1980s this responsibility was only on paper and the organization was under the influence and command of the Turkish Armed Forces and part of the military sphere. Over the last few years important steps have been taken towards the civilianization of this field. However, the Prime Minister still does not have full oversight over the intelligence sphere.[10] Four separate units, consisting of the Gendarmerie, the Police Force, the MIT, and Military Intelligence, continue to operate in this field.

MINISTRY OF NATIONAL DEFENSE

Law No. 3046,[11] which regulates all the ministries except for the Ministry of National Defense (*Milli Savunma Bakanlığı,* MSB), all the deputy prime ministers, and all the state ministries, refers separately to *"national defense policy,"* highlighting it, and prescribes the foundation law of many ministries. According to this law, ministers are responsible for "carrying out ministry services in accordance with legislation, *the broad political agenda of the government, national security policy,* development plans, and yearly plans" (Article 21, emphasis added).

This statement has been repeated verbatim in the laws on the establishment and duties of the Ministries of Justice, Internal Affairs, Finance, Public Works and Settlements, Health, Agriculture and Rural Affairs, Labor and Social Security, Industry and Commerce, Energy and Natural Resources, and Environment and Forestry. This is important in that it defines the framework of activities in areas of service that require completely different types of expertise and it ensures that national security policy permeates all institutions and all areas of life. The laws on the establishment of ministries of key importance, such as the Ministries of Culture and Tourism, Transportation, National Education, and National Defense, contain additional distinctive statements on this subject. According to the Law on the Establishment of the Ministry of National Defense,[12] the duties of the Minister include "carrying out political, legal, social, financial, and budgeting services related to national security services" and "carrying out the services of recruiting, provision of arms, equipment and logistical needs of all kinds and services of the war industry [...] at times of peace and war, within the framework of the armed forces' defense policy, established by the Cabinet of Ministers, and in line with the principles, priorities and main programs identified by the Office of the Chief of General Staff." According to this definition of responsibilities, which accords the Office of the Chief of General Staff the authority to establish the

7 Article 12 was added via Article 3 of the Law No. 5508, dated May 24, 2006.

8 Law No. 2937 on MIT, Article 3.

9 Law No. 2937 on MIT, Article 7.

10 On this subject see Ecevit Kılıç, "MİT" within *Almanak Türkiye 2006-2008 Güvenlik Sektörü ve Gözetim* (Almanac Turkey 2005: Security Sector and Democratic Oversight).

11 Law No. 3046, dated September 27, 1984, Official Gazette No. 18540, dated October 9, 1984.

12 Law No. 1325, dated July 31, 1970, on the Duties and the Establishment of the Ministry of Defense, Article 2/a and b, Official Gazette No. 13572, dated August 7, 1970.

principles, priorities, and programs of national defense policies, to obtain funds for matters related to national defense, the ministry acts as mediator and facilitator between the Office of the Chief of General Staff and the government. The provision stipulating, "MSB works in close collaboration with the Office of the Chief of General Staff so that the armed forces' services can be conducted in full unity and solidarity" confirms this view. According to this regulation, the true owner of matters related to national security is the Office of the Chief of General Staff and not the ministry with responsibility in this field.

MINISTRY OF INTERNAL AFFAIRS

The Ministry of Internal Affairs is the ministry with authority and responsibility regarding domestic security and domestic threats: "to administer domestic security institutions affiliated with the ministry in order to protect the indivisible unity of the country and of the nation, domestic security and public order of the country, public order and public morality and the rights and freedoms stated in the Constitution, to ensure the preservation and security of the country's borders, coasts and territorial waters, to ensure and oversee traffic on highways, to prevent crime, to monitor and apprehend criminals, to monitor and prevent smuggling of all kinds, to carry out and coordinate civil defense services throughout the country..."[13]

As stated above, the Minister of Internal Affairs is responsible for "carrying out ministry services in line with legislation, the broad political agenda of the government, national security policy, development plans, and yearly plans."[14] According to Article 29 of the law, the Ministry of Internal Affairs carries out its duties and the above-stated services via the following institutions: the General Directorate of Security,[15] the General Command of Gendarmerie,[16] and the Coast Guard Command.

From time to time, tension and conflicts of authority concerning domestic threats and domestic security take place between the Ministry of Internal Affairs and the Turkish Armed Forces. Apart from these, the Gendarmerie Organization, which reports to the Turkish armed forces in military matters and to the Ministry of Internal Affairs in administrative matters, and the Security and Public Order Assistance Squads (*Emniyet, Asayiş ve Yardımlaşma Birlikleri*, EMASYA), which establish the principles of assistance between military and police forces, constitute the most important subjects of debate in recent times on the distribution of power.

OTHER MINISTRIES

Article 2/a of the Law on the Establishment of the Ministry of National Education confers the ministry the duty of "raising citizens who are loyal to the reforms and principles of Atatürk and to Kemalist Nationalism, as stated in the Constitution; who adopt, protect, and develop the national, moral, spiritual, historical and cultural values of the Turkish nation; who love and always endeavor to exalt their families, their motherland, and their nation; who are aware of their duties and responsibilities towards the Republic of Turkey, a democratic, secular, and social state of law based on human rights and the fundamental principles stated at the beginning of the Constitution; and who have internalized this behavior." This provision has shaped all legislation and implementations related to all educational institutions, including higher education.[17]

The Law on the Establishment of the Ministry of Transportation includes a clause related to the duties of the General Directorate of Land Transportation, a unit affiliated with the Ministry of Transportation, stating that these duties include "ensuring that transportation on railways and on highways outside municipal borders (...) is carried out *in line with national security needs and objectives"* (Article 10/a), and the clause on the duties of the General Directorate of Communications states that these include "ensuring that postal and telecommunication services (...) are established and developed in the interest of the public and *in line with national security objectives"* (Article 13/a). These regulations comply with the fact that the field of transportation is among the areas of greatest importance from the perspective of national security and one of the areas where security units, starting with the army, are most active.

Article 2/a of the Law on the Establishment of the Ministry of Culture and Tourism emphasizes the minister's duty "to research, develop, protect, maintain, put to good

13 Law No. 3152, dated February 14, 1985, on The Establishment and Duties of the Ministry of Internal Affairs, Article 2.

14 Law No. 3152, dated February 14, 1985, on The Establishment and Duties of the Ministry of Internal Affairs, Article 5.

15 On this subject, see Biriz Berksoy, "Emniyet" (Security), within *Almanak Türkiye 2006-2008 Güvenlik Sektörü ve Gözetim* (Almanac Turkey 2005: Security Sector and Democratic Oversight).

16 On this subject, see Murat Aksoy, "Jandarma" (Gendarmerie), within *Almanak Türkiye 2006-2008 Güvenlik Sektörü ve Gözetim* (Almanac Turkey 2005: Security Sector and Democratic Oversight).

17 On this subject see Ayşegül Altınay, "Ders Kitaplarında Milli Güvenlik" (National Security in School Texts), within *Almanak Türkiye 2006-2008 Güvenlik Sektörü ve Gözetim* (Almanac Turkey 2005: Security Sector and Democratic Oversight).

use, promote, and adopt national, spiritual, historical, cultural and touristic values and thus contribute to (...) the *consolidation of national unity*."

The Law on the Establishment of the Ministry of Energy and Natural Resources contains the statement that the ministry should fulfill its duties *"in line with public needs, security and interest."*

As a result, the emphasis on national security policy in the descriptions of the duties of ministers who are responsible for the creation and implementation of the government's broad political agenda, which needs to include national security matters, contradicts the role and position of the government within the executive power.

METHODS OF EMERGENCY RULE

Constitutional texts that contain ordinary methods of rule permit the implementation of methods of emergency rule at times of war, natural disaster, and rebellion and define the legal frameworks of these methods.

STATE OF EMERGENCY

The Constitution of 1982 confers the authority to declare a state of emergency to the "Cabinet of Ministers, which convenes under the chairmanship of the President of the Republic." The reasons for a state of emergency are listed one by one in the constitution and they are divided into two groups: "natural disasters and severe economic crises" (Article 119) and "the increase in incidents of violence and severe disruption of public order" (Article 120). According to the Constitution, the National Security Council needs to be consulted in the event that a state of emergency is declared due to an increase in violence or the disruption of public order. Although this requirement may be presented as a "consultation," in practice it has acquired a fundamental and predominant role. A state of emergency lasts six months. This period can be extended by four-month increments by the National Assembly, at the request of the Cabinet of Ministers chaired by the President of the Republic. The Constitution of 1982 accords the Cabinet of Ministers the authority to issue statutory decrees during the state of emergency, on the condition that they are limited to matters required by the state of emergency. More importantly, regulations and administrative procedures concerning methods of emergency rule have been granted exemption from oversight and therefore immunity. The Constitution forbids the filing of annulment cases in the Court of Constitution on grounds that state of emergency statutory decrees are in conflict with the Constitution (Article 148). Moreover, regulations that are excluded from judicial oversight also grant immunity to those who have responsibilities under the emergency rule.[18] According to Article 91 of the Constitution, it is possible to issue emergency statutory decrees that restrict, suspend, or abolish fundamental rights, personal rights, and political rights. The coordination of the state of emergency is accorded to the Office of the Prime Minister or to a minister appointed by the Prime Minister. The implementation of the state of emergency is within the duties and responsibilities of governors in provinces, regional governors in the case of more than one province, and regional governors under the coordination of the Prime Minister in cases where the state of emergency covers the jurisdiction of more than one regional governor or the whole of the country.

MARTIAL LAW

Martial Law is a method of emergency rule where rights and freedoms are restricted, if not abolished, via harsher methods than those implemented during a state of emergency. Law enforcement is transferred from civilian to military authorities, and all these powers are gathered in the person of the Martial Law Commander. Those who commit crimes referred to in the Martial Law No. 1402 are tried in military courts. Martial law commanders, who have responsibility and authority to "maintain and achieve security, peace, and public order," are appointed at the suggestion of the Chief of General Staff, the notification of the Minister of Defense, and via a decree signed by the Prime Minister and ratified by the President of the Republic. When martial law is declared throughout the country or in many regions, the Chief of General Staff ensures the coordination of all the commanders. Therefore, in matters related to martial law, the Martial Law Commander has responsibility to the Chief of General Staff.

18 The Additional Article 3 of the Law on the Martial Law has conferred judicial immunity to martial law commanders: "annulment cases cannot be filed concerning administrative procedures related to the use of the powers conferred by law to martial law commanders." Similarly, according to Article 7 of the Statutory Decree No. 285 on the Regional Governorship of the State of Emergency, regional governors of the state of emergency, according to Article 8 of the Statutory Decree No. 430 on The Regional Governorship of the State of Emergency and Additional Measures to be Taken During the State of Emergency, the Minister of Internal Affairs, regional governors for the state of emergency and governors of provinces in the state of emergency are not considered judicially, financially or legally responsible for any decision or act related to the use of the powers conferred to them.

MOBILIZATION AND STATE OF WAR

The Law on Mobilization and State of War defines mobilization as "a situation where all the state forces and resources, especially military powers, are prepared, gathered, organized, and used in order to meet warfare needs and where rights and freedoms are partially or completely restricted." It defines a state of war as "a situation where rights and freedoms are partially or completely restricted by law, within the period extending from the decision to declare war to the declaration of the end of this state" (Article 3). During a state of mobilization, the Cabinet of Ministers, the National Security Council and General Secretariat, the Office of the Chief of General Staff, and the Ministers are endowed with a number of duties, powers, and responsibilities. Real and legal entities are obliged to fulfill the duties and responsibilities assigned to them and to provide all the information required by administrative and military powers.

A state of mobilization or of war is decided by the Cabinet of Ministers convening under the chairmanship of the President of the Republic, after having consulted the MGK. The decision enters into force following its publication in the Official Gazette and it is immediately presented for ratification to the National Assembly. It is again the National Assembly that decides to end a state of war. If martial law has not been declared along with mobilization, commanders are appointed to the regions where mobilization is declared at the suggestion of the Chief of General-Staff and the notification of the Minister of Defense and via a decree signed by the Prime Minister and ratified by the President of the Republic. These commanders have the authority to make and implement precautions within the scope of Martial Law No. 1402. Commanders collaborate with public administrators in order to take precautions designed to prevent disruptive activities, ensure peace, general security and public order, protect borders, apprehend secret agents and fugitives, and, when necessary, take over law enforcement.

SECURITY POLICY AND RELATIONS BETWEEN THE GOVERNMENT AND THE TSK: 2006-2008[19]

Over the last three years relations between the government and the military witnessed major tensions and were the subject of fierce debate. A detailed analysis of these three years can be found in the article entitled "The Political Dimension of the TSK."[20]

During this period, the issue of terrorism and the policy on Northern Iraq constituted other subjects of great importance from the perspective of relations between the government and the armed forces. The formation of a Kurdish Autonomous Region in Northern Iraq, the enactment of a new constitution in Iraq, the election of Celal Talabani as President of the Republic, and the military presence of the US in Iraq have not only rendered Turkish military operations in Northern Iraq more difficult, but they have also heightened tensions, differences of opinion, and concerns about a possible division of Turkey.

Over the last three years, action by the PKK and subsequent ceasefires, acts of terrorism directed at civilians, mass actions with the participation of civilians and subsequent harsh interventions by the security forces, military operations into Northern Iraq and post-operation debates have taken place in Turkey. What stands out the most in Turkey's fight against terrorism and its policy on Northern Iraq is the fact that relations between the executive power and the TSK appear to be based on rivalry rather than collaboration. A great number of statements demonstrate that the Armed Forces strongly resist non-military solutions, perceiving them as hostile to the military. For example, according to the media, a TSK report on "The Current Situation in Iraq and Measures to be Taken" makes reference to ongoing psychological warfare against the Turkish army, claiming that "the continuous emphasis both within and without Turkey on the thesis that 'a military intervention into the North of Iraq would constitute an error,' leads to the belief that this will not happen and the terrorist organization draws great spiritual support from this and acts on the belief that 'Turkey cannot touch us'."[21]

While many statements by the TSK draw attention to the war on terrorism's socio-cultural dimensions – security, economy, education and health – as well as its psychological and international relations dimensions, another example of intense debate between government and the TSK is Turkish policy vis-a-visa northern Iraq, especially the government's meetings with Massoud Barzani, the leader of the administration of Northern Iraq, via the Special Representative of Iraq .

19 This section has been written by the editors.

20 See Ferda Balancar, "TSK'nın Siyasal Boyutu" (The Political Dimension of the TSK) within *Almanak Türkiye 2006-2008 Güvenlik Sektörü ve Gözetim* (Almanac Turkey 2005: Security Sector and Democratic Oversight).

21 "Asker Kaygılı," (The Military Are Worried) *Cumhuriyet*, June 25, 2007, p.1 and 8

Security in the "Program of the 60th Government"

Our main objective is to meet the needs of our nation for democracy and security simultaneously and in a complementary way. True peace and security are only possible in a society where freedom and justice are experienced fully.

Important steps have been taken during the last five years for a more effective implementation of both the legal infrastructure of security and security forces.

(...)

What matters the most is not apprehending criminals but preventing crime. Accordingly, we will focus simultaneously on a strong social policy and on preventive law enforcement. The preventive powers of general security forces will be redefined via legal reforms, the police and gendarmerie force will be further reinforced from the perspective of human resources as well as of technology, equipment and materials.

(...)

Our government is based on policies that will strengthen the unity and solidarity of our nation, the indivisible unity of our country, and our unitary structure. We will maintain with great determination our uncompromising attitude against any developments that may threaten our national security.

We will maintain with great determination our uncompromising attitude towards any developments that may threaten our national security, the indivisible unity of our country, and our unitary state structure. As a consequence of the utmost attention that we pay to Turkey's security, we attach great importance to the fact that all our policies should complement each other and that all the defense mechanisms of society in areas of weakness and open to abuse should be strengthened.

(...)

By increasing our country's international activities, we ensure that world public opinion accepts our country's views about the fight against terrorism.

In the 60th government term we will continue to carry out our struggle to strengthen our national security and preserve our national unity through legitimate instruments of all kinds.

(...)

Our core policy has always consisted of possessing a strong national security system, in line with Atatürk's principle of "peace at home, peace in the world" and on the basis of Turkey's historical and strategic position.

Accordingly, we have focused on work that strengthens our national defense industry, as well as on the timely fulfillment of all the needs of the Turkish Armed Forces.

During this period, many new projects have been initiated within the scope of the Turkish Armed Forces' modernization.

We are proud of the fact that the share of Turkish industry and production in our defense industry has increased with these new projects.

Work conducted during our rule has resulted in the increase of the rate of the locally fulfilled needs of the Armed Forces from 25% in 2002 to close to 50% at present.

There has also been an increase in the international operations of our defense industry and our export of military torpedo boats and ships, arms and other defense equipment, and command and control and electronic warfare systems has been raised to USD 350 million.

Within this period, with its strong army and defense industry, Turkey has taken on important roles in the mission of preserving peace and ensuring security in many countries, as part of NATO, EU and UN organizations.

Our main objective has always been and will always be the formation of a defense system and power that will make Turkey's power felt in circumstances and geographical conditions of all types, that will be able to perform both conventional and asymmetrical combat, and that will have a high level of deterrence, power of survival, and combat power.

We will continuously follow technological developments all over the world and we will develop our local defense industry in line with the Turkish Armed Force's priorities and needs.

We will thus achieve a decrease in our country's dependence on foreign countries.

Here we must refer to two important developments in government-TSK relations since İlker Başbuğ was appointed Chief of General Staff and following the Aktütün attack. On October 27, 2008, a Chief of General Staff attended a meeting of the Cabinet of Ministers for the first time. Following the attack mentioned above, the "Supreme Council on the Fight against Terrorism" met twice within the month of October and it was decided that a new structure would be formed within the Minister of Internal Affairs.[22] The fact that no public statement was made regarding the decisions made during these meetings, where the roadmap of the country's fight against terrorism was drawn, constitutes another example of the lack of transparency regarding Turkey's security policies.

During the aforesaid period, the TSK carried out many actions and made many statements that were of a *steering* nature on many matters included in the sphere of execution and legislation. Claims concerning the Armenian genocide constitute one of these matters. The website of the Turkish Armed Forces includes a separate page on the Armenian issue that contains a number of archive documents. The Draft Bill on the Armenian Genocide was one of the subjects that Chief of General Staff Yaşar Büyükanıt discussed with US Vice President Dick Cheney, during his 2007 visit to the USA.[23] In 2007, a book prepared by Prof Dr Hikmet Özdemir entitled "The Issues Overlooked While Discussing the Events of 1915" was published by the Center for Strategic Research and Study (*Stratejik Araştırma ve Etüt Merkezi*, SAREM). A documentary entitled "Behind the Scenes of the Blonde Bride – The Armenian Issue" was prepared with the support of the Office of the Chief of General Staff and, as of June 25, 2008, the Ministry of National Education made the viewing of the film compulsory in schools.

APPENDIX 1: THE CLOAK OF NATIONAL SECURITY ON THE RIGHT TO STRIKE[24]

Aziz Çelik

Since 1963, when the right to strike was recognized by law, the postponement of strikes on the grounds of national security has constituted a systematic political means of intervention that in essence abolishes the right to strike. Rather than a method to be implemented in exceptional, limited, or emergency cases, the postponement of strikes has been employed as a usual/ordinary method. Although the concept of national security was introduced into Turkey's legal order via the Constitution of 1961, the constitution did not actually refer to the postponement of strikes. However, Law No. 275 from 1963 on Collective Labor Agreements, Strikes and Lock-outs, made it possible for strikes to be postponed for reasons of "national security" and "the state of health of the country." Although this regulation was based on the Taft-Hartley Law in the US (1947), the regime of strike postponement in Turkey can be said to lag behind that of the US, where the concept of collective rights is quite weak as it is.

From 1963 to 1980, the postponement of strikes on the grounds of national security was used extensively, and over 200 decrees were issued. It is not surprising that the postponement of strikes is more frequent during right-wing and conservative governments. However, a number of strike postponements also took place during the Bülent Ecevit governments. The record in strike postponements belongs to the Sixth Süleyman Demirel government. During that period (November 12, 1979 to September 12, 1980) a high number of strikes took place following the new economic order presented by January 24 decisions. The increase in strikes therefore brought about an increase in the number of strike postponements.

With the Constitution of 1982, restrictions on and postponements of strikes acquired a constitutional status. Law No. 2822 on Collective Labor Agreements, Strikes and Lock-outs granted the government the ability to take arbitrary action concerning the postponement of strikes. During this period, the Turkish Confederation of Employers' Unions (*Türkiye İşveren Sendikaları Konfederasyonu*, TİSK) was a steadfast defender of the postponement of strikes. TİSK's requests for the restriction of union rights were later adopted as constitutional and legal provisions.

After 1983, the strikes of approximately 300,000 workers in over 500 workplaces were postponed via 20 decrees issued on national security grounds. While up to 1995 the public sector was more predominant in the postponement of strikes, almost all of the strike postponements in the

22 Murat Aksoy, "Jandarma" (Gendarmerie), within *Almanak Türkiye 2006-2008 Güvenlik Sektörü ve Gözetim* (Almanac Turkey 2005: Security Sector and Democratic Oversight).

23 "Büyükanıt: Ülkeyi Kimse Bölemez" (Büyükanıt: No One Can Divide the Country), ntvmsnbc, February 15, 2007.

24 For the resources and documents on which this article is based and for a more detailed evaluation of the subject, see Aziz Çelik, "Milli Güvenlik Gerekçeli Grev Ertelemeleri" (Strike Postponements on Grounds of National Security) *Çalışma ve Toplum Dergisi*, Issue 18, 2008/3; Internet edition: www.calismatoplum.org.

2000s took place in the private sector. There is no doubt that privatization and the decrease in the tendency to strike in the public sector after 1995 played a major role in this change.

During the Gulf Crisis of January 1991, 260 strikes were postponed on the grounds of national security. Some of the workplaces where the postponement took place produced toilet paper, paper tissues, tulle curtains, furniture, china sets, tin cans, upholstery fabric and corduroy – the link to national security is unclear. Another wave of widespread strike postponements for reasons of national security happened in October 1995. Following this wave, strike postponements for reasons of national security were not experienced for a long time.

The postponement of strikes on the grounds of national security began once again after 2000 and in the sectors of tires and glass in particular. In the tires sector, this happened in three consecutive periods of collective labor agreements, in 2000, 2002 and 2004. Similar postponements happened in the glass sector, in 2001, 2003 and 2004. The last strike postponement of the 2000s happened in 2005, in a public mining company. Since 2005 there have not been strikes or strike postponements in sectors of critical importance.

The Council of State has adopted motions for stay of execution or abolishment for almost all of the decisions to postpone strikes on the grounds of national security. The Council of State has consistently objected to the association of economic reasons with national security. However, in spite of the decisions of the Council of State, almost all governments have insisted on the matter of strike postponement. Indeed, even following a Council of State decision not to postpone a strike, the strike in question was postponed twice. During trials on strike postponements, prosecutors from the Council of State consistently expressed their opinion that decisions to postpone strikes are not lawful. However, during the Seka (a paper mill) strike postponed in 1995, the way national security was defined and the association that was established by the prosecutor of the Council of State between national security and the production of paper is of a kind to be recorded in the history of law:

"Disruption in the production of paper undermines the need of media companies as well as the need of the export industry for packaging, and therefore the entry of foreign currency into the country, and because of the lack of foreign currency, the purchase of equipment to meet the needs of our country, including equipment for national defense, will be undermined. The damage to farmers, who make production for export, he industrial sector, and therefore the national economy, has approached irremediable levels and has affected general public health."

It is clear that this complicated and forced causal relation is not legal and that it is based on a completely economic and political understanding. Statements and defenses presented by governments reveal that decisions to postpone strikes are taken not for reasons of "national security," but on economic grounds and reasons of "antagonization" and "dissuasion" that have no legal basis at all. In one of these defenses, the link between strikes and national security was established as follows:

"The fact that from the point of view of its production, the workplace where the strike is taking place is a source of supply for the industry within its sector, that the strike will cause a significant fall in export income and therefore harm the national economy, (...) that the concept of 'national security' requires and covers a strong economy and that any kind of initiative that harms the national economy harms national security..."

The government uses such an approach to expand the bounds of the concept of national security – which is already ambiguous as it is – so as to arbitrarily include "all initiatives that harm the national economy." The reason offered by the government stands out as a completely economic one. On the other hand, although the General Secretariat of the National Security Council, which traditionally has always held that strikes endanger national security, changed its opinion after 2003, the ruling party has continued to insist on postponing strikes.

Employers' associations conduct widespread lobbying, especially during the strike postponements of the 2000s. The promptings, requests, and entreaties made by these associations were decisive in strike postponements, and there is strong evidence and even statements made by government officials themselves that strikes were postponed for reasons of economic consequences rather than "national security." This demonstrates that decisions to postpone strikes are the clear product of a class preference and that "national security" is a cloak and an ideological excuse for this preference.

APPENDIX 2: THE SUPREME MILITARY COUNCIL

The decisions of the Supreme Military Council (*Yüksek Askeri Şura*, YAŞ) have made it one of the most debated administrative institutions. Although it is not set up as a constitutional institution, it is referred to as an exception in Article 125 on the judicial oversight of administrative acts and procedures. The Constitution limits itself to stating that decisions taken by the YAŞ are excluded from judicial oversight.[25]

Regulations concerning the YAŞ are principally to be found in the 1972 Law on the Establishment and Duties of the Supreme Military Council.[26] The YAŞ consists of the Prime Minister, the Chief of General Staff, the Minister of National Defense, the Commanders of Land, Sea and Air Forces, army commanders, the Commander of the Gendarmerie, the Commander of the Navy, and generals and lieutenant generals from the Armed Forces. The YAŞ convenes under the chairmanship of the Prime Minister and in his absence under the Chief of General Staff.

The YAŞ does not only make decisions concerning promotions, retirements and dismissals within military commander ranks, as is generally known publicly. Its main duties are to establish and, if necessary, review the military strategic concept (main theme) prepared by the Office of the Chief of General Staff and to present its opinion on the core program of the TSK and on the main laws, statutes and draft regulations related to the TSK.

The YAŞ convenes for ordinary meetings twice a year, once in August, and the other time as established by the Office of the Chief of General Staff. It can also convene again, on the request of the Office of the Chief of General Staff. YAŞ meetings are closed to the public, and it is prohibited to disclose the meetings and their decisions (Article 8). Only subjects permitted by the council are disclosed, to the degree that is allowed.

The duties of the Council appear to complement the duty of the army, as stated in Article 35 of the Law on the Turkish Armed Forces' Internal Services, "to protect and safeguard the regime," on which grounds military coups are carried out. The Council is one of the army's instruments of intervention, allowing it to focus on domestic as well as foreign security. This is confirmed also by the subjects covered, the evaluations made and the decisions made during Council meetings. The motives put forward for the dismissal of army personnel and assessments concerning perceptions of domestic threat are of particular interest from the point of view of displaying the army's interest in these matters.

The promotion, retirement, and dismissal decisions made during the Supreme Military Council meetings that took place during the period covered by the *Security Almanac* are summarized as follows:

- August 2006: the upper command echelon of the Turkish Armed Forces was established (Table 1). Seventeen members were dismissed on the grounds "that they acted in an immoral way that would harm the prestige of the TSK, that they did not correct their attitude and behavior in spite of warnings, and that they carried out reactionary activities."[27]
- November 2006: a total of 37 members were dismissed, 35 on the grounds "that they carried out activities that would disrupt the discipline and harm the prestige of the Turkish Armed Forces" and two because of "reactionary attitudes and behavior."[28]
- August 2007: 34 generals and admirals were promoted to the next rank, 45 colonels were promoted to the rank of general and admiral, the terms of office of 40 generals and admirals were extended, and a total of 23 members of staff were dismissed, 13 on the grounds "that they carried out activities that would disrupt the discipline and harm the prestige of the Turkish Armed Forces" and ten because of "reactionary attitudes and behavior."[29]
- November 2007: a total of 38 members were dismissed, 31 because of "being drug addicts or conducting immoral affairs" that would disrupt the discipline and the core structure of the TSK and seven because of "reactionary attitudes and behavior."[30]
- August 2008: 32 generals and admirals were promoted to the next rank, 46 colonels were promoted to the

25 Following a probable amendment of the Constitution, the YAŞ decisions are expected to be subject to judicial oversight. In fact, the news featured in the press, as the Almanac was going into publication, concerning the AKP's proposed amendment to the Constitution confirms this view.

26 Law No. 1612, dated July 17, 1972, on the Establishment and Duties of the Supreme Military Council, Official Gazette No. 14257, dated July 26, 1972.

27 "TSK'da İlk Kez 'İrtica' Vurgulu İhraç" (Dismissal on Grounds of 'Reactionism' in the TSK for the First Time), *Hürriyet* (website), August 4, 2006.

28 "YAŞ'ta 37 Askeri Personele İhraç Kararı" (Dismissal for 37 Military Personnel from YAŞ), *Sabah* (website), November 30, 2006.

29 "Ağustos 2007 Yüksek Askeri Şura Toplantısı" (August 2007 Supreme Military Council Meeting), TSK website.

30 "YAŞ Kararları" (YAŞ Decisions), *Star newspaper* (website), November 30, 2007.

rank of general and admiral. The terms of office of 46 generals and admirals were extended.[31] The most striking feature of these YAŞ decisions was the fact that no dismissal decisions were taken.

- November 2008: a total of 24 members of staff were dismissed by the majority of votes, 19 because of "being drug addicts or conducting immoral affairs" that would disrupt the discipline and the core structure of the TSK and five because of "reactionary attitudes and behavior."

Since 2002, when the AKP came to power, YAŞ decisions have become the subject of political debate and have come to be seen by the public as a sort of test of civil-military relations. Dismissal decisions made in these meetings, the reasons behind these decisions and the annotations brought to these decisions have begun to draw attention; even the absence of dismissals has sparked debate. When no dismissal decisions were taken during the YAŞ meeting of August 2008, Kemal Kılıçdaroğlu, Deputy Group Leader of the Republican People's Party (CHP), criticized the situation: *"I believe that relations are quite warm between the Government and the Office of the Chief of General Staff. When you take into consideration the size of the whole army, it is interesting that not a single file against secularity has been examined by the YAŞ. The press has been referring to the fact that negotiations have been taking place on this subject. Indeed, it is mentioned on internet sites that the President of the Republic has said, 'If such files are examined, I will not ratify the YAŞ decisions.' What is more interesting is that a private vehicle was bought for an exorbitant price for the Chief of General Staff who was retiring. We are face-to-face with a strange structure that seems to antagonize the army but actually undergoes the same process with the army."*[32] On the other hand, the Chief of General Staff appointments in 2006 and 2008 also sparked public debate. As a result, the appointment of Yaşar Büyükanıt took place before the YAŞ meeting. Debates concerning the contents of the YAŞ decisions also constitute an example of how military matters can quickly be transformed into the subject of political debate.

31 **"Ağustos 2008 Yüksek Askeri Şura Toplantısı" (August 2008 Supreme Military Council Meeting), TSK website.**

32 **"CHP'li Kılıçdaroğlu Gündemi Değerlendirdi" (CHP MP Kılıçdaroğlu Assesses Current Issues), *Meclis Haber (National Assembly News)*, August 5, 2008.**

National Security in the Constitution

Meryem Erdal

The Constitution of 1924[1] established that the Turkish state is "republican, nationalist, populist, statist, secular, and reformist." After having defined Turkishness as "everybody in Turkey, regardless of their religion or race, is a Turkish citizen," the Constitution goes on to accord some rights and freedoms only to Turks. The rights to elect members of parliament (Article 10), to be elected a member of parliament (Article 11), to equality (Article 69), to petition and to present complaints to authorities or to the National Assembly (Article 82) and to become a civil servant (Article 92), all known as public rights of Turks, and thus the rights and freedoms in the fields of personal immunity, faith, thought, speech, publication, travel, agreement, work, possession, use of possessions and rights, assembly, forming associations and forming partnerships are considered among the natural rights of Turks (Article 70). Although there is no reference to the concept of "national security" in the constitution, freedom of travel is restricted in the event of methods of emergency rule, such as mobilization or martial law (Article 78) and the freedom to organize religious ceremonies is restricted in cases of security and according to traditions of morality (Article 75). Similarly, in the event that a war or a situation that requires a war erupts, or that definite indications are seen of a rebellion or of an attempted attack against the country or the Republic, the Cabinet of Ministers can declare martial law for periods of no more than a month (Article 86). Moreover, Article 1 of the Constitution, which states that the Republic is the form of state, cannot be proposed for amendment (Article 102).

The first part of the text of **the Constitution of 1961,**[2] a product of the military *coup* of May 27, 1960, which was in effect until the constitutional amendments introduced after the military *coup* of March 12, 1971, contained expressions such as "indivisible unity, national consciousness and principles," "spirit of national unity" and "based on and inspired by Turkish nationality." However, compared to reasons such as "public order" and "public morality," restrictions based on "national security" are encountered more seldom. Indeed, it is worthy to note that Article 11 of the Constitution, entitled "the essence of fundamental rights and freedoms, their restriction and the prevention of their abuse," forbids the violation of fundamental rights and freedoms on grounds such as "public interest, public order, public morality, social justice and national security." In spite of this, "national security" is included among cases where the freedom of press and information (Article 22), the inviolability of domicile (Article 16), and the freedom of travel and residence (Article 18) can be subject to restrictions. Moreover, according to Article 57, "the obligation to comply with the principles of the democratic and secular Republic and the fundamental principle that Turkey is an indivisible unity with its territory and its nation," is included among the principles concerning the statutes, programs and activities of political parties. Likewise, in this text the National Security Council is described as a constitutional institution and its duty is defined as "to assist in making and coordinating decisions on national security and to express its core views on these subjects to the Cabinet of Ministers." Furthermore, Article 153 contains a special clause to protect "the reforms that aim to protect the secular nature of the Republic of Turkey."

The National Security Council, whose duty is described as presenting to the Cabinet of Ministers its decisions on the assignment, assessment, and implementation of national security policy and its views on ensuring the coordination of these matters, was transformed into a

1 The Law No. 491, dated April 20, 1940 on the Constitution underwent five amendments and was repealed with the coming into force of the Constitution of 1961.

2 Law No. 334, dated July 9, 1961, Official Gazette dated July 20, 1961.

constitutional institution for the first time via the military *coup* of 1960. The number of its military members was increased and it was given the duty of "informing" the Cabinet of Ministers of its views.

The picture that emerges from the first text of the Constitution of 1961 gained a new momentum with the constitutional amendments made with Law No. 1488, dated September 20, 1971, enacted after the military *coup* of March 12, 1971. The second military *coup* in the Republic's history was an important turning point that put an end to the partial freedoms introduced by the Constitution of 1961 and that steered the existing constitutional system and institutions in a new direction. In this period, rights and freedoms were reduced to a secondary position, and an understanding of governance focused on national security acquired visibility and increased legislative and institutional prominence. The military *coup* of 1982 followed this path, declaring the sovereignty of a national security-based approach over social life and the structure and function of the state.

A radical change to the Constitutional Court (*Anayasa Mahkemesi*, AYM) was introduced through the Constitution of 1982. According to Article 146 of the Constitution, the President of the Republic is the only authority that can appoint the members of the Constitutional Court. The President of the Republic in person elects the members of the Constitutional Court. Among the candidates for this court there is also a quota for a permanent member to be selected by the Military Court of Appeals.

In the Constitution of 1961, the Court of Appeals, the Council of State, the Military Court of Appeals, and the Court of Jurisdictional Disputes are all organized as high courts, while the Constitutional Court is considered separately. The Supreme Military Administrative Court (*Askeri Yüksek İdare Mahkemeleri*, AYİM) was introduced for the first time by the constitutional amendment of 1971, in Article 140, which regulates the Council of State.

The first change brought by the constitutional amendment of 1971 was in the structure of the National Security Council. While the Chief of General Staff and the Prime Minister remained as members of the Council, they acquired the attribute of "giving advice" to it. With the military *coup* of 1980, the Council was transformed into an institution consisting mainly of military members in addition to those members determined by the Constitution that made decisions concerning national security policy and whose decisions were "to be given priority." The Council was thus elevated to a position of higher power than the government.

The concept of national security was applied more widely and was expanded. The prohibition on violating fundamental rights and freedoms referred to in Article 11 was completely inverted, and it was stated that none of the rights and freedoms could be used with the intention of abolishing the "indivisible unity of the Turkish state with its territory and its nation." Within this scope, the State Security Courts were established and a significant number of rights and freedoms were restricted on grounds such as "the indivisible unity of the state with its territory and its nation," "the social, economic, political or legal order of the state," "reasons of national security," "national, democratic, secular, and social principles of the Republic," "crimes related to the security of the state" and "free democratic order." The most important of these rights were those in the areas of privacy (Article 15), travel and residence (Article 18), conscience and faith (Article 19), press (Article 22), the use of communication tools other than the press (Article 26), the formation of associations (Article 29), the formation of unions (Article 46), the principles of political parties (Article 57), the oath taken by members of the TBMM (Article 77), the administration of the radio and television and press agencies (Article 121), the establishment of courts (Article 136) and military jurisdiction (Article 138). These constitutional amendments were translated into legislation, and the laws governing constitutional institutions underwent radical changes extending from political rights to the freedom of education, from union rights to the freedom of press and communications, from the executive execution to the judicial.

The real turning point, where the tradition of military *coups*' creating their own laws reached its peak, was the military *coup* of September 12, 1980. The sphere of rights and freedoms was replaced by national security, rules were replaced by exceptions, and military rule was equipped accordingly, causing great harm to the law, especially the Constitution. Authoritarian legislation was enacted, deviating from the fundamental principle that "freedom is the rule and restrictions are exceptions." The sphere of rights and freedoms were narrowed via general, abstract, and indefinite restrictions, transforming into a "sphere of violations," where severe and systematic violations of human rights were experienced. The concept of national security dominated the law in its entirety. The military rule's approach to security in **the Constitution of 1982** left deep and long-lasting effects on non-security fields and institutions via such regulations.

As soon as the National Security Council seized power, it made unlimited use of legislative and executive powers and took legal measures of all kinds to protect the military regime. It created many new laws and regulations and amended existing regulations, both before the Constitution was completed and after it came into force. The Council established new institutions such as the State Supervisory Council, the Supreme Council of Judges and Public Prosecutors, the Supreme Council of Radio and Television, the Council of Higher Education, the Supreme Military Council, the Supreme Military Administrative Court, Regional Administrative Courts, and the Atatürk Culture, Language and History Institution, in order to keep sectors including the judiciary, radio and television broadcasting, and higher education under its control. These new institutions were used to increase the action and authority of the President and the National Security Council concerning the establishment, functions, and actions of legislative, executive and jurisdictional organs. Moreover, Provisional Article 15 of the Constitution of 1982[3] prevented the trial of MGK and government members and prohibited claiming that regulations introduced in this period were contrary to the Constitution. The people responsible for the military regime were therefore given personal, institutional, and legal immunity.

The laws not affected by Provisional Article 15 of the Constitution and introduced in the period September 12, 1980 to December 6, 1983 can be classified in two groups. The first are regulations that came into force prior to the Constitution of 1982. These laws, which gathered all appointment and oversight powers in the person of the President of the Republic (who was also the Head of the MGK) and regulated the establishment of institutions whose constitutional grounds were defined later, included Law No. 2443 on the State Supervisory Council, Law No. 2547 on the Council of Higher Education, Law No. 2461 on the Supreme Council of Judges and Public Prosecutors, and Law No. 2576 on the Regional Administrative Courts. The second group are laws introduced by the MGK during the creation of legislation and following the entry into force of the Constitution, some of which are still in force, including Law No. 2797 on the Court of Appeals, Law No. 2802 on Judges and Public Prosecutors, Law No. 2820 on Political Parties, Law No. 2821 on Unions, Law No. 2839 on the Election of Members of Parliament, Law No. 2845 on the Establishment of the State Security Courts and their Criminal Procedures, Law No. 2898 on Associations, Law No. 2911 on Meetings and Demonstrations, Law No. 2941 On Mobilization and State of War, Law No. 2942 on Nationalization, Law No. 2949 on the Establishment of the Constitutional Court and its Criminal Procedures, and Law No. 2954 on the TRT.[4]

The Constitution of 1982, condemned by many as unlawful from the perspective of its preparation and entry into force, expanded the concept of national security, made sovereignty absolute, and re-shaped and re-structured all the bodies and institutions of the state on the basis of this all-encompassing concept of national security. This Constitution formulated the fundamental objective of the state as ensuring the unity and indivisibility of the state. The state's duties to the people and society is to "ensure peace, prosperity and happiness," regardless of the ideals of human value and human rights. Rather than the protection and development of individual rights and freedoms, the state itself and its security were granted constitutional security.

It is possible to say that the beginning of the Constitution, with its clauses on "the form of the state" (Article 1), "the characteristics of the Republic" (Article 2), "the unity, official language, flag, national anthem of the state" (Article 3), "the irrevocable provisions of the Constitution" (Article 4) and "the fundamental objectives and duties of the state" (Article 5), are fundamental clauses that reflect the general concept of national security. Expressions such as "the glorious Turkish nation," "the eternal entity of the Republic of Turkey," "Turkish entity," "Turkish national interests," "the historical and spiritual values of Turkishness", "principles and reforms of Atatürk," "loyalty to Atatürk nationality," "adherence to the core principles stated in the beginning," "the indivisible unity of the Turkish state with its territory and its nation, "the independence and unity of the Turkish nation," and "the indivisibility of the country" offer a concrete form of the concept of national security.

Since overturning the 1982 Constitution's dominant character is among the priorities of the democratization process, it has been extensively amended. The most comprehensive of these reforms was the one introduced by Law No. 4709 on October 3, 2001,[5] which amended 34 articles. However, these amendments did not result in any deviation from the general framework established

3 Law No. 2709, dated November 7, 1982, Reissued Official Gazette No. 17863, dated November 9, 1982.

4 Bülent Tanör, *Türkiye'nin İnsan Hakları Sorunu* (Turkey's Human Rights Problem), pp. 315-316.

5 Law No. 4709, dated October 3, 2001, on the Amendment of Certain Articles of the Constitution of the Republic of Turkey, Reissued Official Gazette No. 24556, dated October 17, 2001.

by the concept of national security in the military *coup* constitution. Three issues are of importance here from the point of view of our subject. The first of these is the abolishment of the clause prescribing that the laws, statutory decrees, and other acts introduced by the military regime could not be considered contrary to the Constitution. Subjecting the legal acts taken during that period to judicial oversight is no doubt a positive step, but it is insufficient. The failure to completely abolish the article in question has resulted in the continuation of immunity for those responsible for carrying out the military *coup*. Apart from its spiritual significance, the amendment itself is devoid of function, because the annulment action to be brought against said regulations at the Constitutional Court is subject to a statute of limitations; as a result, it is actually impossible to make use of this amendment.

A second key reform was the amendment of Article 118, which regulates the National Security Council. While this amendment does not affect the institutional entity of the Council, it does downgrade the requirement that Council decisions should "be given priority," insisting only that these decisions "be taken into consideration." It is not clear if the amendment's aim to transform the Council into an auxiliary organ dealing with the establishment, identification, and implementation of national security policy has been fulfilled.

A third key reform was the amendment to Article 13 (entitled "the restriction of fundamental rights and freedoms") abolishing the general grounds for restricting fundamental rights and freedoms. The general grounds for restriction – formerly "the indivisible unity of the state with its territory and its nation, national sovereignty, the Republic, national security, public order, public peace, the interest of the public, public morality, and public health" – were replaced with the clause "fundamental rights and freedoms can only be restricted by law or by reasons stated in the relevant articles of the Constitution, without being violated in essence." Similarly, the grounds that were annulled were added to the clauses that regulate fundamental rights and freedoms, such as "right to privacy" (Article 20), "immunity of residence" (Article 21), "freedom of communication" (Article 22), "freedom to express thoughts and promote thoughts" (Article 26), "freedom of press" (Article 28), "freedom to form associations" (Article 33), "right to organize meetings and demonstrations" (Article 34), and "right to form unions" (Article 51). As a result, the amendment is simply a formal amendment that consists in placing the general grounds for restriction among the special clauses that regulate fundamental rights and freedoms. As these grounds for restrictions were not removed from the Constitution, no concessions were made on security-driven restrictions. From this point of view, the amendment has not resulted in a disengagement from the concept of security created by the military regime.

One of the major areas of intervention of Republican constitutions is that of political rights. Even the Constitution of 1961, which granted the rights to found political parties and conduct political activities without prior permission, stipulated that political parties' principles should comply with the fundamental provision of "the principles of a democratic and secular Republic and the indivisible unity of the state with its territory and its nation." This restriction acquired a new dimension with the Constitution of 1982. Although this constitution conferred the freedom to found political parties, it restricted the freedom to conduct political parties. Article 82 stipulated that the regulations, programs, and activities of political parties should not be contrary to "the independence of the state, its indivisible unity with its territory and its nation, human rights, principles of equality and of the state of law, the sovereignty of the nation, the democratic and secular principles of the Republic" and that they should not aim to "defend or establish a class or group-based dictatorship or any other type of dictatorship." The activities of political parties were therefore made to coincide with national security policy. From this point of view, the contents of the Constitution should not be considered odd, because the Constitution permitted national security policy as identified by the army to determine the powers of the legislature, executive, and judiciary and to form a power above them. National security policy has therefore expanded to include civilian organizations and has been rendered more effective. According to Article 69 of the Constitution, the conflict of the regulations and programs of political parties with the ban stated in Article 68 constitutes a reason for the party's dissolution. As for the dissolution of parties because of their activities, this is based on the condition that the Constitutional Court determines that the party "has become a centre" of the aforesaid activities. These clauses, which confine political parties within the bans of the endless scope of national security, have also established the framework of the Law on Political Parties,[6] one of the most important laws of military coup legislature.

6 Law No. 2820, dated April 22, 1983 on Political Parties, Official Gazette No. 18027, dated April 24, 1983.

It is also possible to impose a restriction on the duties of the Constitutional Court on the grounds of "the security of the Republic of Turkey." Information, papers, and documents requested by the Constitutional Court in the course of its duties must by law to be delivered to it within a set time. This obligation applies to all administrative authorities, including the legislative, executive, and judicial powers, as well as all natural and legal entities. However, "secrets concerning the security and the supreme interests of the Republic of Turkey and concerning foreign states" are excluded from this obligation. According to law, in the event that "the relevant authorities avoid providing information, papers, or documents that need to be kept secret and the disclosure of which may harm the supreme interests of the state," the court may ask for the authorities to provide a verbal statement and this statement will not be recorded in the minutes. However, if, apart from the above exception, the court decides by a two-thirds majority that it is necessary to obtain the information, papers, or documents in question, their provision is mandatory.

The same is valid for the clause concerning the court's examination of witnesses and legal experts. According to the law, "in the event that the examination of a legal expert or witness who must be consulted for a trial or other work concerning the Constitutional Court is subject to the permission of an official authority, and in the event that this permission is not granted on the grounds that it would harm the interests of the state, if, after having received the verbal or written opinion of the authority refusing permission, the court decides by a two-thirds majority that this refusal is groundless, the legal expert or the witness may not claim their obligation to maintain secrecy." In this event, the witness is obliged to make a statement. However, if the refusal is based on a reason "concerning foreign states and therefore the security and supreme interests of the Republic of Turkey," the relevant authority's decision is definitive and the court cannot hear a witness or legal expert on this subject.

National Security in Legislation

Meryem Erdal

The only source related to national security and national security policy in Turkish legislation is Law No. 2945 on the National Security Council and the General Secretariat of the National Security Council.[1] Article 2 defines national security as "the protection and safekeeping of the constitutional order, national entity, unity of the state and all its international interests, including political, social, cultural and economic interests, and of its conventional law against foreign and domestic threats of all kinds. Similarly, national security policy is defined as "the policy comprising the principles behind internal, external, and defense policies as specified by the Cabinet of Ministers, on the basis of views established by the National Security Council with the objective of ensuring national security and achieving national objectives."

Considering these elements of the law, which is a product of the legislation of September 12, 1980, it becomes clear that no areas are excluded from the concept of national security. Because this framework comprises everything, including economic, political, social and cultural areas, as well as all domestic and foreign threats, it directly affects legislation, so much so that even when the legislation does not mention national security *per se*, it contains other security-driven expressions. General and abstract expressions such as "non-delayable cases, public order, public interest, public morality" add variety to statements such as "the security of the state, the security of the country, the entity and independence of the state, the unity of the country, the unity of the territory, the indivisible unity of the state and its territory, the secular order, public peace and security." These and similar abstract, vague expressions that grant an extensive scope of activity to security bodies give legislation a security-driven framework.

1 Law No. 2945, dated November 9, 1983, on the National Security Council and the General Secretariat of the National Security Council, Official Gazette No. 18218, dated November 11, 1983.

Military *coups* have made a large contribution to this state of affairs, since every *coup* has re-shaped and strengthened the concept of national security and has created and imposed its own legislation. Institutionalization was achieved to the degree that legislation was damaged, and this damage was made permanent via judicial immunity. Moreover, when the ambiguity, subjectivity and flexibility of the content of security-driven expressions and concepts permeating Turkish legislation are reflected in implementation, they cause even more severe consequences that result from the interpretation of security independently from rights and freedoms, the perception of security as a dominant element that needs to be protected, and the conferring of additional functions to security institutions.

EDUCATIONAL INSTITUTIONS

HIGHER EDUCATION INSTITUTIONS

Article 120 of the Constitution of 1961, entitled "Independent Institutions," stipulated that universities are to be founded by law by the state, that they are public entities *with scientific and administrative autonomy*, that that they will be administered and overseen by councils formed by academic members elected by the university, that academic members, assistants and organs will not be dismissed by authorities other than the university itself, and that they can freely conduct research and publish their work. The concept of administrative and scientific autonomy of the Constitution of 1961 was damaged by the framework of the 1971 Constitution on security grounds. It was damaged further by the Constitution of 1982, which ended the autonomous scientific status of universities and re-structured them in line with national security policies. Through legislative amendments and newly established supreme councils, higher education was subjected to interference from the executive power and the army. In order to consolidate this situation,

higher education institutions were restructured under the "administration" heading within the "execution" section of the Constitution.

The first of these Constitutional changes concerns the definition of higher education institutions, the election of their organs, and the boundaries of scientific autonomy. Article 130 defines higher education institutions as "institutions founded by the state according to law," "as public entities with scientific autonomy" and "with the aim of training manpower in line with the needs of the nation and of the country," that are "subject to state supervision and oversight," and consist of a number of units. According to the new system established with the 1980 Constitution, university rectors are appointed by the President of the Republic and faculty deans by the *Council of Higher Education*.

Universities, academic members, and assistants can carry out scientific research and publish works on the condition that "they do not carry out any activities against the entity and independence of the state and the unity and indivisibility of the nation." The freedom to carry out scientific activities is therefore tied to the condition of compliance with "national security." Similarly, while the authority to dismiss academic members was previously conferred to university organs elected by academic members, with the Constitution of 1982 this authority was granted to the Council of Higher Education (*Yüksek Öğretim Kurumu*, YÖK), whose members are selected by the executive power. The fact that oversight authority, which previously belonged to higher education institutions was now conferred to the state, further reduced university autonomy. According to Article 130, universities and affiliated units are under the supervision and oversight of the state. Moreover, the Supervising Council of YÖK – which consists of members elected by the Office of the Chief of General Staff, the Ministry of National Education, the Court of Accounts, the Council of State, the Court of Appeals and YÖK – is responsible for ensuring that activities carried out by higher education institutions "comply with the objectives and principles of higher education." Furthermore, the clause stipulating that security services must be provided by the state has made it possible for security forces to intervene and establish themselves in higher education institutions.

The foundation of non-profit higher education institutions by foundations is permitted by the Constitution. However, apart from financial and administrative matters, these institutions were subjected to the same rules established for state institutions of higher education in terms of academic inquiry, academic recruitment, and security. Legal grounds for these non-state/non-profit universities were introduced by Law No. 3785 of 1992.

Constitutional clauses concerning higher education reflect the framework established with Law No. 2547 on Higher Education,[2] which came into force after the military *coup* of September 12, 1980, but before the *coup*'s Constitution. The Law on Higher Education is one of those September 12 laws that were given immunity from judicial oversight by Article 15 of the Constitution, as well as constitutional immunity. The law's main feature is that it identifies the objectives and principles of higher education for all higher education institutions belonging to the state or to foundations, thereby causing it to shape the structure of higher education and all academic activities. Through higher education "objectives" and "principles," military *coup* ideology came to dominate higher education and the process of institutionalization was completed through complementary protective mechanisms. Higher education came to focus on the indivisible unity of the state and nation, via an organization model complying with the ideology of natural security.

According to the law, the objective of higher education is to raise citizens "who are loyal to the reforms and principles of Atatürk and to Kemalist Nationalism," "who adopt, protect, and develop the national, moral, spiritual, historical and cultural values of the Turkish nation and who are honored and happy to be Turks," "who are full of love towards their country and nation," "who are aware of their duties and responsibilities towards the Republic of Turkey and who internalize this behavior," and "to transform the Turkish state, which is an indivisible unity with its territory and its nation, into a constructive, creative and distinguished partner of contemporary civilization, and to increase its happiness and prosperity, by implementing programs that will contribute to and accelerate the economic, social and cultural development of the country."

The regulation concerning the "fundamental principles" that must be considered in the planning and programming of higher education includes the principles of "ensuring that students acquire a service consciousness towards Kemalist Nationalism, in line with the reforms and principles of Atatürk," "protecting and developing

2 Law No. 2547, dated November 4, 1981 on Higher Education, Official Gazette No. 17506, dated November 4, 1981.

our national culture, and its characteristic forms and features, in keeping with mores and customs and within a universal culture and ensuring that students acquire spirit and willpower that will strengthen national unity and solidarity," "ensuring that unity is achieved in education," and "ensuring that courses on the History of the Principles and Reforms of Atatürk and on Turkish Language are compulsory."

These clauses are equally valid for all higher education institutions, including non-state universities. Similarly, according to Article 9, paragraph g of the Regulation on Foundation Institutions of Higher Education[3] ("conditions required for the establishment of institutions and for the acquisition of legal entity"), documents required for the application include a letter of undertaking that states, "in the event that actions against the entity and independence of the state and the unity and indivisibility of the nation and country take place and that situations not complying with the principles and reforms of Atatürk, especially secularism, continue despite warnings," the higher education institution accepts in advance that its estates, assets, and rights will be transferred to another higher education institution to be identified by the foundation. Moreover, according to Article 26 ("suspension and closure"), "educational activities that are against the entity and independence of the State and the unity and indivisibility of the nation and the country, whose approach does not comply with the principles and reforms of Atatürk, especially secularism, or that exercise discrimination based on race, language or religion" are grounds for suspension and closure.

Definitions concerning the duties of academic organs and units, especially the Council of Higher Education, contain references to "the objectives and principles of higher education." By ignoring academic autonomy, the duties of a security institution are imposed upon academic units. In carrying out their duties, higher education institutions and their academic members, lecturers, assistants, and students must take into consideration the objectives and principles of higher education.

Administrative superiors must grant permission before criminal investigations can be conducted into academics and civil servants employed in higher education institutions (subject to the Law on Civil Servants) who commit crimes in the course of their duties or because of their duties. A broad exception to that rule occurs in cases of "crimes committed with the aim of abolishing the fundamental rights and freedoms stated in the Constitution with ideological aims, *the indivisible unity of the state with its territory and nation,* or abolishing the Republic, whose characteristics are stated in the Constitution, with the aim of discrimination on the basis of language, race, religion or sect, crimes related to the above, crimes that restrict the freedom of education directly or indirectly, that disrupt the peace and tranquility and work of institutions, that encourage or incite boycotts, occupations and obstruction, that concern anarchical and ideological actions and being caught red-handed that require heavy sentences," where investigations are conducted directly by the Public Prosecutor without any need for administrative permission. Article 26 includes new and extensive crimes that are not even defined in the Turkish Penal Code, nor is it completely clear to which crimes it refers. Similar punishments in the form of warnings, reprimands, suspension and termination have been prescribed for students too.

THE COUNCIL OF HIGHER EDUCATION (YÜKSEK ÖĞRETIM KURULU, YÖK)

Although the YÖK was founded after the 1980 military *coup*, it was first referred to in 1975 in Law No. 1750 on Universities. However, since the Constitutional Court annulled most of the clauses of this law, the YÖK was not actually founded at that time. Following this first unsuccessful attempt, radical changes concerning higher education and the YÖK were introduced by the 1980 military *coup*. One of the main institutions brought about by the *coup*, the YÖK, was founded by Law No. 2547, one of the laws issued immediately by the military *coup* and given immunity from judicial oversight. Constitutional oversight thus prevented the system established by Law 2547 from being altered. The Constitution of 1982, which came into force after this law, granted constitutional identity to the system, which was charged with the administration and oversight of all higher education institutions, which themselves were re-structured constitutionally, academically, institutionally, and administratively under the Council of Higher Education. According to Article 131 ("Supreme Institutions of Higher Education"), the YÖK was founded in order "to plan, regulate, administer, and oversee education in higher education institutions, to steer educational and scientific research activities in these institutions, ensuring that these institutions are founded and developed in line with the objectives and principles stated in the law and that the resources assigned to universities are used efficiently and to make plans for the training of academic members."

3 Official Gazette No, 26040, dated December 31, 2005.

The YÖK consists of members selected among candidates complying with the conditions stated in the law and elected by universities, the Cabinet of Ministers, and the Office of the Chief of General Staff. Their number, qualities, and election methods are established by law, and they are appointed or directly elected by the President of the Republic, with priority to successful rectors and professors.

Article 131 of the Constitution, which provides for the official presence of the army within the YÖK and democratic and autonomous universities, created considerable debate. The position of the Office of the Chief of General Staff within the YÖK continued for 23 years, only losing its constitutional footing through Law No. 5170 of May 7, 2004. Through this amendment, the words "Office of the Chief of General Staff" were removed from Article 131. But the exclusion of the Office of the Chief of General Staff from the election of members of the YÖK did not completely remove national security policies and executive interference from the sphere of higher education. The building blocks of the YÖK system, which abolished academic autonomy, were left untouched. In any case, the Office of the Chief of General Staff continued to have a role in forming all other organs regulated by the Law on Higher Education. Of particular importance is the Higher Education Supervising Council. Its duty is to supervise and oversee on behalf of the YÖK that all universities, affiliated units, academic members, and their activities are in line with "the objectives and principles of higher education." The ten members of the Higher Education Supervising Council include a member elected by the Office of the Chief of General Staff.

THE INTER-UNIVERSITY COMMITTEE

Following the 1971 *coup*, the Inter-University Committee was transformed into an institution responsible for ensuring academic coordination among universities, meeting the needs of universities' academic members, and drafting laws, statutes, and regulations as a part of the general planning process of higher education. This structure was restructured as an organ separate from the YÖK through Article 11 of Law No. 2547 on Higher Education.

The Committee, which is not an autonomous legal entity and does not have a hierarchical relationship to the YÖK, is responsible for regulating and planning academic activities and operating in line with the objectives and principles of higher education. The Committee consists of university rectors, a professor elected from the Armed Forces by the Office of the Chief of General Staff for a term of four years, and a professor from each university elected by the senate for a term of four years.

The Inter-University Committee is yet another higher education institution that includes a representative from the Office of the Chief of General Staff. Although higher education institutions belonging to the TSK and the police force are excluded from the YÖK system, the TSK's representation on the Committee cannot be explained on any grounds, other than the desire to subject the academic sphere to national security objectives and principles. Similarly, the fact that rectors are appointed by the President of the Republic, who is the head of the executive power, constitutes another example of executive interference in the academic sphere.

MILITARY ACADEMIES AND POLICE ACADEMIES

Both Article 132 of the Constitution and Article 2 of Law No. 2547 state that higher education institutions belonging to security institutions are subject to their own laws. Higher education institutions belonging to the Turkish Armed Forces and to the Police Force are therefore excluded from the scope of the law. Rules concerning the foundation, administration, and functioning of higher education institutions belonging to security units, such as police academies and military academies, are regulated by special laws. Moreover, the establishment of educational institutions or units concerning military affairs or security by foundations is forbidden by the Article 4 of Law No. 2547.

Within the Turkish Armed Forces there are various educational institutions for the training of officers and non-commissioned officers. Military colleges were founded with the aim of providing training for officers and military academies with the aim of providing training for general staff officers and for conducting academic work. Both educational institutions are affiliated with the Office of the Chief of General Staff.

The Law on Military Academies[4] defines such academies as institutions of science and expertise that provide training for command- or staff-level officers at the graduate level, "that provide top level managers in the Armed Forces, public administration, and the private sector if necessary, with information and skills on national security matters and that conduct scientific

4 Law No. 3563, dated May 24, 1989, Official Gazette No, 20181, dated May 31, 1989.

research, publications and consultancy on strategic matters." The mission concerning national security is considered among the duties of military academies (Article 4/c). For strategic national security matters, "national security academies" exist within the scope of military academies (Article 3).

The Institute of Strategic Research (*Stratejik Araştırmalar Enstitüsü*, SAREN), which "conducts graduate-level education, scientific research, and implementation in scientific fields relevant to military academies and has scientific autonomy," was founded after extensive amendments were made to the Regulation on Military Academies in 2006.[5] The same regulation defines the duties of military academies (land, sea and air) as "providing graduate-level training for general staff officers who adopt a fully Kemalist view; are equipped with the skills to select the appropriate behavior, to make correct decisions, and to implement those decisions efficiently, especially in the field of military activities; are able to take on the duties of command and staff officers; and have highly developed judgment and planning skills; providing training on command and staff activities in parallel with contemporary developments and within the dynamic educational structure of our age for officers who have been selected for command and staff officers' training (*Komutanlık ve Karargah Subaylığı*, KOMKARSU), and administering the courses within the academies." According to the regulation, three consecutive superiors will fill in the "Military Academy Qualification Document," classified "TOP SECRET" for personnel who receive negative assessments among the officers who apply. The quota of officers in the National Security Academy is established by the Office of the Chief of General Staff, while the quota of civilian participants is established by the State Personnel Administration and approved by the Office of the Prime Minister.

During the debate of the above-mentioned regulation amendment in the TBMM National Security Commission, a discussion took place because of the lack of clarity regarding the attitude and behavior of officers' wives. Vecdi Gönül, Minister of National Defense, stated that restrictions of this kind are not limited solely to the Turkish Armed Forces and cited as an example of the ban on state officers' marrying women of foreign nationality.[6] However, it is clear that the restrictions concerning attitudes and behaviors are so ambiguous and open to debate that they cannot be compared with the ban on marrying foreign women. Moreover, the fact that negative assessments regarding candidates are classified as "TOP SECRET" means that it is impossible to subject these applications to any further evaluation.

In 2008, the "Research Center for Military Sciences" ceased being a separate unit and was included within the Institute.[7] It took on the duty of "conducting research on strategic military and national security matters, studying and developing innovations, publishing useful results with the aim of providing information for the relevant command and institutions, and carrying out studies for the development of academic education, with the aim of contributing to the development of the Turkish Armed Forces."

The military academies' duties concerning national security are not limited to the army's needs and work. Through their top-level administrators, the academies also act as "consultants" on national security matters in the public and private sectors.

The Law on Military Academies[8] defines the military academies' objective as "providing training for active-duty officers who present the qualities required by the Law on the Turkish Armed Forces' Internal Services, who have highly developed leadership characteristics and sufficient physical skills, who have received graduate education in scientific fields established in line with the needs of the relevant force commands and providing graduate education subject to their needs" (Article 4). Some of the higher education principles stipulated by Law No. 2547 are also valid for military academies. Accordingly, among the principles of education in military academies are "ensuring that students acquire a service consciousness and professional values in line with the principles and reforms of Atatürk and based on Kemalist nationalism and the principles of a democratic, secular and social state of law" and "ensuring that students acquire a spirit and willpower that strengthens national unity and solidarity."

While all kinds of activities and operations conducted by other higher education institutions are supervised and overseen by the YÖK, the oversight of educational, administrative, and other activities of military academies and colleges is carried out by the relevant force commands and the Office of the Chief of General Staff. On the other

5 Regulation on the Amendment of the Regulation on Military Academies, Official Gazette No. 26053, dated January 18, 2006.

6 "Harp Akademileri Kanunu'nda "tartışılan" madde" (The "disputed" article of the Law on Military Academies) *milliyet.com.tr*, November 15, 2006.

7 The Law No. 5771, dated June 11, 2008 on the Amendment of the Law on Military Academies, Official Gazette No. 26916, dated June 24, 2008.

8 The Law No. 4566, dated May 11, 2000 on Military Academies, Official Gazette No. 24052, dated May 17, 2000.

hand, scientific oversight of educational activities is conducted by the Military Academy Scientific Oversight Council, which is appointed by the commanders of military academies or by relevant force commands.

The educational institutions of the police force were first founded in 1937. In 1984 they were named "police academies," and they were given university status by Law No. 4652, dated April 25, 2001, on the Higher Education of the Police Force. A Faculty of Security Units, an Institute of Security Units, and a Police Vocational College were founded within police academies.

The principles stipulated for higher education have been adopted not only by military academies but also by police academies. However, the objective of police colleges within the academies has been established much more extensively than in the general framework provided by Law No. 2547 on the YÖK. Accordingly, police colleges aim to provide training for members of the police profession who, "are sensitive to the indivisible unity of the state with its territory and its nation," "are conscious of the indivisible unity of the Republic of Turkey with its territory and its nation," "are loyal to the principles and reforms of Atatürk and to Kemalist nationalism," "are aware of their duty and responsibilities towards the Republic of Turkey and internalize this behavior," "possess the nationalist, moral, human, spiritual and cultural values of the Turkish nation and feel the honor and responsibility of being Turkish," "value social benefit more than their own personal interests and love their family, country and nation" and "have highly developed skills to solve and follow up on issues encountered during service in line with the characteristics of the Republic as stated in the Constitution."

The educational, administrative, and financial oversight of police academies is conducted at least once a year, by auditing staff from the Ministry of Internal Affairs and the General Directorate of Security. Unlike military academies, police academies are subject to the YÖK from the point of view of scientific oversight (Article 28).

As a result, from the point of view of higher education objectives and principles, higher education institutions belonging to security institutions are loyal to the characteristics of the Republic as stated in the Constitution, national security policy, and the framework established by the YÖK, from which most of the criteria sought in the recruitment of personnel for security institutions originate. Of the sixteen criteria, only one refers to "respect for human rights" and one to "loyalty to professional ethic rules."

HEAD COUNCIL OF EDUCATION AND MORALITY

As part of the endeavor to nationalize education, which began with the establishment of the Ministry of National Education in 1920, the Head Council of National Education and Morality, created in 1926 by Law No. 789 on the Education Organization (*Maarif Teşkilatı Hakkında Kanun*, MTHK), was granted its current structure, duties, and organization under the name of Head Council of Education and Morality in 1992.[9]

Both Law No. 3797 and the Regulation on the Head Council of Education and Morality of the Ministry of Internal Affairs[10] define the Head Council of Education and Morality (*Talim ve Terbiye Kurulu*, TTK) as *the scientific consultancy and decision organ closest to the Minister on matters of national education.* The Council is a decision organ because of duties such as "taking the necessary measures for national education to be realized in accordance with the objectives and principles of national education and with contemporary methods," "establishing the type of person that the national education system aims to achieve," "establishing the principles and foundations concerning the administrative structure and functioning of education," and "taking measures to prepare young people according to the principles of the Republic and to *strengthen national education* in schools."[11]

NATIONAL EDUCATION COUNCIL

The National Education Council (*Milli Eğitim Şurası*, MEŞ), affiliated with the Turkish Historical Society, is the highest council of consultancy that makes recommendations to the Ministry on educational matters. The Council is the highest permanent advisory committee of the Ministry and has been conferred the duties of developing the Turkish National Education system, examining relevant educational matters in order to improve its quality and make advisory decisions.[12]

9 Article 8 of Law No. 3797 on the Organization and Duties of the Ministry of National Education, dated April 30, 1992, on the Amendment and Acceptance of the Statutory Decree No. 179 and dated December 13, 1983, No. 208, dated June 8, 1984, No. 385, dated October 23, 1989, No. 419, dated April 9, 1990, No. 454, dated August 28, 1991; Official Gazette No. 21226, dated May 12, 1992, Amendment: Official Gazette No. 21240, dated May 27, 1992.

10 Official Gazette No. 21482, dated January 31, 1993.

11 Article 8/a and b of Law No. 3797; Article 6/a, b, c, m and s of the Regulation on the Head Council on Education and Morality.

12 Article 48 of Law No. 3797, Article 5 of the Regulation.

Elected members, who constitute an important part of the Council, are appointed by the Ministry of Education (*Milli Eğitim Bakanlığı*, MEB), the YÖK, and other bodies and institutions, which include the Office of the Chief of General Staff and the General Secretariat of the National Security Council (MGK). Following the regulation's 2006 amendment, the number of military members in the Council was increased from two to five and the number of rector members from 10 to 20.[13] The Chief of General Staff therefore sends five representatives, four of whom are from force commands and one from military academies, and the General Secretariat of the MGK sends one representative to the Council. No criteria have been specified regarding council members and the institutions they represent and members are selected according to the policy of the nationalization of education.

SUPREME COUNCIL OF ATATÜRK CULTURE, LANGUAGE AND HISTORY

The Supreme Council of Atatürk Culture, Language, and History was first founded by the Constitution of 1982. Its aim was defined as "conducting scientific research on, promoting, and publishing work on Kemalist thought, the principles and reforms of Atatürk and Turkish culture, history, and language," as stated in Article 134 of the Constitution. In spite of the emphasis on Atatürk's "spiritual patronage" and the "supervision and support of the President of the Republic," the financial interests stated in Atatürk's will were reserved and assigned to the Council.

All matters concerning the Council are regulated by the Law on the Supreme Council of Atatürk Culture, Language, and History.[14] The principles upon which the Council and affiliated organizations should base their activities are defined in Article 5, and include the following expressions and points of emphasis: *"with the spirit and consciousness of national struggle, to possess and to be loyal to Kemalist thought, to the principles and reforms of Atatürk, to the recognition that the Republic of Turkey will exist forever, to the prosperity of individuals and of the nation, to the belief in the happiness of the society, and to the determination and resolution to raise our national culture above contemporary cultures," "to act so as to encourage Turkish citizens to gather around causes of national pride, national happiness and destiny, and around national culture and principles, as a common and indivisible unity," "to take into consideration Kemalist thought, the principles and reforms of Atatürk [and Turkish] cultural, linguistic and historical values as a unifying force in national solidarity and unification; to scientifically falsify any kind of foreign and separatist movements which may attack these values,"* and *"to act with the objective of protecting and safekeeping the requirements of national unity and security, national morality values, and national traditions."*

Principles stating the requirement of national unity and security concerning Turkish culture, language, and history constitute the framework of all institutions and administrative organs within the Council. The Atatürk Research Center, the Turkish Linguistic Society, the Turkish Historical Society, the Atatürk Cultural Center, and the Atatürk International Peace Award were founded on these grounds within the scope of the Council.

INDEPENDENT REGULATORY INSTITUTIONS

Independent Regulatory Institutions (*Bağımsız Düzenleme Kurumları*, BDK) are specialized public authorities independent of political authority and market players, founded with the objective of regulating their field of activity, ensuring that market players comply with the regulatory rules, implementing sanctions in the case of non-compliance, and solving conflicts by arbitration.

THE RADIO AND TELEVISION SUPREME COUNCIL

The first text of Article 121 of the Constitution of 1961 ("Administration of radio and television and press agencies") defines radio and television stations as independent public entities and stipulates that all broadcasts should be based on the principle of impartiality. However, a constitutional amendment of 1971[15] annulled the principle of autonomy and prescribed that radio and television stations would be established by the state and administrated by impartial public entities. More importantly, censorship based on national security, which currently dominates legislation concerning broadcasting, was granted constitutional security. Article 121 of the Constitution refers to this law: "The principles of compliance with the requirements of the indivisible unity of the state with its territory and its nation, of the national, democratic, secular and social Republic based on human rights, of national security and public morality, and of ensuring the correctness of news in the selection, treatment and presentation of news and programs and in the fulfillment of the duty of

13 "Regulation on the Amendment of the Regulation on the National Education Council", Official Gazette No. 26248, dated August 3, 2006.

14 Law No. 2876, dated August 11, 1983, on the Supreme Council of Atatürk Culture, Language and History, Official Gazette No. 18138, dated August 17, 1983.

15 Law No. 1488, dated September 20, 1971.

contributing to culture and education and the election, authority, duty and responsibility of the relevant organs."

What really left its mark on radio and television broadcasting was the Constitution of 1982 and the ensuing Law No. 2954 dated November 11, 1983. Article 133 of the 1982 Constitution ("The administration of radio and television and of press agencies related to the state") consolidated the state monopoly in accordance with the definition of national security, expanding and strengthening the scope of constitutional censorship in line with the definition of national security. Accordingly, the law stipulates that "broadcast is to be carried out in a way that will protect the entity and independence of the Turkish state, the indivisible unity of the state and nation, public peace and morality, and the fundamental characteristics of the Republic as stated in Article 2 of the Constitution."

The legislative obstacle to the founding of private radio and television stations that had already begun broadcasting was abolished by Law No. 3913, dated July 8, 1993, which amended Article 133 of the Constitution to give all the right to found and operate radio and television stations provided that they comply with "the rules as stipulated by law", thus creating constitutional grounds for censorship on the licensing and the principles of broadcasting.

The state, which holds the monopoly on broadcasting via Turkish Radio and Television (TRT), has never failed to include this field under its discipline, even when the private sector joined the process. On the contrary, censorship implemented via broadcasting principles was granted a corporate identity after private radio and television stations began broadcasting. The Radio and Television Supreme Council (*Radyo Televizyon Üst Kurulu*, RTÜK), founded in 1994 by Law No. 3984 on the Foundation and Broadcasts of Radios and Televisions,[16] became a constitutional institution in 2005.

Broadcasting principles shaped by national security policy and qualifying as censorship, as well as conditions for broadcasting licenses, constitute an important part of the Supreme Council's duty and authorities. The Constitution does not contain any provisions on this subject, which was regulated in detail by Law No. 3984. Legislation on the RTÜK consists of texts where restrictions based on security and expressed in general terms in broadcasting conditions are frequently repeated and re-created.

According to Law No. 3984, all kinds of broadcasting licenses and activities of broadcasting corporations must comply with the "broadcasting principles" stated in Article 4. Radio and television broadcasts must primarily comply with "a public service understanding that is appropriate to the rule of law, the general principles of the Constitution, fundamental rights and freedoms, national security, and public morality" and must not be in conflict with "the fundamental characteristics of the Republic as stated in the Constitution and the indivisible unity of the state with its territory and its nation."

The broadcasting principles listed as separate sub-paragraphs within the second paragraph constitute clauses that explain this general framework in more detail. These principles have formed the basis of all regulations concerning all radio and television broadcasts, regardless of the subject matter. According to the "broadcasting principles" that all broadcasting corporations must comply with, broadcasts: "should not be against the entity and independence of the state of the Republic of Turkey, the indivisible unity of the state with its territory and nation and the principles and reforms of Atatürk;" "should not incite society to violence, terror and ethnic discrimination or instigate the population to develop hate and enmity arising from discrimination based on class, race, language, religion, sect and regions, or cause hatred in the society;" "should not contradict the national and spiritual values of the society and the Turkish family structure;" "should develop the general objectives and core principles of Turkish national education and national culture;" "should use Turkish as a spoken language without ruining its characteristics and rules; should ensure that as a fundamental element of national unity and solidarity, it is developed as a language of contemporary culture, education and science;" "should not broadcast information provided on condition that it is kept secret, unless seriously required by public interest;" and "should not deal with the actions and objectives of criminal organizations in a way that will provide them with unfair profits, or result in the amplification of the power of the organization to incite fear, bully and intimidate, and to form their own authority via coercion, threats and the spreading of fear."

The clause concerning the ban of broadcasts grants the government the right to suspend broadcasts on security grounds. Exceptions based on judicial and

16 Law No. 3984, dated April 13, 1994, on the Foundation and Broadcasts of Radios and Televisions, Official Gazette No. 21911, dated April 20, 1994.

executive decisions were accordingly brought to the rule that broadcasts cannot be overseen in advance and suspended. The Prime Minister or a minister appointed by the Prime Minister has the authority to suspend a broadcast when "clearly required by national security" or when "the severe disruption of public order is highly probable." The executive power has employed this authority concerning the news and broadcasts on the attack conducted by the PKK on a military battalion in Dağlıca, Hakkâri on October 21, 2007, which resulted in the death of 12 soldiers and the capture of eight. On October 23, 2007, State Minister Cemil Çiçek appealed to the RTÜK and on the basis of Article 25 of the law requested that radio and television broadcasts on this subject be suspended.[17] Following the government's request, the RTÜK implemented a broadcast ban on the basis of "keeping the morale of the security forces high" and on the grounds that "social psychology was negatively affected and the psychological health of children could not be protected." However, the decision was annulled on October 25, 2007 by the Council of State, on the grounds that its scope and limits were not clearly defined. But the Council's decision could not prevent the media from abstaining from broadcasting news on this subject and thus from self-censorship.

Radio and television corporations are obliged by law to broadcast announcements by the President of the Republic and by the Government that "concern the requirements of national security, public order, public health, and morality." Sanctions on broadcasting corporations that do not comply with these principles and do not fulfill the conditions necessary for licenses are also of great importance. Article 33, which regulates warnings, suspensions, and administrative fines, contains a special regulation for broadcasting principles concerning national security. According to this regulation, the broadcasts of companies in conflict with broadcasting principles concerning national security can be suspended for a period of one month without warning. In the event that the violation is repeated, the suspension is indefinite and the broadcasting license is annulled.

According to Article 34 of the law, "penalties imposed on the operators, production directors, managing directors, news directors, producers and presenters of radio and television broadcast corporations that conduct broadcasts inciting people to carry out subversive and separatist activities against the entity and independence of the Republic of Turkey and against the indivisible unity of the state with its territory and its nation, for participation in crimes stated in the TCK, are increased by one and a half."[18]

This national security-centered approach was extended in 2002,[19] with an amendment prescribing the seizure of broadcasting equipment and penalties for organized crime, the expansion of the persons within the scope of the sanction, and the stipulation of additional penalties. According to this article, "persons who have been identified as having conducted broadcasts that incite people to carry out subversive and separatist activities against the entity and independence of the Republic of Turkey and the indivisibility of the state with its territory and its nation, whose broadcasts have been suspended or whose broadcasting licenses have been annulled, the owners and managers of these corporations and those who work in these corporations," are penalized in line with Article 314 of the Turkish Penal Code and all their broadcasting equipment is seized. While those to whom sanctions should be applied were the persons conducting the broadcast or the owners and managers of the corporation, "those who work in broadcasting organizations" were added to those to be held responsible for security reasons. The thought-provoking part of the amendment is the fact that this violation is considered within the scope of *"founding an armed organization or enrolling in it with the intent to commit crime"* and that it is penalized with a prison sentence from five to 15 years. However, in other cases, the violation is to be penalized with a prison sentence from six months to two years and a fine from TL one billion to TL one hundred billion.

Through another regulation within the same scope, the authority to monitor broadcasts, gather records, and oversee compliance with broadcast principles has been devolved to security units, creating in essence a "broadcast police force." While this may not seem strange for a law with extensive security exceptions that restrict broadcast independence, it violates broadcast freedom and is incompatible with an autonomous and impartial institution. This actually gives the security forces the authority to censor.

17 http://www.rtuk.org.tr/sayfalar/IcerikGoster.aspx?icerik_id=bd757fc6-6d72-4b5b-95f7-aac076142163.

18 Article 470 of Law No. 5728, dated January 23, 2008, on the Amendment of Certain Laws Aiming for the Harmonization of Fundamental Penal Laws and on Certain Other Laws, Official Gazette No. 26781, dated February 8, 2008.

19 Article 17 of Law No. 4756, dated May 15, 2002.

We encounter the security-driven understanding concerning the activities of the RTÜK in other regulations on different areas of the Council. For example:

- The Regulation on the Principles and Procedures of Radio and Television Broadcasts,[20] which repeats *verbatim* the principles in Article 4 of the Law, removes broadcasts from their sphere of autonomy and consolidates the shaping of broadcasts in line with the concept of national security. The regulation states that the freedom of expression, which is guaranteed in international treaties, is subject by law to principles, conditions, restrictions and penalties, on grounds such as "the requirements of national security, the unity of the country and public security," "the protection of public order," "the prevention of crime," "the protection of public health and morality," and "the prevention of the disclosure of classified information." Although this clause refers to the exceptions mentioned in Article 10/b of the European Convention on Human Rights, the Convention holds that freedoms can only be restricted in a democratic society on the condition that there are "obligatory *measures*," this stipulation was not included, and "the prohibition on disclosing confidential information" was added to existing exceptions. Besides compliance with broadcasting principles, attributes such as "*the emphasis of the unity, solidarity, and continuity of the Turkish nation and history*" and "*the development of the Turkish language*" were included in the definition of cultural programs.

- The Regulation on the RTÜK's Satellite Broadcasting Licenses and Permissions,[21] which came into force in 2007, established the conditions and methods for broadcasting people and corporations to obtain licenses or permissions. The principal conditions to be fulfilled include: complying with the broadcasting principles regulated by law, "*ensuring the communication of broadcasts that are based on the concept and responsibility of public service, that are loyal to the principles and reforms of Atatürk and Kemalist nationalism as stated in the Constitution, respectful towards the principles of the Republic, that adopt the national, moral, human, spiritual and cultural values of the Turkish nation and that comply with the entity and independence of the Republic of Turkey, with the indivisible unity of the state with its territory and nation and with democratic rules;*" furthermore, they must present a notarized letter of intent containing the above statement to the RTÜK.

- **The Regulation on Radio and Television Broadcasts to be Made in Different Languages and Dialects Used Traditionally by Turkish Citizens in Their Daily Lives**[22] states that, as a rule, Turkish is the broadcasting language of both public and private sector radio and televisions and it considers broadcasting in different languages and dialects to be an exceptional situation, subjecting it to a number of rules and restrictions. Among these conditions is the obligation to comply with "national security, public morality, the fundamental characteristics of the Republic as stated in the Constitution, the indivisible unity of the state with its territory and its nation, with "the broadcasting principles regulated by the Law on the RTÜK and relevant legislation," which contains the same security exceptions, and with the letter of undertaking regulated on the same scope, and to fulfill the responsibility of not using different symbols and of using images and signs that qualify as symbols of the Republic of Turkey when necessary.

- **The Regulation on Personnel**[23] regulates matters related to RTÜK personnel and contains clauses parallel to those of the Law on Civil Servants. "Loyalty" is among the most important of the duties of RTÜK personnel. According to this clause, RTÜK personnel are responsible for being loyal to and implementing the Constitution and the laws of the Republic of Turkey. Similarly, within the scope of the responsibility of "loyalty to the state," personnel are responsible for protecting the interests of the state and "*should not carry out activities that destroy the independence and unity of the country and that endanger the security of the Republic of Turkey, and should not participate in or assist any movement, group, organization, or association with these attributes.*" Recruitment criteria for personnel also include, "even if pardoned, not being convicted for crimes against the state or for crimes related to disclosing state secrets."

- The Regulation on the Conditions for Channel and Frequency Allocation of Radio and Television Corporations, on the Related Tender Procedures and on Broadcasting Licenses and Permissions[24] stipulates that those who apply for a license "should not be objectionable from the point of view of national

20 Official Gazette No. 25082, dated April 17, 2003.
21 Official Gazette No. 26669, dated October 10, 2007.
22 Official Gazette No. 25357, dated January 25, 2004.
23 Official Gazette No. 24930, dated November 8, 2002.
24 Official Gazette No. 22223, dated March 10, 1995 (amended by Official Gazette No. 23600, dated February 3, 1999).

security," even if pardoned, should not be convicted for crimes related to disclosing state secrets, participating in ideological or anarchical activities, inciting or instigating these activities, or for crimes against the state (organized crimes) or within the scope of the Law on the Fight Against Terrorism (Article 7 and 8)" and that they should pledge to comply with broadcasting principles and the constitutional order. Applicants are obliged to present the RTÜK with documents that demonstrate that they fulfill these conditions.

THE CAPITAL MARKETS BOARD

The Capital Markets Board (*Sermaye Piyasası Kurulu*, SPK), established in 1981 by Law No. 2499,[25] was the first independent regulation and oversight institution with the authority of a public entity and with administrative and financial autonomy.

Within the scope of the regulation and oversight of the issue, public offering, and sales conditions of capital market instruments, the Board has the authority to temporarily suspend the public offering and sales of capital market instruments when required by public interest (Article 22). However, the law does not establish either what situations may be considered "public interest" or the scope and limitations of the exception.

THE BANKING REGULATION AND SUPERVISION AGENCY

The duty of the Banking Regulation and Supervision Agency (*Bankacılık Düzenleme ve Denetleme Kurulu*, BDDK) is to regulate, monitor, and oversee the banking sector in order to ensure confidence and stability in financial markets, the effective functioning of the loan system, and the development of the financial sector.

Contrary to the requirements of the guarantee of independence, allowing the dismissal of the members of the BBDK in the event that they are tried for crimes against the security of the state, the constitutional order and its functioning, national security, espionage, and state secrets,[26] on the basis of a decision by the Cabinet of Ministers, results in getting further away from achieving the independence of institutions from political rule (Article 85).

Upon request, public bodies and institutions, real and legal entities, are held responsible for providing independent oversight, rating, and support service to organizations with information and documents of all sorts within the scope of duty and authority of the BBDK, even if confidential in nature, and for providing all necessary assistance. In this event, restricting and prohibiting clauses in special laws are not taken into consideration. However, *"in cases where serious consequences may arise for state security and its fundamental foreign interests, clauses concerning professional secrets, the right to secrecy and to the defense of family life"* in special laws were excluded from this responsibility (Article 96). "State security" thus has become an important reason for restriction in the BBDK's use of its authority.

THE TELECOMMUNICATION AUTHORITY

Following the privatization of Türk Telekom, in line with the European Union harmonization process, the Telecommunications Authority (*Telekomünikasyon Kurumu*, TK) was established as an independent regulatory body to oversee the telecommunications sector. The Regulation on the Telecommunications Authority includes *"the principle of giving priority to the requirements of national security and public order and to emergency needs,"* among the principles that the TK should base its telecommunication operations, management, and regulations on (Article 31).

THE PUBLIC PROCUREMENT AUTHORITY

The Public Procurement Authority was established as a public entity with administrative and financial autonomy by Law No. 4734 on Public Procurements,[27] with the aim of ensuring harmonization with EU regulations in the field of public procurement. Exceptions concerning the procurement of goods and services within the scope of this law include: "the procurement of vehicles, arms, arms equipment and systems such as aircraft, helicopters, ships, submarines, tanks, panzers, rockets, missiles and warfare equipment, the secrecy of which, in line with defense, security and intelligence legislation, is to be approved by the procurement authority for every procurement; the procurement for research and development, training, production, modernization, software and ammunition related to the above and the goods and services concerning the supply for campaigns, maintenance, repairs and operation of the above, and the procurement of services, hardware, equipment and systems within the scope of state security and intelligence."

25 Article 17 of Law No. 2499, dated July 28, 1981 on Capital Markets, Official Gazette No. 17416, dated July 30, 1981.

26 Article 48/A, Paragraph No. 85 of Law No. 657, dated July 14, 1965 on Civil Servants, amended by Law No. 5728, dated January 23, 2008.

27 Article 53 of Law No. 4734, dated January 4, 2002 on Public Procurements, Official Gazette No. 24648, dated January 22, 2002.

TURKISH RADIO AND TELEVISION CORPORATION (TRT)

Although defined as an autonomous body, the TRT, which first began radio and television broadcasting in Turkey and had a monopoly on it for many years, is organized as a broadcasting corporation dependent on the central administration for management, broadcasting, operations, and finances, contrary to the fact that the TRT is defined as an autonomous corporation. The clauses of Law No. 2954 on Turkish Radio and Television[28] consolidate this situation. This law is among the regulations that were issued following the 1982 military *coup* and were excluded from jurisdictional oversight via Article 15 of the Constitution. A precursor to Law No. 3984, it also gives priority to national security from the point of view of broadcasting principles. It limits the corporation's broadcasting activities with broad, abstract, and indefinite statements such as "being loyal to the Constitution in word and spirit; protecting and safeguarding the indivisible unity of the state with its territory and nation, the national sovereignty, the Republic, public order, public peace and public interest," *"strengthening the principles and reforms of Atatürk, achieving national objectives that call for raising the Republic of Turkey above the level of contemporary civilizations," "complying with the requirements of national security policy and of the state's national and economic interests," "not featuring the propaganda of regimes and ideologies that aim to establish a state order that is based on achieving the management of the state by a person or by a class, or the sovereignty of one social class over another social class, or the abolishment of the state and of the state authority, or creating discrimination based on language, race, religion or sects, or in any other way on these concepts and views," "respecting the requirements of public morality, national traditions and spiritual values"* and *"complying with the fundamental views, objectives and principles of Turkish national education."*

The framework established through these broadcasting principles is maintained also in the clauses that regulate the duties of the TRT. The duties include "education, educational and entertainment broadcasts of all types on domestic news, culture, science, art, entertainment and similar subjects," as well as:

1. strengthening the principles and reforms of Atatürk, achieving national objectives that call for raising the Republic of Turkey above the level of contemporary civilizations;
2. protecting and strengthening the entity and independence of the state, the indivisible unity of the country and nation, the peace of society and the characteristics of the democratic, secular, and social state of law based on the concepts of national solidarity and justice, respect for human rights, and Kemalist nationality;
3. consolidating national education and national culture;
4. protecting national security policy and the national and economic interests of the state;
5. assisting the free and healthy formation of public opinion in line with constitutional principles."

The authority to represent the corporation lies with the Director General of the TRT, who is selected from among three candidates put forward by the RTÜK and is appointed by the Cabinet of Ministers. The Director General can be dismissed in the same method and for reasons stated in the law. *"Cases necessitated by national security and public order"* constitute one such reason.

The clause allowing for the formation of temporary advisory committees with the aim of establishing public views and wishes on radio and television broadcasts, conducting scientific and technical research, or requiring special expertise in certain matters, as part of the duties of the corporation, states that *"consultancy regarding national security will be provided by the General Secretariat of the National Security Council."*

The TRT is responsible for broadcasting government declarations "on the condition that it is binding on the government." That is why during the broadcast it is stated that this is a declaration by the government and the text of the declaration needs to be presented with a written request for broadcast by the Officer of the Prime Minister and needs to bear the signature of the authorities. Similarly, the TRT is responsible for broadcasting government decisions "in cases of emergency, martial law, mobilization, and state of war."[29] In this case, a written request bearing the signature of the Prime Minister or a Minister appointed by the Prime Minister is sufficient.

The concept of "national security" that influences the law becomes dominant through a regulation concerning the prohibition of broadcasts: "The Prime Minister or a

28 Law No. 2954, dated November 11, 1983 on Turkish Radio and Television, Official Gazette No. 18221, dated November 14, 1983.

29 Article 18/2.

minister appointed by the Prime Minister has the authority to prohibit a news item or broadcast when explicitly required by national security." As a rule the prohibition needs to be in writing, but in cases of emergency, it may be conveyed verbally, on the condition that a decision in writing is sent as soon as possible thereafter. It is also clear that the sensitivities of the TSK are taken into consideration concerning the oversight of broadcasts. As a rule, prior to the broadcast, no radio or television broadcast can be overseen by any person or body outside the corporation, but an absolute exception exists for *"the approval of the Office of the Chief of General Staff is sought concerning broadcasts on the Turkish Armed Forces."*

INTERNET-RELATED CRIMES

The first regulation concerning the investigation and prosecution of internet-related crimes and related sanctions was introduced by Law No. 5651 on May 4, 2007.[30] Until the introduction of this regulation, legal action on internet-related crimes used to be based on the Turkish Penal Code's general provisions, resulting in claims that freedom of expression, thought, and opinion were arbitrarily and unlawfully restricted. However, this expectation did not materialize, because both the courts and the General Directorate of Telecommunications and Communications (*Telekomünikasyon İletişim Başkanlığı*, TİB) continued to issue decisions preventing access on the basis of both the aforementioned law and the Turkish Penal Code. Although the crimes have been listed and established by Law No. 5651, the fact that in practice decisions to prevent access are made on the basis of crimes not included in the law has demonstrated that there is a strong tendency to restrict freedoms. The law too plays a role in this situation, in that it has not prescribed a specialized court and it has granted authority to all courts of peace.

One of the articles of the Constitution that is referred to as the basis for Law No. 5651 is Article 58: "The State takes precautions to ensure that young people, in whom our independence and our Republic are entrusted, are brought up in line with positive sciences, and the principles and reforms of Atatürk, and against views that aim to abolish the indivisible unity of the state with its territory and its nation."

According to this law, internet-related crimes are divided into two groups. While the first group includes "crimes of incitement to suicide, sexual abuse of children, facilitation of the use of narcotics or other stimulants, provision of substances that are health-endangering, obscenity, prostitution, and the provision of venue and opportunity for gambling," as regulated by the Turkish Penal Code, the second group includes crimes within the scope of Law No. 5816, dated 1951, on Crimes Against Atatürk: "public defamation and curses against Atatürk's memory; and damaging, destroying, ruining, or defiling statues, busts, and monuments representing Atatürk and Atatürk's mausoleum." In the event that such crimes are committed, the law stipulates a sanction in the form of the prevention of access to the internet. "The existence of probable cause to suspect" the commission of these crimes is sufficient for the application of a sanction.

The TİB implements decisions of a protective and administrative nature to prevent access to the internet. The TİB, a unit of the Telecommunications Authority, includes representatives from the National Intelligence Service, the General Command of the Gendarmerie, and the General Directorate of Security. Apart from duties such as conducting from a single center the detection and interception of communications, and the evaluation and recording of signal information, overseeing the compliance of these operations with legislation and monitoring broadcasts realized on the internet, the TİB is also responsible for examining complaints made by persons or institutions from a technical and legal point of view in its complaints center and, in the event that sufficient cause is established, for preventing access to the internet on the basis of administrative decisions or court decisions.

The fact that the authority to prevent access lies with the administration, which includes representatives of security units within the TİB, had led to criteria for preventing access to the internet that are based on prejudices and therefore risk being used arbitrarily. In fact, between May 23, 2007, when the law came into force, and April 18, 2008, 197 prevention decisions were made by the TİB and 124 prevention decisions were made by the courts.[31] Although the introduction of judicial oversight of the administration's authority to prevent access to the internet is a positive development, in practice it does not result in effective protection.

Since 2007, decisions about the prevention of access to some internet sites has caused a great deal of debate.

30 Law No. 5651, dated May 4, 2007, on the Regulation of Broadcasts in the Internet Environment and on the Fight against Crimes Committed through These Broadcasts, Official Gazette No. 26530, dated May 23, 2007.

31 Füsun S. Nebil, "5651 dışı site kapatmalarında sorun var" (The problem of prevention of access to websites outside the scope of Law 5651), 2008.

The best known of these prohibitions is the one regarding the video-share website "youtube." The first decision to prevent access to "youtube" was taken in March 2007, before Law No. 5651 came into force, on the grounds of "defamation of Atatürk and of other sacred values." In October 2007, access to the site was prevented once again, because of videos "that contained libelous statements on Atatürk, the Turkish Army, the Prime Minister, and the President of the Republic." This was followed by a decision to prevent access to video clips "that praise attacks by the PKK and carry out terrorist propaganda." A total of 17 decisions were made between March 2007 and June 2008 to prevent access to "youtube" for similar reasons. The prevention decision made regarding the website "istanbul.indymedia.org" constitutes another interesting example. Access to the site was prevented by a March 2008 court decision on the grounds that the site "insulted Turkishness," as defined by Article 201 of the Turkish Penal Code. Initially the Gaziantep Araban Criminal Court of Peace was thought to be the source of the prevention decision. Later on, research conducted by "indymedia" revealed that the decision was made by the Military Court of the Office of the Chief of General Staff. Prevention decisions have also been made regarding many sites because of "propaganda in favor of the PKK," a crime not included in the Law No. 5651.[32]

PROFESSIONAL ASSOCIATIONS QUALIFYING AS PUBLIC ENTITIES

According to the Constitution of 1982, professional associations and higher organizations qualifying as public entities are defined as "organs established by law, with the aim of meeting the needs of the members of a particular profession, facilitating their professional activities, ensuring that the profession develops in line with general interests, protecting professional discipline and ethics with the objective of ensuring that honesty and trust prevail on relations among members of the profession and between them and the public" (Article 135). While members of a profession are obliged as a rule to be members of a professional association in order to pursue their professional activities, members of a profession working for the public are not subject to this obligation. This article, which has a national security exemption, stipulates that "in cases where national security and public order require that the commitment of a crime or its continuation be prevented or that the culprits be apprehended," and there are drawbacks from a possible delay, the authorities may be granted by law the power to suspend professional associations or higher organizations and decisions issued by these authorities may be presented for ratification by a judge within twenty-four hours. Because of the ambiguity of the concepts, governors, district governors, chiefs of police, military authorities and all other types of administrative authority have been allowed to ban the activity of professional associations on arbitrary grounds. In fact, the Law on the Union of Chambers of Turkish Engineers and Architects (*Türkiye Mühendis Mimar Odaları Birliği*, TMMOB)[33] stipulates that at the request of the Minister of Public Works and Settlement and the relevant Chief Prosecutor of the Republic, civil courts are granted authority to dismiss the organs of unions and chambers that engage in activities outside their objectives and to select new organs; however, *"if there are drawbacks from a possible delay in cases where national security and public order require that the commitment of a crime or its continuation is to be prevented or that culprits be apprehended,"* governors may prohibit the activities of associations and chambers. This provision refers also to jurisdictional oversight (Additional Article 4). The fact that jurisdictional oversight has been prescribed for the above method, according to which practices that are dependent on extraordinary conditions become ordinary, is still not sufficient to guarantee the freedoms of organization and activity.

This national security approach has not only affected the independence of organizations and their freedom of activity, but has also turned into a serious obstacle for membership in a profession and for the recruitment of personnel for professional associations. The conditions stated in the laws on the establishment of professional associations include criteria based on national security. The same approach has unfortunately influenced the 2008 amendment to laws on various professional associations. Law No. 5728, which came into force in early 2008,[34] has added the condition of not having been sentenced "for crimes against state security and for crimes against the constitutional order and its functioning" to the conditions required for obtaining employment in many professions. People who have been sentenced for crimes concerning

32 Yaman Akdeniz and Kerem Altıparmak, *İnternet: Girilmesi Tehlikeli ve Yasaktır – Türkiye'de İnternet İçerik Düzenlemesi ve Sansürüne İlişkin Eleştirel Bir Değerlendirme* (Internet – Entry is Dangerous and Forbidden – A Critical Assessment of the Regulation and Censorship of Internet Content in Turkey).

33 Law No. 6235, dated January 27, 1954, on the Union of Chambers of Turkish Engineers and Architects, Official Gazette No. 8625, dated February 4, 1954.

34 Law No. 5728, dated January 23, 2008, on the Amendment of Various Laws on the Harmonization of Fundamental Penal Laws and of Other Legislative Changes, Official Gazette No. 26781, dated February 8, 2008.

national security are therefore deprived of the right to carry out certain professions. Since the amendment also includes Article 48 of the Law on Civil Servants, its scope was not limited to the professions listed in Law No. 5728. All the laws and professions that refer to this article have been affected by this amendment from the point of view of conditions of professional membership. Accordingly, those who wish to become civil servants, doctors, dentists, veterinarians, pharmacists, lawyers, notaries, topography and land survey engineers, and those who wish to establish licensed topography and land survey offices, as well as those working in chambers, the stock market, and unions, and those seeking to be elected as chairman and member of boards of management or of oversight and discipline of professional associations of tradesmen and craftsmen must meet this requirement. Furthermore, the same prerequisite is also demanded of numerous other professions: private security officers, founders of unions, founders of individual retirement companies, persons with authority to administer, commit, and represent real or legal entities planning to open private employment offices, the general secretary of the stock market, members of provincial commissions and special commissions concerning tax rates, alterations and agricultural earnings (except for officials), the founding partners and managers with representative authority of real and legal entities to receive license for civil aviation, representatives for labor and management to join the High Board of Arbitration, owners of travel agencies, members of boards of management and authorized managers of travel agencies with legal entity, members of boards of management of cooperatives, operators of licensed storage, partners, managers and auditors of licensed storage, founders of capital market brokers, and founders of investment partnerships.

VARIOUS LAWS

The Law on Political Parties[35] defines political parties as legal entities that ensure that national will is realized through parliamentary and local elections. However, the clauses following this definition contain numerous restrictions.

The clause that emphasizes that political parties are an indispensable element of a democratic political life goes on to create a broad field of exceptions through repetitive and emphatic statements; for example, "to carry out their work on the basis of the principles and reforms of Atatürk," the founding of political parties, and "the election, functioning, activities and decisions of their organs, must not be in conflict with the principles of democracy as stated in the Constitution." This has become a field where the freedom of political activity is established by exceptions, rather than by rules.

An important security-driven restriction concerns the conditions of membership in political parties. As a rule, all Turkish citizens who are eighteen years or older and who have the competence to use their civil and political rights can become members of political parties. However, there are two exceptions. The first consists of all members of security forces and of the judiciary: "judges and prosecutors, members of supreme judicial powers, including the Court of Accounts, civil servants working in all public bodies and institutions, other government employees who are not qualified as workers from the point of view of their services, members of the Armed Forces and students at pre-higher education level." The second case consists of people who have been convicted of crimes against state security. In this context, people who have been convicted of "crimes of disclosure of state secrets," "crimes against state security or the crime of openly inciting the commitment of these crimes," and "terrorist actions" cannot become members of political parties.

National security occupies a place of primary importance within regulations that ban political parties, which fall under three main categories. Under the heading of bans regarding the objectives and activities of political parties, there is language justifying "bans concerning the preservation of the democratic state order." Under the heading of preserving the national character of the state, "the protection of the principles and reforms of Atatürk," and "respect to Atatürk,", there are bans on political parties justified by the "protection of independence," "the protection of the principle of unity of the state," "the prevention of the creation of minorities," and "bans concerning regionalism and racism." Under the heading of preserving the principles and reforms of Atatürk and the secular nature of the state, there are clauses regarding "the preservation of the principle of secularity and the rejection of the caliphate," "the ban concerning the abuse of religion and of things considered sacred by religion," "the ban on religious demonstrations," and "the preservation of the Ministry of Religious Affairs." Examining the contents of these headings, it becomes clear that the foundation, functioning, and activities

35 Law No. 2820, dated April 22, 1983, on Political Parties, Official Gazette No. 18027, dated April 24, 1983; amended by Law No. 5341, dated April 29, 2005, Official Gazette No. 25808, dated May 7, 2005.

of political parties are restricted on the basis of the fundamental characteristics of the Republic as stated in the Constitution, of the elements forming national security policy, and much more. These restrictions have reached such a level that the activities of political parties have been confined within an area of exceptions dominated by bans.

Failure to comply with these bans concerning political parties is listed among the reasons on which the Constitutional Court bases its decision to dissolve political parties. In the event that the Constitutional Court determines that "the bylaw and program of a political party is in conflict with the independence of the State and the indivisible unity of its territory and its nation, with human rights, the principles of equality and of the state of law, the sovereignty of the nation and the principles of a democratic and secular republic, that it aims to defend or establish a dictatorship based on class or group, or any other kind of dictatorship and that it incites to commit crimes" and "that it has been determined that it has carried out activities that are in conflict with Article 68, Paragraph 4 of the Constitution and that it has become a center for such activities," it can decide on the dissolution of the party, or, instead of its dissolution, in line with the severity of the action in question, it can decide that the political party can be deprived partly, on condition of no less than half, or completely of the state aid it has received over the last year, and if the aid has already been paid, that the part decided on is returned to the Treasury.

Similarly, in the event that party organs, authorities, or councils other than its leader and assembly carry out actions that are in conflict with the clauses in Article 68 of the Constitution, the party is requested by the Chief Prosecutor of the Republic to dismiss the offending body. Moreover, if party members are convicted for actions and speeches within the same scope, the party is ordered by the Chief Prosecutor of the Republic to dismiss these members from the party.[36] Political parties that do not perform the request of the Chief Prosecutor of the Republic within 30 days are tried by the Constitutional Court, with the demand that they are deprived partly or completely of the aid they receive from the treasury. If the request is fulfilled during the trial, the case is dismissed.

The Turkish Criminal Law No. 5237 (*Türk Ceza Kanunu*, TCK)[37] has maintained its tradition to protect the state and its institutions in an extreme way, as was the case with Law No. 765. "Crimes against the person of the state" and related penalties in the old law have been transferred to the new law, under the heading "crimes against the nation and against the state."

The expressions "the person of the state" and "the forces of the state," adopted as legal values to be protected in the old law, have been omitted in the new law. These have been replaced with expressions of broader scope focused on state security, such as "public peace," "the nation," "the state," "Turkishness, "the institutions and organs of the state," "symbols and organs of sovereignty," "national defense," "state secret," and "constitutional order and its functioning," all of which have been adopted as legal values to be protected. The repetition of these abstract expressions at every possible opportunity and their association with extreme punishments is a reflection of the perception of threats against domestic and foreign security.

This approach is first displayed in the first clause that regulates the objective of the law. This clause establishes the framework of the law as, "the protection of individual rights and freedoms, *of public order and security*, of the state of law, of public health and the environment, *of public peace* and *the prevention of crimes*." This obvious emphasis on the protection of public order and security is also reflected in the systematics of the law and in the diversity of crimes.

When examined as a whole, security-driven clauses are a predominant part of the law, which consists of 345 articles (75 general clauses and 270 clauses regulating crimes). There are 98 articles on the regulation of crimes solely in part four of the second book of the Law. Adding the special clauses protecting civil servants, public property, state security, and related exceptions to the general clauses, the law essentially becomes a law to protect state security. The approach towards crimes that were listed under the heading of "crimes against the person of the state" in the previous law was maintained as before.

The main crimes listed in Book Two, Section Three, Part Five of the TCK and under eight parts in Section Four are as follows:

36 Article 102/2; Addition: Law No. 4445, dated August 12, 1999, article 17; amended by Law No. 4748, dated March 26, 2002, article 4.

37 Turkish Penal Code No. 5237, dated September 26, 2004, Official Gazette No. 25611, dated October 12, 2004, enacted on June 1, 2005.

1. Crimes against public peace (Book Two, Section Three, Part Five):

   Threats aiming to cause fear and panic among the public (Article 213); instigation to commit crimes (Article 214); praise of crimes and criminals (Article 215); instigation of hate and enmity among the public and the belittlement of the public (Article 216); incitation of the public not to abide by the laws (Article 217); forming an organization with the aim of committing crimes (Article 220); the hat reform[38] and the Turkish alphabet reform (Article 222);

2. Crimes against the nation and against the state (Book Two, Section Four):

   Showing resistance in order to prevent the fulfillment of a duty (Article 265); disclosure of secrets concerning a duty (Article 258); attempting to influence fairness of trial (Article 288); insulting the President of the Republic (Article 299); belittling the symbols of sovereignty of the state (Article 300); belittling Turkishness, the Republic, the institutions and organs of the state (Article 301); disrupting the unity of the state and of the country (Article 302); cooperating with the enemy (Article 303); instigating a war against the state (Article 304); gaining advantage from conducting activities against fundamental national interests (Article 305); recruiting soldiers for a foreign state (Article 306); destroying military facilities and reaching an accord in the interest of military movements of the enemy (Article 307); providing material and financial assistance to enemy states (Article 308); violating the Constitution (Article 309); carrying out assassination attempts and *de facto* attacks against the President of the Republic (Article 310); committing crimes against the legislative power (Article 311); committing crimes against the government (Article 312); carrying out an armed rebellion against the government of the Republic of Turkey (Article 313); forming armed organizations (Article 314); procuring arms (Article 315); reaching an accord in order to commit a crime (Article 316); seizing military commands (Article 317); alienating the public from military service (Article 318); inciting soldiers to insubordination (Article 319); recruiting soldiers on behalf of foreign states (Article 320); disobeying orders during wartime (Article 321); failure to fulfill responsibilities during wartime (Article 322); spreading false news during wartime (Article 323); neglect of duties concerning mobilization (Article 324); accepting titles and similar distinctions from the enemy (Article 325); possessing documents concerning state security (Article 326); obtaining information concerning state security (Article 327); economic and military espionage (Article 328); disclosing information concerning the security and political interests of the state (Article 329); disclosing information that should be classified (Article 330); international espionage (Article 331); entering prohibited military zones (Article 332); taking advantage of state secrets, disloyalty in the service of the state (Article 333); obtaining secret information (Article 334); using secret information for purposes of espionage (Article 335); disclosing secret information (Article 336); disclosing secret information for purposes of economic or military espionage (Article 337); committing acts of espionage as a consequence of negligence (Article 338); and possessing documents concerning state security (Article 339).

Clauses where crimes concerning the security of the state and its institutions are regulated as exceptions are as follows:

- **Jurisdiction of the law:** While in general the punishment of crimes committed by Turkish citizens in foreign countries and with a minimum penalty of at least one year depends on those citizens' presence in Turkey, their not being convicted for that crime in any foreign country, and their ability to be prosecuted in Turkey, according to Turkish law *ex officio* legal action is taken against these crimes. As a rule, foreigners committing the same crimes in Turkey are punished in accordance with Turkish laws, on the grounds that they cause injury to Turkey, they are in Turkey, and the Ministry of Justice allows their trial. However, in the case of "crimes against the symbols of sovereignty of the state," "crimes against state security," "crimes against the constitutional order and its functioning," "crimes against national security," "crimes against state secrets and espionage," and "crimes against relations with foreign countries," legal action is taken according to Turkish laws.

- **Extradition of criminals:** according to law, foreigners under criminal investigation or who are convicted of a crime committed in a foreign country may be extradited on the request of the relevant country. However, if these persons have committed an act

38 The modernization reform in 1925 making wearing western type of hats obligatory in order to prevent use of fez.

"qualifying as a crime of thought or a political or military crime" has caused injury to the Turkish state, a Turkish citizen, or a legal entity established under Turkish law, the extradition request is not honored.

- **Application of foreign laws:** As a rule, when criminal action is brought in Turkey for crimes committed outside the Turkish jurisdiction, the penalty to be applied can only be as severe as the maximum penalty prescribed by the laws of the country where the crime was committed. However, in the event that the crime "is against or causes injury to Turkey's security," the penalty can exceed the maximum permitted.

- **Confiscation of criminal objects:** As a rule, objects used to commit a crime or arising from a crime are confiscated. However, in the event that they endanger public security, public health or public morality, objects intended for the commission of a crime are also confiscated.

- **Statute of limitations for criminal penalties:** Penalties cannot be executed if the statute of limitations has expired. However, in the event that "crimes against the credibility and functioning of public administration," "crimes against the judiciary," "crimes against the symbols of sovereignty of the state and against the respectability of its organs," "crimes against state security," "crimes against the constitutional order and its functioning," "crimes against national security," "crimes against state secrets and espionage," and "crimes against relations with foreign states" -- all within the scope of "crimes against the nation and against the state" and regulated in Book Two, Section Four -- are committed abroad, aggravated life sentences, life sentences, and prison sentences of over ten years are not subject to the statute of limitations.

Although judicial immunity is generally required in criminal investigations and prosecutions, in the regulation of matters concerning criminal action, **the Code of Criminal Procedure No. 5271**[39] frequently contains exceptions that allow the intervention of security forces via ambiguous expressions such as "being caught red-handed," "drawbacks from a possible delay," and "reasonable doubt." However, here we will draw attention to clauses containing "security exceptions," rather than the above, which constitute an important and extensive area of exceptions.

- **Transfer of cases:** There are two exceptions to the rule that prosecution should be carried out by competent or authorized courts. According to one exception, in the event that doing so would pose a danger to public security, at the request of the Ministry of Justice, the case can be transferred elsewhere by the Court of Appeals.

- **Testimony concerning information that constitutes a state secret:** Information concerning a crime cannot be kept secret from the courts on the grounds that it constitutes a state secret. Within this context, "information, the disclosure of which may harm foreign relations, national security, and security of the state and that may pose a danger to the constitutional order and the foreign relations of the state is considered a state secret." If information upon which testimony will be heard constitutes a state secret, the witness's testimony is heard only by the court judge or board, in the absence of the court clerk; of the witness's testimony, only the information that will clarify the crime is recorded in the minutes. When the testimony of the President of the Republic is in question, the issue of the quality of the secret and whether it should be revealed to the court is left to his/her discretion.

- **Reasons for arrest:** Two conditions need to be fulfilled for an arrest warrant to be issued: facts strongly indicating that a crime was committed and grounds for arrest. However, for "crimes against state security" and "crimes against the constitutional order and its functioning," the presence of facts strongly indicating a crime was committed – without grounds for arrest – may be sufficient for an arrest warrant to be issued. In other words, in cases where these crimes are committed and strong suspicion exist concerning the commitment of the crime, "grounds for an arrest" can be considered to exist and an arrest warrant can be issued.[40]

- **Search warrants:** As a rule, searches are carried out by police forces on the basis of a judicial order. In the event that there are drawbacks from a possible delay, searches can be conducted without judicial approval on the basis of a written order by the Prosecutor of the Republic, and where he cannot be reached, the Chief of the Police. However, "searches in military

39 Law No. 5271, dated December 4, 2004 on the Code of Criminal Procedure, Official Gazette No. 25673, dated December 17, 2004, entered into force on June 1, 2005.

40 Code of Criminal Procedure, Article 100.

locations are carried out by military authorities, at the request of the Prosecutor of the Republic and with his participation."

- **Authorization to order seizures:** As a rule, the authority to confiscate criminal objects belongs to judges. In the event that there are drawbacks from a possible delay, confiscation is carried out by police forces, by the written order of the Prosecutor of the Republic, and where he cannot be reached, of the Chief of the Police. However, "confiscation in military locations is carried out by military authorities, on the request of the Prosecutor of the Republic and with his participation."
- **Seizure of immovable properties, rights, and debts:** Crimes "against state security," "concerning armed organizations," and "against state secrets and espionage," in the event that there exists grounds for suspicion concerning the commitment of a crime and that immovable properties, rights, and debts have been obtained as a result, these can be confiscated even if they are being used by others.
- **Appointment of a trustee for the management of a company:** For "crimes against state secrets and espionage" and "forming an armed organization or providing arms for such an organization," a trustee can be appointed by the judge or the court to conduct the company's activities, on the condition that "there is strong suspicion that a crime was committed within the framework of a company's activity and that this is necessary in order to expose the material facts."
- **Establishment, interception and recording of communications:** The telecommunications of a defendant or a culprit can be intercepted by judiciary decision on condition that there is strong suspicion that a crime is committed and that it is not possible to obtain evidence in any other way, and by the decision of the Prosecutor of the Republic in the case that there are drawbacks from possible delays. Provisions concerning the interception, recording, and assessment of signal information can be applied concerning crimes such as "forming an armed organization or providing arms for such an organization" and "crimes against state secrets and espionage." The communication of defendants or culprits cannot be intercepted or recorded for crimes not listed in these provisions.
- **Appointment of covert investigators:** civil servants can be appointed as covert investigators by a judicial decision in cases such as "forming an armed organization or providing arms for such an organization" or "forming an organization with the intention of committing a crime," and "in cases where there is strong suspicion that a crime has been committed and where evidence cannot be obtained in any other way," and by the decision of the Prosecutor of the Republic when there are drawbacks from possible delays.
- **Monitoring via technical equipment:** The activities and workplaces of defendants and culprits in public spaces can be monitored via technical equipment and sound or image recordings can be made by judicial order in cases where there is "strong suspicion that a crime has been committed and it is not possible to obtain evidence in any other way," concerning crimes including "forming an armed organization or providing arms for such an organization" and "crimes against state secrets and espionage," and by decision of the Prosecutor of the Republic when there are drawbacks from a possible delay.
- **Banning of advocacy:** If lawyers who represent or advocate on behalf of detainees or convicts for "forming an organization with the intent to commit a crime," "forming armed organizations," and "crimes of terrorism" are prosecuted for those same crimes, they can be banned from assuming the legal defense of detainees or convicts. On the request of the Prosecutor of the Republic, the decision to ban the advocate or legal representative is issued without delay by the court that conducts the prosecution. Lawyers who are banned from carrying out advocacy cannot visit detainees or convicts in penal institutions or prisons throughout the period of the ban, even if these are related to other trials.
- **Public trials:** As a rule, all trials are open to the public. However, "in cases [where it is] required by public morality or public security," the trial, in part or in its entirety, can be closed by court decision. The trial where the request to close the trial to the public is heard can also be closed to the public on request or by court decision.
- **Banning the broadcast of trials:** The court may permit certain persons to be present in trials that are closed to the public, warning them not to disclose any of the subjects that require that the trial be closed to the public. The contents of a closed trial cannot be broadcast in any way. Similarly, "if the contents of an open trial may harm national security or public

morality or the respectability, honor, and rights of individuals or may instigate to commit crimes," the court decides to ban the broadcast the content of the trial, in part or whole, to the degree that is required.

- **Confiscation for purposes of compelling defendants and for guarantee letters:** For "crimes against state security," "forming an armed organization or providing arms for such an organization," and "crimes against state secrets and espionage," the property, rights, and debts in Turkey of fugitive defendants can be confiscated in proportion to the objective and a trustee can be appointed for their management in order to compel them to come to court.
- **Trials concerning certain crimes:** At the request of the Ministry of Justice, trials for crimes referred to in Book Two, Section Four of the law, including "crimes against state security," "crimes against the constitutional order and its functioning," "crimes against national security," and "crimes against state secrets and espionage," are heard in specially authorized high criminal courts appointed by the Supreme Council of Judges and Prosecutors. Those who commit the above crimes are tried by these courts, regardless of their title or employment positions. However, provisions concerning persons to be prosecuted by the Constitutional Court and the Court of Appeals and provisions concerning the duties of military courts during times of both war and martial law are reserved. Accordingly, provisions concerning specially authorized courts do not affect situations within the jurisdiction of the Constitutional Court, the Court of Appeals, and military courts.

The investigation and prosecution methods of specially authorized high criminal courts are different from the rules and methods for investigating and prosecuting other crimes. The detention period, generally twenty-four hours, is forty-eight hours for crimes under these courts' jurisdiction. In regions where a state of emergency has been declared, the maximum detention period, usually four days for collective crimes, can be extended to seven days. If a crime has been committed in a military location, the Prosecutor of the Republic may request that the relevant military prosecution office conduct an investigation, and this request is fulfilled by military prosecution offices in haste and as a top priority. In the event that court requests are made to battalions, military quarters, and institutions of the Turkish Armed Forces, these requests are fulfilled after having been evaluated by the authorized military authorities. From the point of view of prosecutions, hearings of these cases are considered urgent business and take place even during judicial recess. The court can also decide that a hearing should be held elsewhere for security reasons. Following decisions of this kind, hearings take place elsewhere. Apart from the broadcasting bans regulated by law, the court can also establish broadcasting bans concerning "verbal or written statements and behavior that disrupt the order and discipline of hearings" and "words and behavior that contain defamation or insults directed at the court board and its members, at the prosecutor, the lawyers, the clerk or the employees."[41]

Law No. 5275 on the Execution of Penalties and Security Measures[42] is one of the laws that most reflects security policy. According to the new execution system, the security of the institution is a matter of priority. The types of penal institutions and the conditions under which detainees and convicts are held have been regulated in accordance with this law. The following are the most important, frequently used provisions and restrictions, which contain expressions such as "on security grounds," "the security of the penal institution," "ensuring peace and discipline," "ensuring security and discipline," and "the internal order of the institution":

The responsibility of convicts to serve sentences and to comply with the security and improvement program (Article 26); the internal security of institutions (Article 33); the character of disciplinary punishments and the implementation conditions (Article 37); disciplinary investigations (Article 47); transfers (Article 53); transfers for disciplinary reasons (Article 55); transfers for obligatory reasons (Article 56); the right to benefit from periodical or non-periodical publications (Article 62); the housing and accommodation of convicts (Article 63); the clothing of convicts (Article 65); freedom of religion and conscience (Article 70); prison visits by commissions (Article 85); principles to be followed during visits and meetings (Article 86); the determination of good conduct for releases on probation (Article 89); the housing of detainees (Article 113); restriction measures for detainees (Article 115); and the responsibilities of detainees (Article 116).

As in the case of sentence execution regimes, criminal law, and criminal procedures, crimes committed against the state are subject to special methods and harsher conditions of execution. The provisions of this law that concern security policy are as follows:

41 Code of Criminal Procedure, Article 252.

42 Law No. 5275, dated December 13, 2004 on the Execution of Punishments and Security Measures, Official Gazette No. 25685, dated December 29, 2004, entered into force on May 1, 2005.

- Maximum security closed prisons: these are prisons where detainees and convicts "who are subject to a tight security regime that involves internal and external security officers and all kinds of technical, mechanical, electronic, and physical obstacles, where room and corridor doors are kept shut, and where contacts among detainees from different rooms and with the external environment are only possible in cases determined by legislation" are housed in rooms for one or three people. Prisons of this kind contain convicts "who are sentenced to aggravated life imprisonment" and persons detained and convicted for crimes such as "crimes against state security" and "crimes against the constitutional order and its functioning."

- **The observation and classification of convicts:** convicts are subject to observation and assessment, in observation and classification centers or in places intended for this objective, with the aim of being assigned to penal institutions appropriate to their conditions and of establishing the sentence execution and improvement regimes to which they should be subject, and in order to determine their individual characteristics, physical, mental, and health conditions, their lives before they committed a crime, their social environment and relations, their artistic or professional activities, their ethical tendencies, their views on crime, their period of conviction, and the type of crime. However, provisions concerning the observation of convicts and the classification of prisons are not applied in the case of military prisons and the convicts held here.

- **Meetings with lawyers:** As a rule, lawyers' documents and files concerning the defense and notes of the meetings that take place with their clients in penal institutions are not subject to examination. However there is an exception to this rule for three groups of crimes: "forming an organization with the intent to commit a crime," "crimes against state security," and "crimes against the constitutional order and its functioning." Contact between convicts sentenced for these crimes and their lawyers can be subject to restrictions at the request of the prosecutor and at the decision of the judge of execution, in the case of "discovery of findings and documents that indicate that the convict has performed acts that constitute crimes, has endangered the security of the penal institution and has acted as intermediary in the communication with organizational intent among members of a terrorist organization or of other criminal organizations." Restrictions can mean that an official is present at the meetings or that documents given by the convict to the lawyer or by the lawyer to these people are examined by the judge of execution. The judge of execution can decide to return the document, in part or whole, or not to return it all.

- **The right to communicate by telephone:** Detainees and convicts are permitted to communicate via pay phones that are under the control of the administration, within the framework of rules established by the bylaw. However, this right "can be restricted for dangerous convicts or convicts who are members of a criminal organization."

- **Making use of radio and television broadcasts and the internet:** In penal institutions that are equipped with central broadcast systems, detainees and convicts have the right to follow radio and television broadcasts. In institutions that do not have this system, independent antennas can be used to follow television and radio broadcasts, as long as measures are taken to prevent broadcasts that are not useful. Similarly, it is possible for a penal institution to buy computers, on the conditions that the ministry considers it appropriate and that the computers are used for educational and cultural purposes. When required by education and improvement programs, it is also possible to make use of the internet, but under supervision. However, all these rights may be restricted in the case of detainees and convicts who are "dangerous or members of criminal organizations."

- **The right to send and receive letters, faxes and telegrams:** Except for restricted cases, detainees and convicts have the right to receive letters, faxes, and telegrams and the right to send them, on condition that they pay for the service. However, "letters, faxes, and telegrams that endanger the peace and security of the institution, target officials, result in communication among members of a criminal organization with the purpose of terrorism or profit, and contain lies or erroneous information that may lead people or institutions to panic, or threats and insults," are not given to and cannot be sent by detainees and convicts.

- **Release on probation:** Convicts who display good conduct during the execution of their sentences can benefit from release on probation. As a rule, convicts sentenced to aggravated life imprisonment can benefit from probationary release after having served thirty years, convicts sentenced to life imprisonment

after having served twenty-four years, and convicts sentenced to other prison sentences after having served two-thirds of their sentences. In the case of convicts sentenced for "forming or managing an organization with the intent of committing crimes or committing crimes related to the activity of the organization," these periods are increased to thirty-six years for aggravated life imprisonment sentences, thirty years for life imprisonment sentences, and three-fourths for other prison sentences. However, release on probation is not applicable in the case of aggravated life imprisonment sentences given for "crimes against state security," "crimes against the constitutional order and its functioning," or "crimes against national security" that are committed within the framework of activities of a criminal organization. Convicts within this scope cannot benefit from the possibility of release on probation.

- **Execution of sentences for people performing their military service:** military penal institutions and houses of detention where sentences concerning military crimes and military disciplinary crimes are executed are subject to military legislation. The Law on the Execution of Punishments and Security Measures does not therefore apply to military penal institutions and houses of detention. The execution of measures to replace short-term prison sentences concerning private soldiers, petty officers, and non-commissioned officers who have committed crimes before or during their military services is postponed until after the completion of military service. Similarly, prison sentences given by courts of justice or military courts and that, according to the Law on Military Punishment, need to be executed in the Ministry of Justice's penal institutions for people who are imprisoned in military penal institutions and houses of detention for whatever crime, are executed in military penal institutions and houses of detention, through the suspension of their imprisonment.

The Law on the Amendment of Certain Laws and Statutory Decrees on the Regulation of the Implementation of Privatization includes the principles of "the creation of preferred stock to belong to the state in strategic matters" and "the non-devolution to public bodies and organizations and local administrations, except for cases required by national security and public interest" among the principles to be taken into consideration in the implementation of privatization.

Security matters occupy an important place within strategic matters. The creation of preferred stock on behalf of the state has therefore been prescribed in cases of privatization of matters that concern security, such as communications. Although the law states that devolution cannot be made to public bodies and organizations and local administrations, it excludes "cases required by national security and public interest" from this rule. Devolution to public bodies and organizations and local administrations is therefore possible in the implementation of privatization in cases that are required by national security and public interest.

As a rule, Article 35 of **the Law on Deeds,**[43] amended by Law No. 5444, dated December 29, 2005, permits real persons to purchase businesses and residences in Turkey on the condition of compliance with the principle of reciprocity and legal restrictions. The determination of reciprocity between Turkey and a foreign state is based on legal and de facto situations.

However, "the Cabinet of Ministers is authorized to establish areas that need to be protected because of characteristics related to irrigation, energy, agriculture, minerals, archaeological sites, and cultural features, areas for special protection, sensitive areas that need to be protected for reasons of flora and fauna, and *strategic areas* where real persons of foreign nationality and commercial companies with legal entity and established in foreign countries, in accordance with the laws of their country, cannot own real estate and restricted real rights *because of public interest and national security* [...] and the rate of real estate that real persons of foreign nationality can own per province." "Map values and coordinates of prohibited military areas, military and special security areas, strategic areas and amendment decisions [to be determined after the amendment of the law comes into force] are delivered without delay by the Ministry of National Defense to the Ministry to which the General Directorate of Land Registry and Cadastre is affiliated." The provisional article gives the Ministry of National Defense three months to provide this information. Land registry procedures to be fulfilled until the time when the Ministry provides information are carried out "by consulting military authorities" and in line with documents and information provided by military authorities.

43 Law No. 2644, dated December 22, 1934, Official Gazette No. 2892, dated December 29, 1934.

The Law on Turkish Citizenship[44] specifies the people "who commit acts not befitting loyalty to the motherland" and whose loss of citizenship will be decided by the Cabinet of Ministers. Accordingly, the Cabinet of Ministers decides to revoke citizenship from people "who provide a foreign state with any service that does not agree with Turkey's interests and who do not desist from this service within an appropriate period, on the condition that it is not less than three months, in spite of being notified by embassies or consulates abroad and by public administration authorities within the country that they need to quit this service;" "who willingly and without the permission of the government, continue to work in the service of a state which is at war with Turkey;" "who are abroad and do not comply within three months, without providing any excuses, with the summons by competent authorities to perform their non-commissioned military service or, in the case that war is declared in Turkey, to participate in the defense of the country even if abroad;" "who during conscription or after having joined their battalion escape abroad and do not return within the legal period;" and "members of the Armed Forces or persons who are performing their military service and are abroad on duty, on leave, on sick leave or for treatment and who, although their term is up, do not return within three months and without providing any excuses."

Security-driven reasons occupy an important place also among the grounds for loss of citizenship. "The Cabinet of Ministers decides on the revocation of citizenship for persons who have acquired Turkish citizenship subsequently and who are abroad but conduct activities against *the domestic and foreign security of the Republic of Turkey* and its economic and financial security, considered a crime by law, or who conduct activities of this kind within the country and go abroad for whatever reason and whom it is therefore impossible to bring to trial, to prosecute, or to have serve a sentence, and who do not return to Turkey in spite of a summons to return, *in cases of war, martial law, and state of emergency*." In the event that Turkey is at war, this provision is also applicable in the case of Turkish citizens by birth.

Article 29,[45] which regulates the consequences of loss of citizenship, contains an exception concerning national security and public order. As a rule, persons who lose their Turkish citizenship within the scope of the Law on Citizenship are subject to treatment as foreigners from the date of loss of citizenship. However, persons who are Turkish citizens by birth but who have obtained permission from the Ministry of Internal Affairs for themselves and their children to cease to be citizens, who are recorded in the document on the ending of citizenship, continue to hold responsibility to perform their military service and to benefit from all rights granted to Turkish citizens, except for the rights to elect and be elected, to be appointed to civil service, and to import vehicles or other goods, *"save for provisions concerning Turkey's national security and public order*." These children preserve their acquired rights concerning social security and from the point of view of the use of these rights they are subject to the relevant laws.

44 Law No. 403, dated February 11, 1964, on Turkish citizenship, Official Gazette No. 11638, dated February 22, 1964.

45 Law No. 5203, dated July 29, 2004, amended via article 1.

Military Jurisdiction[1]

Ümit Kardaş

HISTORICAL BACKGROUND OF MILITARY JURISDICTION IN TURKEY

The existence of military jurisdiction is constitutionally recognized in many countries.[2] The power to make decisions concerning the foundation and the scope of authority of military jurisdiction is generally left to the legislative power. Some countries, such as the Federal Republic of Germany, do not prescribe any military jurisdictional institution, at least at times of peace, while others, such as Austria, do not include military jurisdiction at all in the constitution. Still others, such as France and the Netherlands, are preparing to abolish military jurisdiction, or are appointing civilian judges to military courts in many other countries (civilianization). These measures are indications of the change that military jurisdiction is undergoing in the international sphere. Because of the prevalence of fundamental human rights and freedoms in the 21st century and the belief that the principle of independence of the judiciary means the guarantee of these rights and freedoms, military jurisdiction has become a frequent subject of debate.

In the Ottoman Empire, the military constituted a privileged class. It did not consist only of combatants and of persons employed in the service of the military, but covered all public servants. People who received a "charter" from the sultan and were appointed to the civil service became part of the "military."[3] A separate method was applicable in the trials of members of the military class and in the case of their murder with a political intent. In the event that a member of the military class carried out an act of persecution or failed in a duty, defendants were referred to a committee. If the member of the military class was a civil servant of importance, the committee was chaired by the Sultan himself. The role of the court was generally fulfilled by the Imperial Council (Divan-ı Hümayun). Trials concerning the military class did not comply completely with the rules of Islamic law. If the Sultan or his representative considered it necessary, they would conduct an investigation on their own initiative and would use their authority for "political death sentences," without feeling the need for a fatwa. This state of affairs led to many unlawful practices, unfair sentences, and executions in Ottoman history. Janissaries[4] affiliated with the central administration could only be punished by their own commanders and within their own barracks. Even the Vizier, whose jurisdictional power was above that of everyone else, could not punish janissaries.[5]

After the constitutional monarchy came to power a Military Court of Appeals (*Divan-ı Temyizi Askeri*) was established in Istanbul on the basis of the 1914 Provisional

1 See Ümit Kardaş, "Askeri Yargı" (Military Jurisdiction), Ümit Cizre (ed.), within *Almanak 2005 Güvenlik Sektörü ve Demokratik Gözetim* (Almanac Turkey 2005: Security Sector and Democratic Oversight), pp. 46-51.

2 Article 105 of the Constitution dated 1831 of Belgium, Article 116 of the Constitution dated 1887 of Netherlands, Article 107 and 120 of the Constitution dated 1967 of Brazil, Article 145 of the Constitution dated 1982 of the Republic of Turkey.

3 Prof. Ahmet Mumcu says that the reasons why the word "military" was used to cover all public services in the Ottoman state is worth examining and that this situation can be claimed to have arisen from the establishment of the organization of the state from the very beginning on military purposes and interests. For more information; Ahmet Mumcu, *Osmanlı Devletinde Siyaseten Katl* (Political Death Sentences in the Ottoman State), pp. 55-57; Ahmet Mumcu and Coşkun Üçok, Türk Hukuk Tarihi (The History of Turkish Law), pp. 198,199.

4 Tarık Zafer Tunaya, *Siyasi Müesseseler ve Anayasa Hukuku* (Legal Institutions and Constitutional Law), p. 265; The most important characteristic of these soldiers consisted in their being recruited from among the people. Mumcu, Üçok, ibid, p. 237.

5 Sahir Erman, *Askeri Ceza Hukuku* (Military Legal Law), pp. 14, 15. When the janissary corps was abolished with the *"Vaka-ı Hayriye"* (Beneficial Event) of 1826, rules concerning janissaries were also abolished and in 1829 the Law on the Army of Muhammed came into force. With the introduction in 1838 of the Penal Code, court martials consisting of seven members were established. These court martials were presided by a colonel or by a major of the cavalry or infantry class. The members consisted of two captains, one first lieutenant, one second lieutenant and one non-commissioned officer. Court martials also included a clerk in the rank of captain, who acted as a sort of prosecutor. The Law on Imperial Military Punishment in 1870 introduced court martials, the establishment of which varied according to the rank of the defendant, but which consisted always of a president and four members.

Law. The court's chief justice had the authority of a corps commander, was elected by the Minister of War, and was appointed by the Sultan. The court included seven other members, four of whom were military officials and three who were jurists.[6] Jurists were therefore included for the first time as members of a military court. The Military Court of Appeals was regulated in more detail by the 1916 Provisional Law. The Military Court of Appeals was abolished via a 1920 decree and it was decided that appeals would be dealt with by a committee under the Military Judiciary of the Ministry of War (*Harbiye Nezareti Askeri Adliye İdaresi*). This committee, which consisted of three officers and two civilian jurists, was abolished a short time later and the Military Court of Appeals was established once again.[7] After the Turkish Grand National Assembly was founded, a new Military Court of Appeals was established via Law No. 237, dated 1922, that consisted of a president, two military members, and two jurists.[8]

Law No. 1631, dated May 22, 1930, on Military Criminal Procedures, modeled after German and French laws, came into force following the declaration of the Republic. According to this law, military courts attached to squadrons or equivalent posts consisted of a president and two members.[9] In addition, military courts were established that were attached to all divisions and equivalent posts, all corps and equivalent posts, and all higher commands. These courts consisted of a military judge and two officers. A military judge acting as prosecutor also served in these courts.[10] The Military Court of Appeals consisted of two chambers, each consisting of four military and two jurist members. The military members, selected from among brigadier generals and officers of higher rank, were appointed by decree for a period of two years.[11] Jurist members were selected from among colonels. The President and Vice President of the Military Court of Appeals were selected from among officers ranking at least as lieutenant generals and were appointed by the Cabinet of Ministers for a period of two years. As a result, under this system, military judges could not possibly be said to be independent or to have immunity.

THE SITUATION AFTER 1963

According to Article 138, paragraph 4 of the Constitution of 1961, it was compulsory for the majority of the members serving in military courts to be judges. Article 2 of Law No. 353, prepared in line with the above provision of the Constitution of 1961, states that military courts consist of two military judges and of one officer member.[12] However, since the Constitution of 1982 does not contain a provision on the establishment of military courts, the legislative power is able to regulate the establishment of military courts as it wishes and is not obliged to require that the majority of the members be judges. There is no doubt that this leeway results in military jurisdiction becoming even more of a subject for debate.

The Military Court of the Office of the Chief of General Staff, which brings to trial generals and admirals who have committed crimes and is established next to the Office of the Chief of General Staff, consists of three military judges and two generals or admirals. The disciplinary courts, established in accordance with Law No. 477 on the Establishment of Disciplinary Courts, in order to bring to trial disciplinary crimes committed by the military, consist of three members, one of whom is the president and two who are officers. During trials of non-commissioned officers, petty officers and private soldiers, one of the members should be a non-commissioned officer. The Military Court of Appeals consists of five chambers. The members of the Military Court of Appeals are selected by the absolute majority of the General Council of the Military Court of Appeals, and the candidates are nominees from among first class military judges ranking at least as high as lieutenant colonels and are appointed by the President of the Republic.

WHAT ARE THE ISSUES CONCERNING MILITARY JURISDICTION?

THE ISSUE OF INDEPENDENCE, IMPARTIALITY AND IMMUNITY OF MILITARY JUDGES

a) Foundation and abolishment of military courts and the amendment of their jurisdiction.

According to Article 1, paragraph 2 of Law No. 353 on the Establishment and Criminal Procedures of Military Courts, the establishment and abolishment of military courts and amendments to its jurisdiction are carried out

6 Fahri Çoker, "Askeri Yargıtayın Tarihçesi" (History of the Military Court of Appeals) *Askeri Adalet Dergisi* (Military Justice Magazine), 1966, p.39.

7 Vasfi Raşit Seviğ, *Askeri Adalet* (Military Justice), p. 300.

8 Sahir Erman, *Askeri Ceza Hukuku* (Military Criminal Law), (Istanbul, 1974), p. 308.

9 Hilmi Özarpat, *Askeri Yargılama Usulü Hukuku* (Military Criminal Procedure) (Ankara,1950) p. 32, Erman *ibid*, p. 31.

10 Özarpat, *ibid*, pp. 33-35; Erman, *ibid*, pp. 316-318.

11 Özarpat, *ibid*, pp. 39,40; Erman, *ibid*, pp. 342-343.

12 According to Article 1 of Law No 353, military courts are established next to divisions, corps, army and force commands and the Office of the Chief of General Staff. However, military courts next to division commands have been abolished via an amendment made in Law No 353. On the other hand these courts have been allowed to serve until they are abolished, via a provisional article. (Official Gazette No. 17229, dated January 23, 1981) Law No. 2538, dated October 16, 1981 on the Amendment of Article 2 of Law No. 353, states that in the event of trials of 200 or more defendants, military courts consist of four judges and one officer.

by the Ministry of National Defense, at the suggestion of force commanders and on the direct request of the Office of the Chief of General Staff. Upon the wish of the military bureaucracy, the Ministry of National Defense may abolish a military court or may amend its jurisdiction. It is clear that such a situation would abolish the immunity of military judges. During periods of martial law, a number of military courts were abolished with this aim. This regulation does not comply with the principle of the independence of judges and harms the right to a fair trial.

b) The Ministry of National Defense's power of oversight over military judges.

According to Article 23 of Law No. 357 on Military Judges, if complaints are made concerning crimes committed by military judges because of or during their duty or situations, or regarding acts that do not suit their title and duty, or individual crimes that they commit concerning military jurisdiction, or information about the above is obtained from events taking place, a military justice inspector more senior than the judge in question is appointed by the Ministry of National Defense to establish whether there is need to obtain permission for an investigation. This inspector may also request from the Minister of National Defense that the judge in question be temporarily suspended. The use by a political organ of the power of oversight on military judges harms the independence of judges.

c) The Ministry of National Defense's power to issue disciplinary punishments to military judges.

According to Article 29 of Law No. 357, military judges can be given disciplinary punishments in the form of warnings or reprimands by the Minister of National Defense, and decisions concerning punishment of this kind are definitive. Military judges who work with the continuous doubt that they may at any moment be punished by the Minister of National Defense cannot be said to have immunity and therefore be independent. Judges in this situation cannot be expected to be impartial.

d) Retirement of military judges for reasons of age limit.

According to Article 21, paragraph 1 of Law No. 357, from the point of view of retirement, military judges are subject to the retirement age limits of officers. According to Article 40, paragraph d of Law No. 5434 on the State Retirement Fund, the age limit for colonels to stay at that rank is 60. In this case a judge who is a colonel is retired at 60 because of the age limit. However, according to Article 140 of the Constitution, judges can continue serving until they complete their 65th year of age.

e) Appointment and relocation of military judges.

The appointment and relocation of military judges in Turkey is carried out by the executive power. Military judges are appointed and relocated by the common decree of the Minister of National Defense and the Prime Minister and the approval of the President of Republic. In such a system, it is clear that the military bureaucracy, starting with the Minister of National Defense, may exercise pressure on military judges and the military administration to which military judges are affiliated (in particular the commander issuing the judge's record) and may have influence over the appointment and relocation of military judges. This situation would result in apprehension and unease for military judges, who need to be independent and impartial.

f) The promotion of military judges.

Article 12 of Law No. 357 states that military judges are to be given two types of record, one for officers and a professional one. Paragraph (A) states that regardless of their duties or titles, the officer record of all military judges is to be prepared by their administrative record superiors and paragraph (B) refers to three record superiors who regulate the officer's record. The first of these record superiors is the senior judge with whom military judges work. The fact that senior judges issue records on other judges and that generals issue records on military judges with whom they work eliminates the independence of judges. Military judges whose promotion is left to the discretion of the administration cannot be said to have immunity.

g) Dismissal for reasons of inadequacy, indiscipline and moral conditions.

According to Article 22 of Law No. 357, the administrative record method has been adopted in the establishment of the aforesaid situations. Since these situations are determined via administrative records, this constitutes a conflict with the principle of independence of judges. The article also states that people who are identified, via their approach and behavior, as having adopted illegal views will be dismissed. This regulation alone eliminates the immunity of judges.

h) The presence of officers as members in the establishment of military courts.

Article 4 of Law No. 353 states that officers who are court members and substitute members are selected every December by the commander or the chief of a military institution to which the military court is attached and

from among the battalion and the institution personnel within the jurisdiction of that military court, for a period of no less than one year. This method of appointment constitutes lack of immunity from the point of view of people to be tried in military court. If people with civil servant status who do not qualify as judges take direct part in proceedings and in judgments in courts, such courts cannot be considered legal. Appointing civil servants as judges cannot comply with any legislative principle whatsoever. That is why military courts that do not comply with legislation violate their duty to conduct fair trials.

THE EXPANSION OF MILITARY COURT JURISDICTION TO THE DISADVANTAGE OF CIVILIAN LEGISLATION

Article 9 of Law No. 353, organized in parallel to Article 145 of the Constitution, defines the jurisdiction of military courts in relation to the military. Military courts deal with military crimes committed by military personnel, as well as crimes against other military personnel, crimes committed in military locations, and crimes related to military services and duties. Article 12 of the same law regulates cases where military personnel and civilians commit crimes in collaboration.

a) What is a military crime? How should it be defined?

The Military Penal Code does not contain the definition of a military crime. However, the definition of this crime is of great importance, as other fields of jurisdiction are determined in relation to this definition. Most importantly, the fact that crimes committed in collaboration by civilians and military personnel are considered military crimes and civilians committing these crimes are tried in military courts presents a very serious issue and violated the principle of "natural judge. The difference in system between civilian and military jurisdictions in Turkey is contrary to the principle of legislative unity; these two systems implement different procedures and the independence and immunity of their judges depend on different regulations. That is why it is very important that the concept of military crime is clearly defined. We can cite Article 54 of the Military Penal Law as an example of the importance of this definition. According to this article, crimes regulated by Articles 125-145, under the heading of crimes against the international person of the state, in Book One, Chapter One of the Turkish Penal Code No. 765 (*Türk Ceza Kanunu*, TCK), (the equivalents of Articles 6 and 7 of the TCK) are included within the Military Penal Code and are therefore considered military crimes. Transforming crimes of political nature into military crimes poses great dangers. This constitutes an artificial expansion of the definition of military crimes and includes both military personnel and civilians within military jurisdiction, thus separating civilians from their natural judges. We can cite the Şemdinli case as an example of this situation. In that case, the Chief Prosecutor of Van conducted an investigation into military suspects and brought a lawsuit against them for the crime of disrupting the unity of the state (TCK No. 5237, Article 302). The suspects were tried and sentenced by a civilian court. However, during the investigation conducted by the Court of Appeals, the sentence was overturned on the grounds that the trial needed to be under military jurisdiction, so the trial was heard once again in military courts. A stated above, according to Article 54 of the Military Penal Code, crimes regulated by Articles 125-145 of the TCK No. 765 are considered military crimes. The equivalent of Article 125 in the TCK No. 765 is Article 302 in the TCK No. 5237. In this case, the crime for which the defendants were tried was a military crime. According to both the Constitution and Law No. 353, military crimes committed by military personnel need to be tried in military courts. This situation arises from the fact that the definition of military crimes has been expanded so as to include military crimes and the expansion of military jurisdiction to the disadvantage of civilian jurisdiction results in military personnel and civilians being tried by authorities that are not their natural judges.

Another example of how dual jurisdiction grants immunity to military bureaucrats can be seen in the failure of the judicial process to function concerning the attempts to conduct a *coup d'état* in 2003-2004, described in the diaries of Özden Örnek, retired Commander of Naval Forces. When the *coup* diaries were published by *Nokta* Magazine, Örnek filed a criminal complaint against the magazine's editor-in-chief, Alper Görmüş, who was tried by the Chief Prosecutor of the Republic for Bakırköy for the crimes of defamation and libel. The *coup* attempt allegations were also taken seriously and an investigation into Örnek was begun. However, since the prosecutor's office did not consider itself competent in this matter, it did not complete the investigation and, with a decision of non-jurisdiction dated April 19, 2007, it sent the file to the Military Prosecutor of the Office of the Chief of General Staff, whom it considered competent in this area, citing the *Nokta* article as evidence. Although the crime was against the constitutional order and its functioning (TCK No. 309, 311, 312, 313) and therefore

was not a military crime regulated by the Military Penal Code, if the diaries had been revealed before Örnek's retirement, the crime would have fallen under military jurisdiction since it was committed in a military location and Örnek was a general. There is no doubt that in that case the Chief of General Staff would have had to order the investigation of generals who had attempted to carry out a *coup*. In fact, Hilmi Özkök, who was Chief of General Staff at the time, did not order an investigation. Moreover, even if the Chief of General Staff had ordered an investigation, the force commanders in question would not have been tried in the Military Court of the Office of the Chief of General Staff because it would have been impossible to find to higher-ranking generals who were not superiors of the accused and therefore to form a court of law. However, according to Article 17 of Law No. 353, which regulates military jurisdiction, Örnek and the other generals who are referred to in the diaries were subject to civilian jurisdiction because they were retired and the crime in question was not a military crime. According to the above article, they were not subject to military jurisdiction because they were retired. Since the point reached in the jurisdictional process concerning the *coup* attempt referred to in the diaries was of great importance, it will be useful to examine the whole of the process. In its response to the decision of non-jurisdiction and the investigation documents sent by the Chief Prosecutor of Bakırköy, the Military Prosecutor stated that since conducting investigations on military personnel on the basis of their duties and titles was subject to the discretion and assessment of the authority of the military institution, the investigation documents had been forwarded to the Office of the Chief of General Staff. In its response to the court, the Office of the Chief of General Staff stated that as there was no real, concrete, and consistent information or document concerning this claim, no action would be taken. However, although the crime claimed to have been committed by the force commanders was not a military crime, it was considered a political crime according to the TCK. Moreover, since the persons in question were retired, they were not subject to military jurisdiction anymore, but to civilian jurisdiction. The Office of the Chief of General Staff had therefore been conferred the status of decision-making authority in starting an investigation concerning an event where civilian jurisdiction was the sole competent authority. The Office of the Chief of General Office had therefore practically blocked jurisdiction and had created a *de facto* situation that did not comply with legislation and with laws.

This state of affairs does not befit either a state of law, or democracy, or the right to a fair trial. Some citizens were granted immunity as a result of the duality arising from the expansion of military jurisdiction, which is contrary to the principle of legislative unity and of natural jurisdiction. Consequently, the suspect and the other force commanders implicated in a military *coup* attempt cannot be investigated and tried and have practically been taken into protection outside the law. On the other hand, Alper Görmüş, editor-in-chief of the magazine, fulfilled his duty to inform the public by publishing the diaries that would expose the *coup* attempts, in order to pave the way for democracy and the rule of law, but was prosecuted for it. This demonstrates that the principle of equality for citizens does not exist in practice, and that Görmüş was unable to exercise his right to disprove the allegations against him, granted by Article 39 of the Constitution.

b) The criterion of the connection between crimes committed by military personnel and their military services and duties.

One of the criteria in Article 9 of Law No. 353, which regulates the jurisdiction of military courts, concerns the relationship between crimes committed by military personnel and their military services and duties. Work that military personnel are charged with by legal regulations, that becomes periodic in nature and of which the personnel is notified, constitutes military duties (Law on Internal Services, Articles 6, 7, 14 and 15, Regulation on Internal Services, Article 4-27). On the grounds of requirements arising from military needs within the framework of said legislation, superiors can issue written or verbal orders (Law on Internal Services, Article 8 and Regulation on Internal Services, Article 28-34). Military jurisdiction is competent regarding crimes committed by military personnel with respect to these duties. However, the fact that military services and duties are only referred to in military legislation may mean that the crime committed is not a military crime in real terms. Although the crime committed may be related to military services and duties, the commitment of the crime in question may not actually mean the violation of the principle of protection of military interests and requirements. The services and duties stipulated by legislation may not be directly related to the principles of the protection of the country, the establishment of military discipline, and the protection of military interests and requirements, and in this case, military services and duties would be out of the question. Since the quality of the concrete act, which would determine

the jurisdiction for the person who committed the crime, may be subject to interpretation, this criteria is contrary to the principle of natural jurisdiction. Knowing clearly in advance in which jurisdiction the crime committed by a person is included constitutes the most important element of the principle of natural jurisdiction. Because of this situation, jurisdictional conflicts that take many years to solve happen between the civilian and military jurisdictions and many years are spent waiting for the Court of Jurisdictional Dispute to resolve them.

The trial on the Gendarmerie's Intelligence and Counter-Terrorism Services (*Jandarma İstihbarat ve Terörle Mücadele*, JİTEM), which covers more than one defendant, constitutes an important example. The Second High Criminal Court's trial concerning crimes of "forming an organization with intent to commit a crime," "committing torture with intent to make one confess," and "willful homicide," claimed to have been committed by military personnel and civilians in collaboration, the civilian court issued a decision of non-jurisdiction because some of the suspects were military personnel. The case file, along with the final verdict, was forwarded to the Diyarbakır Military Court of the Seventh Corps Command. The military court, on the other hand, issued a decision of non-jurisdiction on the grounds that the suspects' ties to the Turkish Armed Forces were severed, that the crimes in question were not military crimes, and that civilian jurisdiction was the competent authority in line with Article 12 of Law No. 353. Since a jurisdictional conflict arose, the case was forwarded to the Court of Jurisdictional Dispute. In its June 2, 2008 verdict, the Court accepted the arguments presented by the military court, deciding that since the suspects' ties to the Turkish Armed Forces had been severed and the crimes in question were not related to military services or duties, the civilian courts were competent. In this example, justice was delayed by four years simply because of jurisdictional uncertainties. The dates of the crimes in the trial in question were the years 1992-1994. Since the trial was brought in 2005, it is clear that the prosecution had been continuing for over 10 years. It is probable that hesitation, due to the presence of military personnel in this event, may have played a role in this delay.

Military crimes should be crimes that can be committed only by military personnel and that are related to military services and duties. They should be regulated as acts that directly disrupt military discipline and violate military interests and requirements. Only when these criteria are met should crimes fall under the jurisdiction of military courts. When these criteria are taken into consideration, few of the crimes referred to in the Military Penal Code will actually be included in this definition. Most importantly, under these criteria, the trial of civilians in military courts is out of the question. Furthermore, except for crimes violating military discipline, military personnel will be tried in civilian courts in accordance with the principle of natural jurisdiction.

c) The criterion of military location

Apart from the Military Penal Code, crimes committed by military personnel may be regulated by Law No. 6136 or by another special law in the Turkish Criminal Code. However, if the crime is committed in a military location, it will fall within the sphere of military jurisdiction. When we look at decisions made by the Military Court of Appeals that are consistent with Article 12, 51 and 100 of the Law on Internal Services, we see that places where military personnel carry out their work and where they receive education and training, perform military exercises, and are housed are considered military locations. Military locations, as defined by Article 12 of the Law on Internal Services, are battalions, headquarters, and military institutions (military hospitals, schools, officers' clubs, sewing workshops, military plants, recruitment offices, supply centers and depots).

Places considered military locations are therefore listed within the above article. However, the concept of "military location" is not defined. Military locations are not defined either in Law No. 353, or Law No. 211 on Internal Services, but the places listed as military locations are defined. For example, Article 12 of the Law on Internal Services contains the definition of military institutions. When crimes are committed in places considered military locations, military personnel are separated from their natural jurisdiction and their natural judges. Here we can cite once again the Şemdinli investigation. In the Şemdinli investigation, documents concerning the successive commanders of the suspects were also forwarded for consideration to the Military Prosecutor of the Office of the Chief of General Staff. Since two of the commanders in question were generals and the only court where they could be tried was the Military Court of the Office of the Chief of General Staff, the documents concerning the investigation were forwarded to the military jurisdiction. However, since one of the commanders was a colonel, the investigation documents concerning the colonel should not have been sent to the Military Prosecutor of the Office of the Chief of General Staff. The documents concerning the commanders in

question were sent by the Military Prosecutor to the Office of the Chief of General Staff, which did not deem it necessary to start an investigation. In a similar way, the Prosecutor of the Republic for Van forwarded documents concerning the Commander of the Land Forces, accused of committing the crimes of "forming an organization with intent to commit a crime," "abuse of authority," "fabricating documents," and "influencing the fairness of trials," to the Military Prosecutor. These documents were then sent by the Military Prosecutor to the Office of the Chief of General Staff and no orders were issued for the investigation of this commander either. However, since apart from "abuse of authority," the crimes that the Commander of the Land Forces was charged with were not included within the scope of military crimes, these should have been prosecuted by civil jurisdiction. But as these crimes were committed in a military location, the competent authority was the military jurisdiction. Because of the criterion of military location, the sphere of military jurisdiction is expanded to a great degree.

d) The criterion of crimes committed by military personnel against other military personnel

Crimes committed by military personnel against other military personnel also fall within military jurisdiction. These crimes do not need to be military crimes as stated in the Military Penal Code. For military jurisdiction to be the competent authority it is sufficient for a crime to be committed by military personnel against military personnel.

If military personnel commit crimes of theft, fraud, forgery, or violation of immunity of domicile against other military personnel, they are tried in military courts. These are crimes that are not even referred to in the Military Penal Code; in other words, they do not even qualify as "types of military crimes." In light of the above criteria, these regulations are contrary to the principle of natural judges. Accepting the authority of military organs of jurisdiction simply because both the perpetrator and the victim are military personnel and not consigning to civilian courts what happens among military personnel can only be explained on the basis of the belief of "keeping the problem within the organization."

EVALUATION OF THE PERIOD 2006-2008

Law No. 5530, dated June 29, 2006, stipulates that at times of peace, civilians who have committed crimes subject to the Military Penal Code will be tried by civilian jurisdiction. The principle of natural judge is therefore applied once again in the case of many crimes included in the Military Penal Code or which are transformed into military crimes by the Military Penal Code although they are actually political crimes according to the TCK (Articles 55, 56, 57, 58, 59, 61, 63, 64, 75, 79, 80, 81, 93, 114 and 131 of the Military Penal Code). However, military personnel who commit these crimes and civilians who collaborate with military personnel are to be tried in military courts. No debate has taken place concerning the issues identified in the period 2007-2008 and no legal amendments have been made.

OVERALL EVALUATION OF MILITARY JURISDICTION

The criteria used to determine the jurisdiction of military courts present a certain amount of ambiguity. Indeed, conflicts arise among judicial bodies because of their differing interpretations of these concepts. The multitude of decisions issued by the Penal Section of the Court of Dispute displays the dimensions of the conflict between military and civilian jurisdiction. Military jurisdiction has expanded considerably via existing regulations. Military courts are now expected to deal not only with military crimes but with general crimes of military personnel and of people who qualify as military personnel. This is contrary to the reason behind the establishment of military courts, which have now become the only place where military personnel are tried, separating them from their natural jurisdiction. One must not forget that like all other citizens, they too are subject to general jurisdiction.

When one considers the military jurisdiction's special procedures, the individualization of punishments, the position and appointment of judges, the way they receive their records, the structure and establishment of military courts, the difference in punishments arising from the links between military judges and the commanders with whom they have a hierarchical relationship, it is clear that military jurisdiction is a completely different organization due to its establishment, functioning, and sentencing procedures. Military courts, which are part of a unique organization, should be established very carefully, with clear limits to their jurisdiction. When military personnel are tried in military courts for ordinary crimes, they are not only separated from their natural judges but they are also included within the sphere of a completely different system of jurisdiction.

What is even more striking is that even civilians who do not qualify as military personnel become subject to this system. Crimes that necessitate the trial of "civilians" are not directly or indirectly related to achieving national

protection, to ensuring that military services are carried out in a sound and smooth manner, or to ensuring discipline in the army. Moreover, such crimes cannot be claimed to damage "military interests," because such crimes violate the general interest of the state. What is predominant in such crimes is a "political" rather than a military element. Military personnel, and civilians who commit crimes in collaboration with military personnel, who are subject to military jurisdiction for crimes that are not related to military discipline or services are separated from their natural jurisdiction. When they are tried by military courts for crimes of a political nature, the military courts are politicized, bringing about many serious drawbacks.

One last issue lies in the lack of independence and immunity for military judges. Military judges carry out their duties in an officer's uniform and therefore within a hierarchical structure. While commanders influence the promotion of military judges via their records, the appointment of military judges depends on the force commanders with whom they are affiliated. The oversight of military judges is carried out by an inspection board connected to the Ministry of National Defense, and the Minister of National Defense can impose disciplinary punishments on them. Most serious of all, military courts include staff corps colonels as judges who are appointed by commanders. It is obvious that the trial of military personnel for many crimes that do not concern military discipline and services, and of civilians for crimes committed in collaboration with military personnel, by courts that do not fall under any democratic or legal framework abolishes the right to fair trial. That is why it is necessary to limit the jurisdiction of military courts to crimes that can be committed solely by military personnel and that violate military discipline and requirements. The Military Court of Appeals should also be abolished, thereby putting an end to duality in jurisdiction. It is also necessary to abolish the Supreme Military Administrative Court, which functions as a Military Council of State and as a supreme jurisdictional authority of single level.

GUIDING INSTITUTIONS

The European Union: Security and Civil-Military Relations

Hale Akay

From the perspective of democratic oversight, the European Union (EU) influences Turkey on two levels. The first form of influence is the EU accession process; the second results from the relationships between EU bodies and their Turkish counterparts. Both levels are examined in this study, which is limited to the period following the Helsinki Summit of 1999.[1]

CANDIDACY PROCESS

Turkey spent the years between 1999 and 2004 carrying out reforms aimed harmonization with EU political and economic criteria. During this period the EU expanded with the accession of 10 new members, including Cyprus; it intensified efforts to achieve integration in the fields of justice, internal affairs, defense, and security; and efforts continued on the EU Constitution with the view toward becoming a political union. In the December 16-17, 2004 summit, the EU announced its decision to begin accession negotiations with Turkey. The process of surveying chapters concerning the EU Acquis began, followed by negotiations on a variety of chapters.

The annual progress reports and Accession Partnerships prepared by the Commission and the national programs prepared by Turkey constitute the main resources concerning the progress of negotiations between Turkey and the EU. A survey to be conducted regarding the security sector in these documents would have to be very comprehensive. We encounter the security sector in evaluations concerning the chapters on political criteria, including legislative amendments, human rights, minority rights and legislation, and, of course, civil-military relations. Furthermore, matters regarding internal affairs and defense are directly included in the chapters on justice, freedom and security and common policies in foreign affairs, security and defense. Apart from these, sensitive subjects from the point of view of Turkey's perceived domestic and foreign threats, such as freedom of expression, freedom of assembly and organization, freedom of religion, cultural rights, the protection of minorities, and the Cyprus issue are also related to security. Indeed, in a country like Turkey, where national security is defined very broadly, almost all subjects may happen to be related to the security sector. It would be impossible to examine all dimensions of the influence of EU process on the security sector. For that reason, this survey will focus on the developments that took place from 2000 on under the political criteria chapters and the two above-mentioned subjects on justice, freedom and security and common policies in foreign affairs, security and defense.

CIVIL-MILITARY RELATIONS

Although civil-military relations are featured prominently in Turkey's EU negotiations and their frequently fluctuating progress, the EU does not actually have a specific legislation on this matter. The EU's expectation from Turkey is to achieve harmonization with EU member countries in its administrative structure and practices. Although a variety of different structures shaping civil-military relations exist in EU member countries, there are some common values and institutional points of view. The main elements of balanced civil-military relations in what we may define as an EU model can be stated as follows:

- A clear and defined division of labor between the President of the Republic, the Prime Minister, and other ministers regarding the security sector and control over the army (including who is responsible for its administrative rule, who assigns commanders, who holds power at times of crises, and who is authorized to

1 In this summit the Council of Europe expressed its satisfaction concerning the 1999 Progress Report prepared by the Commission and stated that Turkey was a candidate for accession to the UE, on the basis of criteria applied to all other candidate countries. These include the political and economic criteria known as Copenhagen criteria, as well as the harmonization between Turkey's legislation and the EU Acquis.

declare war) that describes all roles and responsibilities without leaving any room for ambiguity and that is defined by the Constitution or by law.

- At peacetime, the Chief of General Staff and commanders are managed by a ministry of defense or other ministry with similar duties, responsible for making fundamental decisions such as the size of the armed forces and its structure, arms procurement, and deployment.
- The active oversight of the defense organization by the legislative power that (a) goes beyond perfunctory oversight and the nearly automatic acceptance of proposals by the administration, (b) includes the main opposition parties via committees and (c) is supported by national assembly personnel with knowledge of these subjects as well as by external experts.
- The presence in public opinion of a widespread perception that the army is subject to civilian, democratic control, where the armed forces are responsible towards civilian administrators who themselves are accountable to the executive power and the public.[2]

By examining the EU Commission progress reports on Turkey's accession, it is easy to see fluctuations in the way the EU defines this model (or lack of definition) as well as Turkey's progress on different elements of this model. While the Commission initially presented a very extensive framework for civil-military relations, the subject was later almost limited to the National Security Council (*Milli Güvenlik Kurulu*, MGK) and then, following the addition of new subjects, in 2005 the part that previously included under Political Criteria was transformed into a new chapter title Civil Military Relations.

The Commission's most radical statement concerning civil-military relations was it made in 2000: *"Civilian control over the military still needs to be improved. Contrary to EU, NATO and OSCE standards, instead of being answerable to the Defense Minister, the Chief of General Staff is still accountable to the Prime Minister."* However this emphasis on the overall structure of the defense organization in Turkey was not mentioned in later years and replaced by more specific requests.

2 "Introduction," "The Past and the Future of Civil-Military Relations in Turkey," Sami Faltas and Sander Jansen, (ed.), within *Governance and the Military: Perspectives for Change in*, pp. 36-37.

3 This Action Plan was prepared under the coordination of General Secretariat of the NSC and adopted on May 2000. However the full content of this plan was not made public and this attitude was criticized in the 2001 Progress Report.

In the early 2000s, changes to the structure and functioning of MGK were considered an indicator of civil-military relations. The 2001 Progress Report touched on several issues, including the fact that civilians were tried in military courts. While the Commission appeared to be satisfied by reforms to the MGK, it also noted the need to increase civilian oversight of the army through amendments to the constitution. The report also criticized certain statements by the MGK and the Action Plan for the Southeast of Turkey.[3] It made reference to the President's veto of the legal amendment containing the appointment of a representative from the MGK to the Radio and Television Supreme Council (*Radyo Televizyon Üst Kurulu*, RTÜK) and highlighted the importance of the new regulation's compliance with European standards.

In 2002, the focus was again on MGK. That year's report stated that a draft law concerning the implementation of the constitutional amendment regarding the council's structure and role was pending at the Turkish Grand National Assembly. It noted with concern that "On various occasions throughout the year, military members of the National Security Council expressed their opinions about political, social and foreign policy matters in public speeches, statements to the media and declarations. They also played an active role in the debate about reforms to comply with the EU political criteria. They have been particularly active on issues such as cultural rights, education and broadcasting in languages other than Turkish." While the legal amendment consolidating the MGK's role within the RTÜK continued to constitute a problem, this progress report also referred to the defense budget, emphasizing the armed forces' autonomy in preparing the defense budget and control over budgetary funds for military purposes. The MGK's active role in domestic politics was also noted.

The 2003 report noted with approval that, in addition to changes to the MGK, the MGK representative on the Supervisory Board for Cinema, Video, and Music Works was removed; however, it also noted the continuing presence of the MGK within the RTÜK and the Council of Higher Education (*Yüksek Öğretim Kurulu*, YÖK). The abolition of the MGK General Secretary's extensive executive and oversight powers and unlimited access to civilian bodies and organizations, introduced via the Seventh Harmonization Package, constituted the most important change that took place in 2003. In addition to the issue of budgets and funds, the report also emphasized the fact that the general secretary was selected from among military candidates and that, although the

authority of the Court of Accounts was expanded, its oversight authority continued to be restricted on the basis of secrecy. The Report stated, "Apart from the MGK, the armed forces in Turkey exercise influence through a series of informal mechanisms." The amendment to the Law on the Establishment of Military Courts and their Criminal Procedures, which ended military courts' ability to try civilians accused of "inciting military personnel to rebellion and disobedience, alienating the public from military services and breaking national resistance," was noted as a positive development in this field.

By the end of 2003, as the date for the confirmation of candidacy was approaching, Turkey accelerated the reform process. This was positively noted in the 2004 progress report, which emphasized amendments to the new regulation on the duties, function, and rule of the MGK, especially the appointment of a civilian to the post of General Secretary for the first time. Two important reforms concerning the transparency of military expenditures (the Law on Public Financial Administration and Control and the regulation establishing the oversight of military spending by the Court of Accounts) and the removal of military representatives from the YÖK and RTÜK constitute other important developments implemented in 2004. Nevertheless, the report also contained the following warning: "Despite the abovementioned developments, there are still provisions on the basis of which the military continues to enjoy a degree of autonomy. As regards to the institutional framework, there are legal and administrative structures which are not accountable to the civilian structures. Civilians can be tried before military courts for certain crimes. The role and the duties of the Armed Forces in Turkey are defined in several legal provisions. Depending on their interpretation, some of these provisions taken together could potentially provide the military with a wide margin of maneuver. This is particularly the case for Article 35 and Article 85/1 of the Turkish Armed Forces Internal Service Law, which defines the duties of the Turkish armed forces as to protect and preserve the Turkish Republic on the basis of the principles referred to in the preamble of the Constitution, including territorial integrity, secularism and republicanism." Apart from the defense budget, another change noted by the report is the supervisory role given to civilian authorities in the establishment of the national security strategy concerning relations with neighboring countries and the shaping of its implementation.

Positive developments reported in 2005 include: the MGK's first meeting under a civilian general secretary in 2004; the reduction of the number of general secretariat personnel; the first press briefing ever held by the MGK on October 30, 2004; the inclusion of military funds within the defense budget and the decision to begin eliminating these funds as of 2007; the Court of Accounts' new authority to oversee defense expenditures on behalf of the National Assembly via a constitutional amendment in May 2004; and the elimination of the immunity of the Turkish Armed Forces (*Türk Silahlı Kuvvetleri*, TSK) concerning state property. However, the report also noted inadequacies, primarily the fact that no legal regulations were carried out to allow the Court of Accounts to exercise its new oversight authority. Another subject was the complete fulfillment of oversight duties by civilian authorities and the expertise achieved in this field. The National Security Policy Document (*Milli Güvenlik Siyaseti Belgesi*, MGSB) constitutes another important subject covered by the 2005 Report, which stated that Article 35 of the Law on the Turkish Armed Forces' Internal Services and Article 2a of the Law on the National Security Council were not amended. It also referred to the corruption investigation conducted concerning some members of the TSK. Another new subject in the 2005 Report is the structure of the Gendarmerie. The Report drew attention to the need to strengthen the control of the Gendarmerie by public administrators from the Ministry of Internal Affairs; the political influence exercised by top TSK management and their public statements; and the role played by the Office of the Chief of General Staff in the Education Union's (*Eğitim Sendikası*, Eğitim-Sen) trial regarding the right to use native language. The Report warned that, "It is essential that Turkey consolidates reforms adopted in previous years and remains committed to further reforms in this area.... In particular, statements by the military should only concern military, defense and security matters and should only be made under the authority of the government."

Beginning in 2006, the progress reports referred less to the MGK although it was obvious that there were almost no change in the main problems of the system. The only positive development during this period was an amendment to the Military Penal Code that prohibited the trial of civilians by military courts. The report notes a higher number of negative events: The National Assembly did not discuss the MGSB; the armed forces' influence and the political statements by its members

continued; there were no amendments to the regulations and articles restricting the army's area of activity; there were no changes to the structure of the Gendarmerie; there was no progress towards parliamentary oversight of military budgets and expenditures; and secondary legislation necessary for the Court of Accounts' oversight was not introduced. The protocol concerning Security and Public Order Assistance Squads (*Emniyet, Asayiş ve Yardımlaşma Birlikleri*, EMASYA), which emerged from the report of the National Assembly's Commission of Inquiry concerning the events in Şemdinli, constituted a new subject for the report.

The 2007 report was even more negative, observing that the office of the Chief of General Staff intervened directly in the election process of the President of the Republic in April 2007. (It noted, however, that *"in spite of the army's attempt to intervene in political life and its statements to the public, the outcome of the constitutional crisis that took place in the spring of 2007 confirmed the prevalence of the democratic process."*) Furthermore, it also emphasized that top TSK management made a number of attempts to restrict scientific research and public debate on subjects related to security and minority rights and that the military took advantage of various opportunities to target the press. Negative events of all sorts previously cited in past reports continued in 2007.

In its suggestions concerning the Accession Partnership, which was to be renewed in 2007, the Commission included the following items on the subject of the civilian oversight of the security forces:

- Continue to align civilian control of the military in line with the practice in EU Member States. Ensure that the military does not intervene in political issues and that civilian authorities fully exercise supervisory functions on security matters.
- Take steps towards bringing about greater accountability and transparency in the conduct of security affairs.
- Establish full parliamentary oversight of military and defense policy and all related expenditure, including external audit.
- Limit the jurisdiction of military courts solely to military duties of military personnel.

The gridlock is also apparent in 2008: *"However, the armed forces have continued to exercise significant political influence via formal and informal mechanisms, senior members of the armed forces have expressed their opinion on domestic and foreign policy issues going beyond their remit, including subjects on Cyprus, the South East, secularism, political parties and other non-military developments."* The report also stated that *"An internal military memorandum leaked to the press identified NGOs that had received financial aid from foreign organizations, including the EU. The memorandum was not denied by the General Staff."* The Report also noted that *"No change has taken place in legislation concerning the duties of the TSK, the position of the Gendarmerie, military expenditures and especially extra-budgetary funds and EMASYA, and the Court of Accounts, which is still not able to carry out the oversight of military property and that has conducted the oversight of 25% of all military offices in 2007."*

The section on civil-military relations in the Turkish government's 2008 National Program is quite small when compared to the progress reports: "The *MGK's attribute as a consultancy organ has been redefined via constitutional and legal amendments. The reforms carried out will continue to be implemented effectively and within this framework the creation and implementation of the national security strategy by the Government will also continue. According to the amended Article 160 of the Constitution, all of the incomes, expenditures, and properties of the Turkish Armed Forces are subject to the oversight of the Court of Accounts. The new draft bill on the Court of Accounts, prepared in the past legislative year, contains two articles that aim to completely fulfill all technical regulations concerning implementations. The regulations concerning the definition of the duties and authorities of military courts, part of the legislative reform strategy to be prepared within the framework of the requirements of a democratic state of law, will continue."* Turkey therefore kept silent on many subjects identified by the progress reports as areas in need of improvement, including the armed forces' intervention in politics, statements made by top TSK management, changes expected regarding EMASYA, the Law on the TSK's Internal Forces, the Law on the MGK, shortcomings in the Court of Accounts' ability to fulfill its oversight duties, the future of extra-budgetary funds, and the lack of effective oversight by civilian authorities. In other words, apart from new regulations concerning military jurisdiction, Turkey did not make any new commitments in these areas.

In sum, from 2000 to the present, rapid reforms later slowed to gridlock and have failed to function. Many issues whose solution was believed mainly to lie in changing the MGK's structure therefore continued to exist.

OTHER SUBJECTS UNDER THE POLITICAL CRITERIA CHAPTER

The legislation concerning internal affairs and the police force is much clearer than civil-military relations. International treaties, decisions by EU institutions and the existence of organizations within the EU that directly concern internal affairs do not allow for any ambiguity. That is why subjects concerning these units under the political criteria chapter, unlike other developments, partly preserved their structure.

From 2000-2009 a large number of legal regulations were implemented in various fields regarding the security sector within political criteria (see attached table). Examining these regulations, it is clear that the reform process gained momentum from 2002-2004, but later slowed down. Moreover, after 2005, there was some sort of backsliding as the cases of torture and maltreatment increased. The following subjects and comments regarding the security sector were made under the political criteria category in 2008:

- Following the decision of the Court of Appeals, the Şemdinli case was transferred to the military court of Van. During the trial, the Military Court of Van ordered the release of the suspects. Other high-profile cases have also revealed the importance of the quality of the investigation. This situation points to the need to develop the institutional relationships between the police and the gendarmerie on the one hand and the judiciary on the other.
- There was no progress towards the ratification of human rights documents. The Optional Protocol of the UN Convention against Torture has not been ratified. The ratification of the UN Convention on the Rights of the Disabled is also pending. Moreover, Turkey has not yet ratified three additional protocols of the European Convention on Human Rights (ECHR).
- Turkey has not taken legal measures to prevent conscientious objectors from being prosecuted and punished.
- On a parliamentary level, besides the Human Rights Investigation Commission, two sub-commissions were formed to investigate cases of torture and maltreatment in prisons and detention centers, as well as the murder of journalist Hrant Dink. The latter completed its report in July 2008, concluding that there was negligence, fault, and lack of coordination on the part of security forces and the gendarmerie. These findings should be followed up in the appropriate manner.
- The institutional framework for the development and consolidation of human rights does not comply with the condition of independence of the institutions in question as these institutions lack financial autonomy and transparency.
- In the absence of an ombudsman, judicial remedies are the only recourse for the investigation of complaints against central and local administrative decisions in the areas of respect to human rights, freedoms, and law and justice.
- The rights of detainees are protected through a comprehensive list of assurances against torture and maltreatment while in custody and include the medical examination of detainees under the survey of the police. Endeavors to ensure compliance with these provisions are continuing.
- The Ministry of Internal Affairs has continued its work to form an independent national mechanism with the aim of investigating citizens' complaints against law enforcement agents. The next step should be to carry out public consultations on the structure and functions of such a mechanism.
- Despite these efforts, there has been an increase in the number of complaints by NGOs alleging torture and maltreatment, especially in places outside official detention centers and during the transfer of detainees. Moreover, there are cases where official measures are not able to prevent torture and maltreatment either during detention or in prisons. These are troubling developments.
- The police force's authority to use force when not encountering resistance was eliminated by amendments made in 2007 to the law on the duties and legal powers of the police force. These amendments, together with the instructions given to members of the security forces, appear to harmonize Turkish law with ECHR standards, but concerns exist that mistreatment continues to occur during routine identity checks.
- While parties that have acceded to the UN Convention against Torture are expected to ratify the Additional Optional Protocol, which demands that independent national prevention mechanisms to be established for the oversight of detention centers, such a mechanism has not been constituted yet.

- The practice of conducting immediate, impartial, and independent investigations into claims of human rights violations by security forces does not exist. None of the 70 complaints made to the prosecutor concerning the incidents in March 2006 in Diyarbakır have been concluded. Furthermore, legal action concerning claims of torture and mistreatment is frequently delayed because of the lack of effective criminal procedures or the abuse of these procedures.
- The ban on accessing certain websites and the disproportionate scope and length of these bans constitute another problematic area. Access to the popular website Youtube and many other websites has been blocked numerous times.
- The Turkish Armed Forces are still preventing some journalists and media corporations from accessing military receptions and briefings.
- On May 1, disproportionate force was used on demonstrators and union representatives who violated the prohibition on demonstrations in Istanbul's Taksim Square. In March 2008 the Kurdish Newroz Spring celebrations in some provinces, including Hakkâri, Yüksekova and Van, ended in the use of force on protestors. Three citizens died during the Newroz celebrations in Van. The investigation into these deaths, conducted by the Chief Prosecutor of the Republic for Van, is still ongoing.
- Considering that arbitrary restrictions and the use of disproportionate force during demonstrations continues, there is a need for stronger efforts to ensure that the freedom of assembly is implemented in accordance with European standards.
- No steps have been taken to amend the Law on Foreigners' Residence and Travel in Turkey for the benefit of the Roma (Gypsies); the law currently grants the Ministry of Internal Affairs "the right to deport Gypsies and foreigners who have no links to Turkish culture and who are not Turkish citizens" and incites discrimination against the Roma.
- Terrorist attacks by the Kurdistan Workers' Party (*Partiya Karkeren Kurdistan*, PKK), which is considered a terrorist organization by the EU, have continued to take place not only in Southeastern Anatolia but throughout the country and have resulted in many deaths. Airstrikes were conducted against terrorist hideouts in Northern Iraq. The "provisional security areas" formed in June 2007 in the province of Şırnak, Siirt and Hakkâri, which border Iraq, continue to exist.
- Landmines continue to be a source of concern for both military personnel and civilians. There is no national strategy to deal with the situation of displaced people. The inadequate institutional capacity of offices responsible for displaced people must be resolved. Civil society needs to be included in the process to develop policies for displaced people. No steps have been taken concerning the abolition of the village guards system.

The 2008 National Report, which stated that "*Turkey has now entered a period when the implementation of reforms realized predominantly in the area of political criteria will be improved and the ongoing change in mentality will be consolidated,*" includes the following important commitments regarding future years:

- The Department of Human Rights under to the Office of the Prime Minister will be restructured in line with the Paris principles.
- Domestic security services will be provided in line with policies established by the Government, under the oversight and supervision of the Government, within the framework of the rule of law and human rights and freedoms and by professional and specialized units of the police force. Within this context, legislative provisions and practices that complicate the coordination of the administration of domestic security and the effective fulfillment of the duties, authorities, and responsibilities of civil administration concerning domestic security will be changed.
- The Law on the Protection of Personal Data will enter into force.
- The legislative capacity of the forces responsible for criminal analysis, inquiry, and investigation will continue to be increased.
- The use of improved interrogation and questioning techniques will be applied more broadly.
- The education system of the police force will continue to be developed, their working conditions will be reviewed, and priority will continue to be given to preventive measures concerning the violation of human rights, via the use of new technologies.
- Ethical Principles for the Police Force have been published and work will be carried out to reflect these principles on basic training and on-duty training.

- The Additional Optional Protocol of the UN Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment will be ratified at a suitable time.

JUSTICE, FREEDOM, AND INTERNAL AFFAIRS

As the subjects examined under the Justice, Freedom and Internal Affairs chapter are also very extensive, some of the most important points (except for developments in the field of justice) are summarized in a table 2. This chapter, which addresses many new regulations on visas, immigrants and asylum, border security, and collaboration among police forces, includes two subjects of particular importance from the perspective of security oversight. The first is the Integrated Border Management Strategy and related action plan, which brings an integrated approach to border management and ensures harmonization with EU standards. The most important obstacle to this plan lies in the conflict of authority between land forces, the police, the gendarmerie, and the coast guard authorities. The EU observes that institutional coordination is at an early stage, significant improvements are needed, and professionalization is necessary, especially in the context of the military. The 2008 Progress Report states that coordination meetings among institutions and the preparation of a handbook concerning implementation processes were initiated as a part of the related National Action Plan. The report warned that the National Action Plan should be supported with a clearer roadmap defining concrete actions, targets, realistic timeframes, responsible authorities, and an approximate budget for each action requiring significant investment. The report also pointed out that no concrete steps had yet been taken concerning the establishment of a border security administration. In this context, the "Common Handbook on the EU's Controls on Foreign Borders," which contains EU requirements concerning border duties, was distributed to institutions that carry out border duties (Office of the Chief of General Staff, Police Force, Undersecretariat of Customs, and the Gendarmerie and Coast Guard Commands). It also stated that EU border officials have limited knowledge regarding Turkey's National Integrated Border Management Strategy or Action Plan, and that efforts to implement the National Action Plan needs to be systematized and accelerated.

The 2007 Report states that Turkey is party to all fundamental international treaties in the field of police collaboration and that there are no problems regarding collaboration with EU member countries. However, especially from the perspective of the police force, Turkey is at an early stage in establishing a modern infrastructure and procuring better equipment. Personnel need to be trained with a more integrated approach, especially in crime analysis. Within the framework of best practices in the international sphere, a handbook for ethical behavior needs to be developed for the police force.

Relations between Europol (European Police Office) and Turkish institutions constitute another important subject from the point of view of police collaboration. The aim of Europol is to improve effectiveness and collaboration among the relevant institutions of member countries in the prevention of and fight against terrorism, drug trafficking, and other international organized crimes. Europol, which became active in early 1999, does not have administrative powers and therefore does not carry out investigations or apprehend culprits. Relations between Europol and Turkey were established after 2000, when Europol was accorded the authority to initiate negotiations with non-member countries. The treaty on collaboration between Turkey and Europol, which came into force in 2004, is a strategic treaty and covers provisions concerning the establishment, prevention, and control of international crime. The parties to the treaty have pledged to exchange strategic and technical information and educational activities such as conferences and seminars. The Interpol Department of the General Directorate of Security is the institution responsible for the implementation of this treaty. Cyprus has always been a problematic issue between Turkey and Europol. Cyprus stated that it would not comply with the treaty signed in 2004 and delivered a diplomatic note on this subject; this attitude is in reaction to a similar attitude taken by Turkey in NATO. The fact that an operational collaboration treaty between Europol and Turkey has still not been signed constitutes another issue. According to progress reports, the lack of legislation and the lack of an independent oversight authority concerning data protection are the two main obstacles to the treaty.

The timetable for legislative harmonization prepared by Turkey concerning this chapter and included in the 2008 National Program can be seen in the table 3 at the end of this section.

COMMON FOREIGN, SECURITY, AND DEFENSE POLICY.

On the other hand, the chapter on Foreign Affairs, Security, and Defense Policies[4] is one of those areas whose scope keeps broadening. The harmonization of posts in foreign affairs between Turkey and the EU, Turkey's participation in the European Security and Defense Policy (ESDP), the Cyprus issue, and relations with Greece and other neighboring countries are subjects under this chapter that are continuously revisited. The 2000 Report stated that Turkey actively participated in opinion exchanges with the EU in the EU+15 format (EU member countries plus candidate countries and non-EU NATO members). However, the EU was not satisfied with the regulations coming out of the Feira European Council (June 2000) concerning dialogue, consultancy, and collaboration with six non-EU NATO members in the management of military crisis. This chapter, which expanded to include terrorism following the September 11 attacks, noted that Turkey participated in active exchange programs in the EU, EU+15 and EU+6 (non-EU NATO members), but that no agreement had yet been reached with Turkey regarding the EU's Rapid Deployment Force's use of NATO facilities. Nor was the issue with NATO resolved in 2002, when problems with Armenia and operations to preserve peace within the scope of the Organization for Security and Co-operation in Europe (OSCE) were included in the report. However, an agreement reached in December 2002 enabled collaboration on the management of military crises and this development was reflected in the 2003 Report. Iraq was added to the agenda during this period. The 2004 Report also included such subjects as the International Criminal Court, Afghanistan, and the meeting of Islamic Ministers of Foreign Affairs.

In 2005, issues concerning the ESDP surfaced once again. The 2005 Report stated that Turkey's participation in the ESDP continued to pose problems, that Turkey and the EU had different interpretations of the Berlin Plus[5] treaties, and that EU-NATO strategic collaboration was damaged by Turkey's insistence that Cyprus and Malta be excluded. Moreover, for political reasons, Turkey continued to block Cyprus's membership in specific groups, such as the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. These issues persisted in 2006, when nuclear armament was also included in the chapter. In 2007 Turkey withdrew its pledge from the Force Catalogue 2007 within the scope of Helsinki Headline Goal 2010. The 2007 Report included the statement that *"Turkey wishes to increase collaboration in this field and to participate more extensively in decision making processes in the ESDP."* The main subjects in the 2008 Report are as follows:

- Relations between Turkey and Iraq, extraterritorial terrorist activities by the PKK, the Turkish Armed Forces' operations in Northern Iraq, and contacts with the Regional Kurdish Administration.
- Iran's nuclear program and negotiations between Turkey and Iran for treaties on energy and collaboration in the fight against drug trafficking and organized crime.
- The issue of the border checkpoint with Armenia, bilateral relations with Yerevan, the proposed Common History Commission, and meetings concerning the Nagorno-Karabakh issue.
- The clash between Russia and Georgia and the proposed "Caucasus Stability and Cooperation Platform."
- The Middle East Peace Process, the conflict in Lebanon, and the reconciliation process.
- The 2007 Black Sea Synergy Initiative of the Commission and the development of regional cooperation in the Black Sea region.
- Turkey's endeavors to mediate concerning the issues between Afghanistan and Pakistan and its contribution to the International Security Assistance Force (ISAF).
- Harmonization with CFSP.
- The ratification of the UN Chemical Weapons Convention by the National Assembly.
- The conflict between Turkey and EU regarding membership to specific supply groups, such as the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies
- Turkey's participation in the European Union Force (EUFOR/ALTHEA) military mission in Bosnia-Herzegovina, the European Union Police Mission (EUPM) in Bosnia-Herzegovina, and the European Union Rule of Law Mission (EULEX) in Kosovo, all within the framework of ESDP.

4 This chapter was initially referred to as Common Foreign and Defense Policies (CFSP).

5 This is the name of a package agreed on by the EU and NATO in 2002. It is based especially on the EU benefiting from NATO's military capacity in its own activities aiming to preserve peace.

- Turkey's standing within the ESDP and its dissatisfaction with subjects such as the adoption of a bilateral security treaty with the EU and administrative arrangements regarding the European Defense Agency.
- Concerning EU-NATO relations beyond "Berlin Plus," Turkey's ongoing objections to EU-NATO cooperation in all EU member countries and issues with EU-NATO cooperation in the framework of ESDP civil missions, particularly in Kosovo and Afghanistan.

As for the most recent National Program, since the survey process continued, no pledges were made regarding an implementation timetable for this chapter.

Turkey's position regarding EU institutions in the fields of security and defense in particular can also be observed from statements made by TSK officials. The then-Deputy Chief of General Staff Ergin Saygun referred to the following issues in a statement entitled "NATO within a Changing Security Environment:"

- *"Following the cold War, when the risk of a widespread war ended and there was a decrease in Europe's dependence on the USA for its security, the Western European Union (WEU) and the European Union became a current issue once again. Three separate organizations emerged that were responsible for Europe's security and consisted of more or less the same members, some of which had different statuses. In order to prevent the division of European security and to develop the European arm of the Transatlantic link, a decision was made to develop the European Security and Defense Identity (ESDI) within NATO. However the first major crack in the Transatlantic link happened when the ESDI was said to be the European arm of the Common Foreign and Defense Policy.*
- *During the 1999 Washington NATO Summit, NATO allies that are EU members insisted that NATO take on only Article 5 and the EU take on all the remaining duties; following negotiations, it was accepted that NATO's duties included more than just Article 5. This division is implicitly continuing at present. A fierce competition is taking place between NATO and the EU for the division of the world. Serious issues are encountered in the implementation of Berlin Plus, because while interventions in crises should be carried out by either NATO or the EU, at present both are intervening at the same moment.*
- *Turkey is being accused by different sectors of preventing cooperation between NATO and the EU. The EU's insistence that the Greek government of South Cyprus participate in EU cooperation constitutes one of the fundamental issues behind the failure of NATO-EU cooperation to function as intended. Furthermore, there is no doubt that traditional concerns felt by some allies that if the cooperation between NATO and the EU develops, the fact that the EU will be subject to NATO constitutes the real obstacle to the deepening of cooperation.*
- *The plan is for the EU's new security organization to be established over the mechanisms established in the WEU, and therefore for NATO allies that are not EU member countries, like Turkey, to preserve the rights they acquired through the WEU. However, in the creation of the ESDP, the EU has practically ignored the decisions made at the Washington Summit. At the present stage, Turkey has lost almost all of its gains in the context of the Turkey-Europe Security Architecture."*

As is clear from this statement, the armed forces are concerned by the existence of the ESDP and their exclusion from it. That is why the transformation of the EU's defense policy into an institution that rivals NATO and results in duplications and lack of effectiveness is highlighted. Turkey's two major issues with the ESDP are based on Cyprus's presence within this policy and on the different rules applied to Turkey as a non-member. Turkey retaliates by exercising its rights within NATO.

TABLE 1: DEVELOPMENTS IN POLITICAL CRITERIA RELATED TO SECURITY

Year	Turkish Action
1999 - 2000	• Ratified the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. • The Ministry of Internal Affairs launched an investigation into corruption in administration. • The TBMM Human Rights Commission published nine reports on torture in Turkey, based on inspections conducted from 1998-2000 in police stations and prisons and supported by interviews with prisoners, their families, and personnel. • Included human rights training in the educational programs of police academies as of the 1999-2000 academic year.
2000 - 2001	• Entry into force of the law establishing the Criminal Execution Magistracy. • Entry into force of constitutional and legal amendments to restructure the State Security Courts (its formation of solely civilian members). • Acceded to the Council of Europe's Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the Council of Europe's Civil Law and Criminal Law Convention on Corruption. • Created the Human Rights Department, the Supreme Council of Human Rights and the Human Rights Consultancy and Research Council by virtue of the law dated October 5, 2000. • Approved regulations regarding the provision of training on human right to the police force by virtue of the Law dated April 25, 2001 on the Training of the Police Force. • Published the report on torture and maltreatment prepared by the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment in January 2001. • The Ministry of Internal Affairs issued a circular clearly defining the duties and responsibilities of the police and other security forces with respect to custody, official arrest, detention, and questioning and banning torture and mistreatment.
2001 - 2002	• Abolished the possibility for officers to stand in for public administrators in their absence by amending Article 9 of the Law on the Organization, Duties and Authorities of the Gendarmerie. • Passed three reform packages (in February, March, and August 2002) amending various fundamental laws (Nos. 4744, 4748 and 4771) addressing human rights, including the death penalty, fundamental rights and freedoms, pre-trial detention, and legal compensation. • Abolished the death penalty at times of peace. • Reduced to a maximum of four days pre-trial detention periods under police supervision in order to prevent torture and mistreatment (with the possibility of extending this period by three days in provinces under a state of emergency). • Introduced the requirement to notify detainees' relatives of a prosecutorial decision to extend detention or arrest (via amendments to Articles 107 and 128 of the Criminal Procedure Code). • The General Directorate of Security demanded that all civil servants pay attention to the matter of mistreatment, via a June 28, 2002 circular. • Amended Article 13 of the Law on Civil Servants mandating that civil servants convicted for torture and mistreatment pay any compensation stipulated by the European Court of Human Rights (ECtHR). • Increased the training period in Police Vocational Colleges from nine months to two years and added human rights courses to the curriculum. • Enacted the Law on Training Centers for the Personnel of Penal Institutions and Houses of Detention in July 2002. • Amended Articles 31 and 159 of the Turkish Penal Code (*Türk Ceza Kanunu*, TCK) and Articles 7 and 8 of the Law on the Fight against Terrorism. • Established a new unit within the Ministry of Internal Affairs, with responsibility for associations and corresponding to the General Directorate of Security, via an amendment to the Law on Associations. • Ratified the Optional Protocol of the Convention on the Rights of the Child, concerning the sale of children, child prostitution, and child pornography.

TABLE 1: DEVELOPMENTS IN POLITICAL CRITERIA RELATED TO SECURITY (CONTINUED)

Year	Turkish Action
2002 - 2003	• Announced a policy of zero tolerance for torture. • Amended the Law on Forensic Medicine. • Acceded to the Council of Europe's Criminal Law Convention on Corruption in April. • Ratified the UN International Convention on Civil and Political Rights and the Convention on Economic, Social and Cultural Rights. • Ratified the Additional Protocol No. 6 to the European Convention on Human Rights, on the abolition of the death penalty, except for times of war or the threat of war. • Established a Center for the Examination and Assessment of Human Rights within the General Command of the Gendarmerie. • Amended Article 243 (torture) and 245 (mistreatment) of the TCK to prevent the suspension or conversion into a fine of prison sentences for these crimes. • Amended the Law on Trials of Civil Servants and other Public Employees and Article 154 of the Code of Criminal Procedure to abolish the need to obtain permissions from the superiors of public employees to investigate them for torture and mistreatment. • Decreased to four days the period of police detention for detainees in provinces under state of emergency who are taken from penal institutions or prisons for purposes of investigation. • Amended Article 307/a of the TCK to introduce prison sentences of two to five years for people who bring or use arms or electronic communication devices into penal institutions and houses of detention. Amended Article 307/b of the TCK to introduce prison sentences of one to three years for people who prevent convicts and detainees in penal institutions and prison from meeting with their guests and lawyers. • Abolished Article 8 (propaganda against the indivisibility of the state) of the Law on the Fight against Terrorism. • Reduced to six months the minimum level penalty stipulated by Article 159 of the TCK (defamation of the state and of state institutions and threats to the indivisible unity of the Republic of Turkey) and narrowed the scope of Article 169 (aiding and abetting terrorist organizations). • Ended approximately 15 years of state of emergency in Turkey's east and southeast. • Entry into force of the "Law on Reinstatement into Society."
2003 - 2004	• The State Security Courts were abolished. • Enacted the new Criminal Code. • Amended the Regulation on Apprehension, Detention and Questioning to expand detainees' rights. • Enacted the law on the Establishment of the Ethics Committee for Civil Servants. • Signed the Additional Protocol No. 13 to the ECHR, on the abolition of the death penalty under all conditions, the First Optional Protocol to the International Covenant on Civil and Political Rights, which expands individuals' petition rights, and the Second Optional Protocol on the abolition of the death penalty. • Ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. • Amended the Regulation on Apprehension, Detention and Questioning, to strengthen the rights of detainees. • Issued a circular in April 2004 instructing all security personnel to refrain from methods that may result in detainees' claiming that they have been mistreated, such as deprivation of sleep, being kept standing for long periods of time, being threatened, and being blindfolded. • The Ministry of Internal Affairs issued a circular aimed at preventing the excessive use of force by security forces and implementing new sanctions. • Enacted the Law on the Compensation of Damages Arising from Terrorism and from the Fight against Terrorism.
2004 - 2005	• Entry into force of the New Criminal Code, the Law on the Execution of Sentences, and the Law on Criminal Procedures. • Acceded to the Optional Protocol of the UN Convention against Torture.
2005 - 2006	• Ratified amendments to the Law on the Fight with Terrorism, but the list of crimes related to terrorism was expanded and the broad definition of terrorism was preserved. • Enacted the Law on the establishment of a Public Oversight Institution (Ombudsman). • Amended the law on Public Financial Administration and Control. • In January 2006, the Ministry of Justice issued approximately 100 new circulars to update all existing circulars. • The Ministries of Justice and Internal Affairs issued two separate circulars aiming to clarify relations between prosecutors and judicial security forces. • Ratified the Second Optional Protocol to the International Covenant on Civilian and Political Rights (ICCPR). • Entry into force of the UN Convention against Corruption.
2006 - 2007	• Ratified Protocol No. 14 to the ECHR, which amends the oversight system. • Amended the Law on the Duties and Responsibilities of the Police Force.

Source: EU Commission's Progress Reports on Turkey, 2000-2008.

TABLE 2: FREEDOM, JUSTICE, AND INTERNAL AFFAIRS

Year	Turkish Action
1999 - 2000	• Began efforts to begin dialogue on migration issues and training of border security personnel; held a meeting within the framework of the Information Debate and Exchange Center on Border Crossing and Migration. • In close collaboration with the UN High Commissioner for Refugees (UNHCR), began training and capacity development efforts regarding asylum policies and procedures. Improved infrastructure to facilitate procedures for establishing asylum status.
2000 - 2001	• Began a process of cooperation and coordination among a number of ministries and institutions to strengthen foreign border controls. • Began bilateral negotiations on migration with some countries of origin and destination of migrants regarding the accession of acceptance treaties. • The General Directorate of Security of the Ministry of Internal Affairs organized training on false documents as a measure for preventing illegal border crossings. The Gendarmerie is completing the Integrated Communications System Project (*Jandarma Entegre Muhabere Sistemi*, JEMUS), which aims to accelerate information flow among all units. • Began to improve refugee acceptance services. • Entry into force of the treaty between Turkey and Greece on cooperation regarding the fight against crime. • Began the gradual implementation of the Laboratory Business Flow System (*Laboratuvar İş Akış Sistemi*, LIAS) in all police criminal laboratories and the transfer of data into the Integrated Ballistic Examination System (*Entegre Balistik İnceleme Sistemi*, IBIS) of police criminal laboratories in Ankara, Diyarbakır, and Istanbul. All regional criminal laboratories of the gendarmerie in Ankara, Bursa, and Van were equipped with two automatic fingerprint recognition systems. • Established a Central Unit for the Fight against Smuggling in the Ministry of Internal Affairs. • Completed procedures concerning accession to the 1972 Protocol Amending the Single Convention on Narcotic Drugs. • Signed the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime. • Organized a meeting with representatives from the Office of the Chief of General Staff, the Ministry of National Defense, and the Ministries of Internal and Foreign Affairs that led to the appointment of a point of contact within each institution and an early warning system for border management.
2001 - 2002	• Continued to expand the responsibility of the Land Forces' Command regarding green borders, in order to also include the south and southeast, and its take-over of the authority of the General Command of the Gendarmerie. • Established a working group within the Ministry of Internal Affairs consisting of representatives from a number of ministries and of institutions responsible for providing security that will work to harmonize Turkish legislation and regulations concerning border management, asylum, and migration with the EU Acquis. • Acceded to a protocol on repurchase between Turkey and Greece. • Joined the Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration (CIREFI) Early Warning System. • Increased the number of police officers in border provinces and busy border checkpoints. • Established checkpoints for passages from the east to the west and increased the frequency of coastal patrols. • Acceded to international conventions on combating illegal immigration and human trafficking, including the 2002 United Nations Convention on Transnational Organized Crime and its three protocols. • Signed the United Nations Convention on the Suppression of the Financing of Terrorism and the United Nations Convention on the Suppression of Terrorist Bombings. • Initiated negotiations to participate in the European Monitoring Center for Drugs and Drug Addiction (EMCDDA) and participated in the meetings of the European Information Network on Drugs and Drug Addiction (REITOX). • Began the Security System for Border Controls (*Gümrük Kontrolleri İçin Güvenlik Sistemi*, GÜMSİS).

TABLE 2: FREEDOM, JUSTICE, AND INTERNAL AFFAIRS (CONTINUED)

Year	Turkish Action
2002 - 2003	• Accepted the strategy proposed by the action group responsible for harmonizing Turkish border management with the EU Acquis. The strategy, which is part of the reviewed National Program, called for the formation of a new unit within the Ministry of Internal Affairs to be responsible for all border protection matters, including coast protection, and to consist of civilian and specialist security forces. • Accepted the Law on the Work Permits of Foreigners. • Signed the United Nations Convention on Transnational Organized Crime (the Palermo Convention) and its two protocols: the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air. The Turkish Penal Code was amended to harmonize Turkish law with these two Protocols. • Enacted the Law to Combat Smuggling. • Formed an Inter-Ministerial Action Group to combat human trafficking, under the coordination of the Ministry of Foreign Affairs. • Signed the Protocol amending the European Convention on the Prevention of Terrorism. • Enacted the Law on the Implementation on the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and amended related legislation. • Signed a treaty with the EU on substances used in the production of drugs. • The Financial Crimes Investigation Board (*Mali Suçları Araştırma Kurulu*, MASAK) issued a regulation on the conditions of identification for clients and procedures for authorities to provide information on suspicious transactions.
2003 - 2004	• Began preparing a National Action Plan to implement the Integrated Border Management Strategy accepted in 2003. • Ratified the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. • The Coast Guard Command increased its patrols around the entrance into Aegean and Mediterranean territorial waters to combat illegal migration. • Began preparing a National Action Plan to implement the asylum strategy accepted in 2003. The Ministry of Internal Affairs issued a communiqué for the examination of asylum requests. • Signed the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, which supplements the United Nations Convention against Transnational Organized Crime. • Implemented a comprehensive training program for the police and gendarmerie entitled "The police force, professionalism and society." • The Ministry of Internal Affairs and the Gendarmerie signed agreements with a non-governmental organization to increase assistance to victims of human trafficking. • Signed the United Nations Convention against Corruption and accepted the Principles of Conduct and Integrity, which also address the Undersecretariat of Customs and corruption. • The Agreement between the European Community and the Turkish Republic on Precursors and Chemical Substances Frequently Used in the Illicit Manufacture of Narcotic Drugs or Psychotropic Substances came into force. • Signed the Council of Europe's Criminal Law Convention on Corruption. • Ratified the Hague Convention on Taking of Evidence Abroad in Civil or Commercial Matters.
2004 - 2005	• Enacted a National Action Plan to harmonize the fields of migration and asylum. • The strategic cooperation agreement with Europol came into force. • Began negotiations for a repurchase agreement with the EU. • The Ministry of Internal Affairs issued a circular aiming to improve cooperation and coordination among the police, gendarmerie, and border officers. • Began a program against human trafficking with the International Migration Organization. • Signed the Council of Europe's Agreement on Illicit Traffic by Sea, concerning drugs.
2005 - 2006	• Enacted a National Action Plan on the implementation of the Integrated Border Management Strategy. The development of a more integrated approach to border management is a key element from the point of view of this chapter in the accession negotiations. • Signed the Council of Europe's International Convention for the Suppression of Acts of Nuclear Terrorism and the Convention on the Suppression of Terrorism.
2006 - 2007	• Accepted a National Strategy in harmony with the EU Drug Strategy and the EU Action Plan on Drugs 2005-2012.

Source: EU Commission's Progress Reports on Turkey, 2000-2008.

TABLE 3: HARMONIZATION TIMETABLE FOR JUSTICE, FREEDOM, AND SECURITY LEGISLATION

No.	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Date of issue
1	Council of Europe resolution dated June 9, 1997, on the handbook on Common Customs Monitoring Operations	Law on the Amendment of the Statutory Decree No. 485	Provision of legal grounds for Common Customs Monitoring Operations Allowing the exchange of information and documents for operations to be conducted in line with responsibilities arising from international or bilateral treaties	Undersecretariat of Customs	After 2011
2	Treaty on Cooperation and Mutual Assistance between Customs Administrations, on the basis of Article K. 3 of the Treaty of the European Union	Law on the Suitability of the Ratification of the Treaty on Cooperation and Mutual Assistance between Customs Administrations	Increase in cooperation and mutual assistance between customs administrations	Undersecretariat of Customs	After 2011
3	EU Treaty on the Use of Information Technology for Customs Purposes	Law on the Suitability of the Ratification of the Treaty on the Use of Information Technology for Customs Purposes	Establishment of legal grounds for the use of information technology for customs purposes	Undersecretariat of Customs	After 2011
4	EU Treaty on the Use of Information Technology for Customs Purposes	Decision by the Cabinet of Ministers on the Ratification of the Treaty on the Use of Information Technology for Customs Purposes	Establishment of legal grounds for the use of information technology for customs purposes	Undersecretariat of Customs	After 2011
5	Council Act dated November 3, 2008, setting rules governing Europol's external relations with third States and non-European Union related bodies (1999/C 26/04) Council Act of March 12, 1999, on rules governing the transmission of personal data by Europol to third States and third Bodies	Treaty of Operational Cooperation with Europol	Once the Law on Data Protection comes into force, ensuring operational cooperation with Europol and therefore moving to the next stage of the fight against international crime	Ministry of Internal Affairs	2010-2011
6	Council Act of June 5, 2003 amending the Council Act of 3 November 1998 adopting rules on the confidentiality of Europol information	Harmonization of the current Document Safety policy with the information confidentiality of Europol and the creation of the legal infrastructure	Establishment of equivalence in the use, evaluation, and confidentiality of information and documents to be shared between Europol and Turkey and use of common confidentiality, use, and evaluation codes in the exchange of information	Ministries of Justice and Internal Affairs	2010-2011

TABLE 3: HARMONIZATION TIMETABLE FOR JUSTICE, FREEDOM, AND SECURITY LEGISLATION (CONTINUED)

No.	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Date of issue
7	Convention on the establishment of a European Police Office based on Article K.3 of the Treaty on European Union (Europol Convention)	Regulation on the duties and responsibilities of the Europol National Unit	Clarification of the job definition, legal identity, and structure of the Europol National Unit via existing regulations and enactment of common business flow and work arrangements that include representatives of other institutions, in line with recommendations by HENU (Heads of Europol National Units)	Ministries of Justice and Internal Affairs	2010-2011[6]
8	Article 8 of Regulation No. 1338/2001	Organization of NCO and ENU business flow in the Fight against Counterfeiting and False Euros	Achieving concrete progress in the Fight against Euro Counterfeiting, included in Chapter 32 (Regulation of information exchange especially on Euro counterfeiting between Europol, established as the European Central Office, and the NCO of Turkey)	Ministries of Justice, Internal Affairs, and Finance	2010-2011
9	Regulation No. 1987/2006, Council Act No. 2007/533/JHA	Establishment of the Sirene Office and SIS II and creation of the necessary legal and technical infrastructure	Creation of technical and legal grounds for the establishment of SIS II in Turkey following EU accession	Ministries of Justice and Internal Affairs	Will come into force as part of the full membership process
10	Convention Implementing the Schengen Agreement of June 1985 between the Benelux Economic Union, the Federal Republic of Germany and the French Republic, on the Gradual Abolition of Checks at their Common Borders	Organization of the work and business flow of the Sirene Office	Establishment of business flow and work procedures for representatives of different security units in the Sirene Offices, in line with Articles 39-40-41 and 101 of the Police Cooperation heading of the Schengen Agreement and within the framework of the Schengen Catalogues	Ministry of Internal Affairs	Will come into force as part of the full membership process
11	Convention Implementing the Schengen Agreement of June 1985 between the Benelux Economic Union, the Federal Republic of Germany and the French Republic, on the Gradual Abolition of Checks at their Common Borders	Establishment of the National Schengen Information System (N-SIS) and of users' access	Establishment of the National Schengen Information System, which includes Articles 96-100 of the Police Cooperation heading of the Schengen Agreement and transfer of information from this information system to the Central Schengen system C-SIS Establishment of access to N-SIS in line with 101 articles	Ministry of Internal Affairs	Will come into force as part of the full membership process
12	Evaluation of European Union Policies in the field of Justice, Freedom and Security for the Council of Europe and the European Parliament (COM(2006) 332 final)	Revision of the Regulation of the Establishment, Duties and Work of Bomb Disposal and Examination Units and of the Regulation of the Department of Counter-Terrorism and Operations	Establishment of a training centre and of the Europe-Middle East Research, Examination and Training Centre on Explosives and Bombs with the aim of developing international and regional cooperation on an effective fight with terrorism	Ministry of Internal Affairs	2011-2013

Source: National Programme of Turkey for the Adoption of the EU Acquis, 2009.

6 Will be later removed from the Europol Operational Cooperation Treaty.

TABLE 4: EU-FUNDED PROJECTS OF THE MINISTRY OF JUSTICE, MINISTRY OF INTERNAL AFFAIRS, AND TURKISH ARMED FORCES IN 2007 AND 2008

Chapter	Beneficiary	Project	Total Project Cost (€)	EU Contribution (€)
Justice and Internal Affairs	Ministry of Justice General Directorate of Penal Institutions and Detention Centers	Work with Young People – 2007	2,000,000	1,947,500
Political Criteria	Office of the Chief of General Staff	Citizenship Education for Soldiers – 2007	15,300,000	12,700,000
Political Criteria	Ministry of National Defense and Office of the Chief of General Staff	Human Rights Education for Military Prosecutors – 2007	2,000,000	2,000,000
Justice, Freedom and Security	Ministry of Internal Affairs, General Directorate of the Gendarmerie and Command of the Coast Guard	Integrated Border Management Action Plan – Phase I – 2007	10,963,000	9,834,750
Justice, Freedom and Security	Ministry of Internal Affairs	Capacity Building for Turkey's Fight against Illegal Migration and Establishment of Transfer Centers for Migrants - 2007	19,433,333	15,000,000
Justice, Freedom and Security	Ministry of Internal Affairs	Establishment of Welcome, Observation and Accommodation Centers for Migrants and Refugees - 2007	62,400,000	47,100,000
Justice, Freedom and Security	Ministry of Justice	Broader Application of Model Prisons and the Promotion of Prison Reforms - 2007	7,000,000	6,000,000
Justice, Freedom and Security	General Directorate of Security	Consolidation of Turkey's National Monitoring Center for Drugs and Drug Addiction - 2007	1,923,000	1,886,750
Political Criteria	Office of the Chief of General Staff	Citizenship Education for Soldiers - 2008	18,200,000	14,250,000
Justice, Freedom and Security	Ministry of Internal Affairs, General Directorate of the Gendarmerie and Command of the Coast Guard	Integrated Border Management Action Plan – Phase II - 2008	28,800,000	21,880,000
Justice, Freedom and Security	Ministry of Internal Affairs	Skill Building for Forensic Medicine Experts - 2008	2,111,300	2,005,735
Justice, Freedom and Security	General Directorate of Security and General Directorate of the Gendarmerie	Capacity Building for Police and Gendarmerie Investigation of Organized Crime - 2008	8,000,000	6,300,000
Justice, Freedom and Security	General Directorate of Security	Training for Border Police - 2008	1,200,000	1,140,000
Justice, Freedom and Security	General Directorate of Security and General Directorate of the Gendarmerie	Capacity Building for Forensic Medicine - 2008	26,600,000	19,950,000

Source: Delegation of European Union to Turkey, *www.avrupa.info.tr*.

NATIONAL SECURITY COUNCIL

National Security Council

Zeynep Şarlak

TRANSITION FROM "NATIONAL DEFENSE" TO "NATIONAL SECURITY" WITHIN A CONCEPTUAL FRAMEWORK

At the beginning of the Cold War, the concept that civilian and military authorities should be brought together to solve defense problems influenced Turkey. The first step towards the formation of an intermediary institution between the government and the army was taken by the Office of the Chief of General Staff in 1946, and the foundation of such a structure happened three years later.[1] When the National Assembly unanimously passed Law No. 5399 (prepared by the Military Council) establishing the National Security High Council (*Milli Savunma Yüksek Kurulu*, MSYK). This institution, which aims to assess only subjects concerning the country's defense, was designed as an advisory structure that submits decision-making and implementation to civilian authority and leaves the establishment of national defense policies to political will.[2] However, this concept, which restricts the activity of military bureaucracy to defense matters, underwent a significant change through the legal-institutional restructuring introduced by the *coup d'état* of May 27, 1960. The National Unity Committee paved the way for the transformation of the national security concept, creating legitimate grounds for the military hierarchy's intervention in domestic politics and turning this practice into a political tradition for the country. The introduction of the national security concept created by the USA within the scope of the Cold War perception brought about a new institutional structure. Following the *coup d'état*, the MSYK was dissolved and replaced with a constitutional organ called the National Security Council (*Milli Güvenlik Kurulu*, MGK).[3] The debates on constitutional articles regulating civil-military relations that took place in the civilian-majority House of Representatives of the Constituent Assembly as it prepared the Constitution of 1961 display the dynamics of the paradigm shift from national defense to national security.

However, during that same period, permanent members of equivalent institutions in Western countries, starting with the USA, consisted of civilian government officials who dealt with national security matters. Military officials presented their views, projects, and reports on matters within their own scope and acted as specialist advisors who contributed to the formation of policies on a limited number of subjects. The structure in Turkey, on the other hand, was shaped towards a concept of domestic security that reflected the military power's tendency to share state authority with elected politicians, as was the case in many satellite countries with which the US army cooperated during the Cold War against left-wing movements.[4] The interview that Haydar Tunçkanat, member of the National Unity Committee and later senator in the Parliament, gave to a daily newspaper on the grounds for the formation of the MGK openly supports this arrangement:

"In order to prevent political parties that gain power through elections from corrupting the second republic to be founded with our new Constitution and cause a new military coup, the Committee has created the National Security Council via the new Constitution as a preventive measure and has clearly defined its duties, granting the President of the Republic and the military members of the Council both the duty and the

1 Hikmet Özdemir, *Rejim ve Asker* (The Regime and the Military), p. 95.

2 <http://www.mgk.gov.tr/tarihce_2.html>.

3 The duty and formation of the MGK is defined as following in Article 111 of the Constitution of 1961: "The National Security Council consists of the Ministers determined by law and by the Chief of General Staff and Force Commanders. The National Security Council is chaired by the President of the Republic and in his absence by the Prime Minister. The National Security Council informs the Cabinet of Ministers of its fundamental views with the aim of assisting decision-making and coordination in national security matters." Suna Kili, *Türk Anayasa Metinleri: Sened-i İttifaktan Günümüze* (Texts of the Turkish Constitution: From the Charter of Alliance to Our Day), p. 206.

4 Zeynep Şarlak, Coups and Constitutions in Brazil, South Korea and Turkey: A Comparative Study of Legal-Institutional Frameworks (unpublished graduate thesis).

responsibility to present to the Council their fundamental views on all issues concerning our national security..."[5]

Contrary to Tunçkanat's expectations, not only was this structure not able to prevent the *coup d'état* of March 12, 1971, but the military cadre that realized the coup signed the memorandum as the "National Security Council." This meant that the command echelon had in a sense carried out a *coup* within the institution, appropriated itself of the MGK, and declared that matters associated with national security were under the control of the army. Moreover, the MGK was thus granted an executive authority that exceeded the advisory status stated in the Constitution.

The constitutional amendments realized in from 1971 to 1973 increased the MGK's influence over the executive power. The expression "assists the Cabinet of Ministers," found in the first version of the 111 articles of the Constitution of 1961, was changed to "advises the Cabinet of Ministers." Beside this change, the amendment concerning the MGK's structure[6] was included in the Constitution as a new article. The reference to "force representatives" in the first version of the article was replaced with "force commanders" and the importance of military authorities within the council was increased both in number and institutional responsibility.

However, the most fundamental regulations regarding the MGK's status took place during the military regime established by the military *coup* of September 12, 1980. The amendments made in the MGK's constitutional status during this period resulted in the institutionalization of the political role of military hierarchy to such a degree as to eliminate the need for a new *coup*.

A radical change in this area was made via Article 118 of the Constitution of 1982. This article put an end to the civilian majority within the MGK and increased its influence by making its decisions binding. The new structure included the General Commander of the Gendarmerie among the military members of the Council. The Council was given equal numbers of military and civilian members (five each). Considering that decisions were made on the basis of a majority of votes, once Kenan Evren, the leader of the coup, was elected President of the Republic, it was inevitable that the five military members were supported by a sixth member, the President himself, as the head of the MGK, and therefore came to outnumber the civilians on the MGK. More importantly, decisions went from being "advisory" to "declaratory." The MGK therefore ceased being a constitutional advisory committee. The country's national security decisions were considered to "be given priority by the cabinet of ministers" and the Council thus acquired a legal status above the government.[7]

The Chief of General Staff's power to determine the state's priority agenda became equal to the Prime Minister's, and military authority was allowed to command a security field that was broadened to include "ensuring public peace and security." The executive power, which should consist of the head of the state and the government, was thus transformed into a *de facto* tripartite arrangement with the addition of the Turkish Armed Forces. The MGK, where this trilateral structure merged, became the main decision-maker on all fundamental subjects related to the regime.

However, the transformation of the state model established with the military *coup* of September 12, 1980 into a security state is more obvious in Law No. 2945,[8] than through the Constitution of 1982. The definition of national security in Law No. 2945 helps clarify the MGK's expanded powers: It is defined as "the protection and safeguarding of the constitutional order, the national entity, and the unity of the state and of all of its interests in the international arena, including its political, social, cultural, and economic interests, and of its conventional law, against all types of external and internal threats" and thus acquired official status. However, the fact that this broad concept is formulated as "National Security Policy" in the same law and is therefore implemented constitutes an even more important development. National security policy is defined as "the politics comprising the principles behind domestic, foreign, and defense policies as specified by the Cabinet of Ministers, on the basis of views established by the National Security Council with the objective of ensuring national security and achieving national objectives." Since this definition could easily be interpreted as the transformation of all subjects dealt with by the MGK into state policies via MGK decisions, it acquired critical importance in Turkish political life.

5 H. Tunçkanat, 'Milli Güvenlik Kurulu' (National Security Council), *Akşam*, September 22, 1996.

6 Law No. 129, dated December 1, 1962, on the National Security Council.

7 For sources on the changing constitutional status of the MGK see, Taha Parla, *Türkiye'nin Siyasal Rejimi: 1980-1989* (Turkey's Political Regime: 1980-1989); Bülent Tanör, *İki Anayasa* (Two Constitutions); Zafer Üskül, *Türkiye'nin Anayasa Sorunu* (Turkey's Constitution Issue).

8 Law No, 2945, dated November 9, 1983, on the National Security Council and its General Secretariat.

In the new constitutional order, the military *coup* declared its rule by placing the MGK at the top of the state authority organigram and defined it in such detail in Article 4 of Law No. 2945 as not to allow for any legal loopholes.[9] With this law, the state model institutionalized by the September 12 regime thus granted the military the right to rule an immense area on the basis of a final policy imposed by its security choices. It allowed the military not only to establish targets but also to determine threats to security policy, and to take measures against these threats inside and outside the country. Moreover, the military hierarchy acquired the power to intervene directly in choices concerning the use of resources and to issue directives on the use of budgets without actually being held accountable for the consequences.

The structure created following September 12 not only transformed MGK decisions into government decisions but it also made sure that the ensuring delegation and implementation of these decisions was carried out by the General Secretariat of the National Security Council (*Milli Güvenlik Kurulunun Genel Sekreterliği*, MGKGS). The General Secretariat, a sub-structure aimed at transforming MGK decisions into binding decisions, at times has acquired more importance than the institution to which it belongs.

THE GENERAL SECRETARIAT OF THE NATIONAL SECURITY COUNCIL

From its foundation to its loss of powers as a result of constitutional and legal reforms carried out as part of the EU harmonization process, the MGKGS was an institution that existed outside public knowledge but that monitored and steered national politics and state functioning for 20 years.

The duties and powers of the General Secretariat were regulated via Law No. 2945, which came into force during the September 12 military regime. According to the provisions of this law, although the MGKGS appeared on paper to be a civilian institution under the Prime Minister, its General Secretary was appointed from among the armed forces at the rank of full general or admiral; its members, kept confidential by law, were appointed at the suggestion of the General Secretary and with the approval of the Prime Minister.

The General Secretary's duties (prior to the reform process) are summarized as follows:[10]

To conduct all kinds of necessary work, examinations, investigations, and assessments and to convey them and their consequences to the President of the Republic, the Prime Minister, and the MGK; to monitor and supervise the implementation of decisions made by the Cabinet of Ministers in parallel with decisions by the MGK; apart from defense policy, to conduct research on the determination, establishment, implementation, and, when necessary amendment of national security policy and to prepare plans on these subjects; to plan and implement the necessary services and activities for steering "the Turkish nation towards Kemalist thought" and related "national objectives", and for the protection of "the state's existence and independence, the country's unity and indivisibility, and public peace and security;" to plan and coordinate total defense services outside the jurisdiction of the armed forces; to establish the measures to be taken and the work and processes to be carried out in a state of emergency, to determine the necessary measures to achieve coordination in implementation;

9 Article 4-a) Develops views on decision-making and the coordination required for the establishment, formation, and implementation of the state's national security policy;

b) Establishes measures concerning the fulfillment of national objectives determined and national plans and programs prepared in line with the state's national security policy;

c) Continuously monitors and evaluates national power elements and the country's political, social, economic, cultural, and technological situations and developments that may affect the state's national security policy, determines the core principles that will ensure that these are strengthened in line with national objectives;

d) Established measures that it considers necessary for the protection of the state's entity and independence, the country's unity and indivisibility, and the society's peace and security;

e) Establishes measures that it considers necessary for the protection of the constitutional order, the achievement of national unity and indivisibility, and that will gather the Turkish nation around national principles and values and steer it towards national objectives, in line with Kemalist thought and the principles and reforms of Atatürk. It determines its views, needs and the measures it considers essential for the strategies and core principles necessary for fighting and neutralizes domestic and foreign threats against the above, as well as on planning and implementation services;

f) Establishes its views on states of emergency, martial law, mobilization, and declaration of war;

g) Determines the principles for services, responsibilities and plans to be carried out regarding the services and responsibilities that public and private sector bodies and organizations and citizens need to take on concerning total defense, national mobilization, and other matters, in the event of a state of emergency, war, situations that require war, and that follow law;

h) Establishes the necessary principles for financial, economic, social, cultural, and other measures and funds required by public services and total defense services and issues prescribed by the state's national security policy, to be included in development plans, programs, and yearly budgets;

i) Establishes its views on international treaties acceded and to be acceded in areas included within the scope of national security. The National Security Council conveys the views, measures and principles it establishes to the Cabinet of Ministers in the form of council decisions and it fulfills the other duties it is assigned by law.

10 Law No. 2945, Article 13.

To conduct cooperation and coordination with the State Planning Organization Undersecretariat in order for the measures prescribed by national security policy to be undertaken and for services to be carried out; for financial, economic, social, cultural, and other measures and funds required by public services and total defense services to be included in development plans and programs; and for allocations to be made in yearly budgets.

The "monitoring and supervision, steering, coordination, and oversight" of all of the above duties was included within the General Secretariat's job definition.[11] The General Secretariat was also granted the power to conduct all these duties "in conjunction with other ministries, bodies, and organizations when necessary."[12] All ministries, public bodies and organizations, and private legal entities were responsible for providing the MGKGS continuously or when requested, with information and documents, whether of public knowledge or of all degrees of confidentiality.[13] A separate allocation needed to be created for the confidential service expenditures of the General Secretariat.[14]

The fact that the General Secretariat, contrary to the constitutional status of the organization (the MGK) on whose behalf it acted, was organized as an "executive-administrative" institution made it possible for the MGK to be defined as a sort of "shadow government" of Turkey from a legal perspective.

Law No. 2945 stated that the internal work arrangements of the council, its work and relationships with ministries, bodies, and organizations, and the foundation, duties, and powers of the units within it would be classified as top secret.[15] The provision that the aforesaid regulation would be prepared by the General Secretariat and it "*would be accepted* [emphasis added] by the Cabinet of Ministers after being discussed in the National Security Council" constituted another issue of critical importance.

11 Law No. 2945, Article 14
12 Law No. 2945, Article 18
13 Law No. 2945, Article 19
14 Law No. 2945, Article 20
15 Law No. 2945, Articles 12, 18 and 21.
16 General Undersecretariat of the National Security Council, "1984 Yılı MGK Toplantılarının Basın Bildirileri" (Press Releases of MGK Meetings for 1984) <http://www.mgk.gov.tr/Turkce/basinbildiri1984/8subat1984.htm>
17 Law No 4963, dated July 30, 2003, on the Amendment of Various Laws, Official Gazette No 25192, dated August 7, 2003.
18 Deniz Zeyrek, 'İşte En Gizli Yönetmelik' (Here is the Most Secret Regulation), *Radikal*, August 27, 2003; Adnan Keskin, 2003, 'Bütün İstihbarat MGK'ya' (All the Intelligence Goes to the MGK), *Radikal*, August 31, 2003.
19 Ali Bayramoğlu, "Asker Sivil İlişkisi" (Civil-Military Relations), *Yeni Şafak*, August 5, 2003.

The MGKGS regulation was presented to the government as a decision only two months after the transition to civilian rule. This occurred on February 8, 1984 during the second MGK meeting of the Özal administration, which was chaired by the President of the Republic, Kenan Evren.[16] It was in effect until the reforms brought by the Seventh EU harmonization package in 2004.[17] Its covert duties and secret structure, which were defined by regulation (later abolished in the reform process) and not in the MGKGS law, began to emerge through news reports.[18]

It was thus discovered that along with the duties stated above, the MGKGS held also responsibilities of critical importance, such as "establishing the need for nationwide psychological operations of all types" and preparing and implementing psychological operation plans; "continuously monitoring the situation of domestic and foreign threats by evaluating all documents, information, and intelligence" that it collected concerning national security; establishing "elements that may turn into threats;" "when necessary, sending representatives to the Office of the Prime Minister, to the Cabinet of Ministers, and to relevant commissions in the TBMM;" "preparing the National Security Policy Document" and, following its "acceptance," carrying out the necessary activity for the its implementation; preparing directives for the implementing ministries; monitoring, overseeing, and coordinating the work to be conducted in line with these directives; and informing the General Secretary in the event of deviation from policy principles or a delay in implementation.

It also came to light that, in addition to a legal affairs office, personnel department, and secretariat, the MGKGS included four main service units founded on the basis of the secret regulation. According to the press, these were the National Security Policy Department, the Information Gathering and Assessment Group Department, the Public Relations Department, and the Total Defense Civil Services Department.

According to information provided by Ali Bayramoğlu, as of 1999, every single one of the 116 personnel working for these four units as president, deputy president, chief consultants, or consultants were current or former members of the military.[19]

In short, the structure of the security state and political system that were institutionalized by the September 12 regime can be summarized thus: While defense policy was prepared directly by the Office of the Chief of

General Staff, the general principles of national security policy, which included a very broad area extending from economy to culture, from education to social and foreign policy, were established by the MGK General Secretary. Within this framework, the General Secretary outranks all other public institutions, including ministries, and the armed forces are the only institution free from the MGK General Secretary's interference. The MGKGS's authority to intervene is not limited to executive and administrative organs, but extends to legislative bodies as well, via the presence of General Secretariat members in parliamentary commissions and in budgetary planning processes. Psychological operations were carried out among civil society, which is not steered as easily as political cadres; the intelligence network was also re-structured on the basis of this reasoning and a structure was created where the intelligence originating from all units of the state was gathered by military authorities.

This institutional structure, revealed during the acceleration of efforts for EU integration, was harshly criticized by democratic circles, who denounced it as contrary to the principles of a rule-of-law state, the norms of the European Court of Human Rights, and the current system of domestic law.

CIVILIANIZATION EFFORTS IN THE EU PROCESS: WHAT HAS AND HAS NOT CHANGED?

Following the 1999 Helsinki Summit, important steps were taken towards the democratization of civil-military relations in Turkey, in line with the EU criteria that "state organs should be under the control of civilian political authorities." The first to open the taboo of national security to discussion among political leaders was Mesut Yılmaz, state minister and vice prime minister in the 57th government, who did so in 2001 at his party's Seventh Ordinary Convention. Referring to the "national security syndrome's" obstructive role in the EU harmonization process, Yılmaz stated that, "only Turkey could have succeeded in turning a concept that enables the survival of the state into one that drains the lifeblood of the state." The military reacted strongly, prompting Yılmaz to retreat. His government was only able to take the first step towards reducing the MGK's role because of the support of the EU integration process. Within this framework, the number of civilian members in the MGK was increased by a constitutional amendment introduced on October 3, 2001, which also made Vice Prime Ministers and the Minister of Justice members of the council. The statement that decisions to be taken by the MGK "would be given priority by the Cabinet of Ministers" was changed to "would be taken into consideration by the Cabinet of Ministers," and MGK decisions were downgraded to recommendations.

A second reform of the MGK was carried out under Prime Minister Recep Tayyip Erdoğan. The authority to "coordinate and monitor" the implementation of MGK decisions by the General Secretariat was transferred to the Vice Prime Minister, via the amendment on August 7, 2003 as part of the Seventh Harmonization Package. It was decided that council meetings would be bimonthly rather than monthly; this also enabled the appointment of persons not directly attached to the TSK as General Secretaries. In addition, the Chief of General Staff within the YAŞ lost the authority to select, approve, and appoint the General Secretary, and this power was transferred to the Prime Minister.

The annulment of the MGKGS secret regulation occurred with the Cabinet of Ministers' decision No. 6688 on December 29, 2003. This was the most fundamental reform to the structure of the General Secretariat, as it significantly restricted the General Secretariat's duties and authority and discontinued the activities of the National Security Policy Department, the Information Gathering and Assessment Group Department, and the Public Relations Department (*Toplumla İlişkiler Başkanlığı*, TIB). The TIB, which was responsible for planning and implementing psychological operations, reportedly had a budget of USD 3,000,000; this was transferred to the Office of the Prime Minister. In accordance with the new regulation, a new unit entitled Research and Development Office Department (*Araştırma ve Değerlendirme Dairesi Başkanlığı*, AR-DE) was established within the MGK to prepare documents on matters covered by the definition of national security and to create a data and documentation center on these matters.

In addition to these positive steps towards civilianization, former Ambassador to Athens, Yiğit Aldogan was appointed in August 2004 as MGK General Secretary. Kenan İpek, who returned to headquarters while on duty as an undersecretary in Washington, and Gürsel Demirok, who returned to Ankara from the post of Consul General in Zurich and who was well-known in Europe for a report he prepared on civilianization, were appointed as chief advisors to Alpdogan.

On November 20, 2004, Alpdogan broke new ground by opening the doors of the MGK to all media, regardless of any accreditation-based distinction. In his speech to

the press, Alpdogan said that from then on the General Secretariat would work as a "think-tank" and its duty would be limited to providing the members of the MGK, which is an advisory organ on domestic and foreign threats, with intellectual content.[20]

Under Alpdogan, AR-DE was reorganized so as to consist of three units, one of which would deal with research on economy, culture, science, and education, while the other two would be responsible for domestic and foreign security. Following the August 28, 2005 publication in the Official Gazette of the Regulation on Promotion and Change in Title, based on the "Framework Regulation of the State Personnel Department on Promotion," the proposal of General Secretaries and appointments approved by the Prime Minister began to be carried out. Within this framework, Gürsel Demirok was appointed as President of AR-DE, where no principal appointments had been made up to that point and which had been ruled by proxy by Brigadier General Tayyar Elmas, President of the Mobilization Office. Two female employees of the General Secretariat, Asuman Orhan and Füsun Arslantosun, were appointed as President of the Personnel Department and Vice President of the Press and Public Relations Department, respectively.[21] That year, the contracts of 20 of the 53 retired military members of the Secretariat were not renewed.[22]

All these changes to the internal structure of the Secretariat, regarded as positive from the perspective of civilianization, were overshadowed by the fact that the initiative to generate ideas on how to combat reactionary movements and terrorism were transferred from a civilian to a military administrator. Furthermore, the "Domestic Security Group," which was responsible for monitoring and preparing reports on developments in the fight against terrorism, reactionary movements, separatism, and extremist movements and headed by a colonel appointed by the Office of the Chief of General Staff, was taken from AR-DE and attached to the Mobilization and War Preparations Department, administered by a brigadier general.[23]

MGKGS: DEVELOPMENTS IN 2006-2008

Based on Defense Minister Vecdi Gönül's February 2006 interview, it appeared as if the MGK reform process had come to an end. Gönül said, *"There are no short- or medium-term demands concerning the MGK in the Accession Partnership. I therefore believe that the EU is satisfied with what has been done about the MGK."*[24] However, the General Secretariat's attitude, function, and political standing came under discussion once again following an interesting development that was reported in the press. In a letter dated August 17, 2005, the General Directorate of the Land Registry Cadaster asked the MGK for its view on the Registry Archive Automation Project, which would enable the Ottoman registry archives to be transliterated into modern Turkish and published online. The question was answered in a "secret" letter on August 26, 2005 from the MGK Mobilization and War Planning Department, which wrote that "it would be appropriate for the records to be kept in the General Directorate of the Land Registry Cadaster and to be opened only to limited use, on the grounds that the information contained may be the subject of unfounded claims of ethnic and political genocide and of ownership claims of Ottoman foundations and of other similar exploitation."[25]

Questions arose, appropriately enough, as to why the Mobilization and War Planning Department replied to the question, how its personnel knew the contents of the registry, why the MGK's response was secret, and why the information in the archives needed to be kept hidden from the public. Some interpreted this to mean that *"the State did not want the dirty laundry regarding the transfer of capital from non-Muslims to Muslims to be aired."*[26] According to another news item on this subject, this answer by the military wing of the MGK created unease within the General Directorate of the Land Registry Cadaster but the project was still not realized.[27]

Another development regarding the MGKGS that occupied public opinion in late 2006 was the end of Alpdogan's term and who would succeed him. Then-President Ahmet Necdet Sezer vetoed all candidates put forward by the government. The situation, which went

20 "İşte MGK'da Sivil Fark" (This is Difference the Civilians Make in the MGK), *Yeni Şafak*, December 1, 2004.

21 Özgür Ekşi, "MGK'ya 2 kadın başkan" (2 women presidents for the MGK), September 8, 2005.

22 See Gencer Özcan, "Milli Güvenlik Kurulu" (The National Security Council) Ümit Cizre (der.), within *Almanak Türkiye 2005: Güvenlik Sektörü ve Demokratik Gözetim* (Almanac Turkey 2005: Security Sector and Democratic Oversight), p. 43.

23 Utku Çakırözer, "MGK'da sivilden askeri yöneticiye dönüldü" (The MGK has returned from civilian to military presidents) *Milliyet*, September 10, 2005.

24 "Gönül: 'Savunma ve Güvenlik Genelkurmay'ın işidir" (Gönül: "Defense and Security are the job of the General Staff), *Tempo Dergisi*, February 11, 2006

25 Nuray Babacan, "Tapu arşivlerini 'sınırlı' kullanın" (Make "limited" use of registry archives) *Hürriyet*, September 19, 2006.

26 Tolga Korkut, "Osmanlı Arşivleri Açılırsa Resmi Tez Zayıflar" (If the Ottoman Archives Are Opened, The Official Thesis Will Weaken), *BİA Haber Merkezi*, September 19, 2006.

27 Ayşe Hür, "Ermeni mallarını kimler aldı?" (Who got the properties of the Armenians?), *Taraf*, March 2, 2008.

unresolved for about nine months and turned into a crisis between the government and the presidency, came to an end when Abdullah Gül became President. Tahsin Burcuoğlu, former Ambassador to Athens and among the candidates vetoed by Sezer, was appointed MGK General Secretary in September 2007.

DEBATES ON THE NATIONAL SECURITY POLICY DOCUMENT

Criticism of the anti-democratic elements in both the preparation process of the National Security Document (*Milli Güvenlik Siyaset Belgesi*, MGSB) and the content itself continued for a long time after the new MGSB was debated by the MGK and proposed to the Cabinet of Ministers on October 24, 2005.

To summarize, the new MGSB was prepared under the guidance of the military and therefore in a way that was not too different from past renewal processes. Some parts of this document, which is confidential, were leaked to the press during its preparation and revealed that the new MGSB had clear-cut boundaries and that it allowed intervention into a wide range of domestic and foreign policies.[28] The preservation of the statement regarding "the use of the army against domestic security threats and, when necessary, the assumption of rule by the army in order to abolish these threats," was highlighted by the press,[29] causing an outcry from many people and organizations, particularly non-governmental human rights groups. Following the approval of the MGSB by the MGK, the Human Rights Association (*İnsan Hakları Derneği*, IHD) and the Contemporary Lawyers Association demanded that the government and the National Assembly reveal the legal status and content of the document. A joint statement by the Izmir branches of these associations on October 31, 2005 pointed out that the document disrupted the "freedom-security" balance to the detriment of freedom and claimed that it created grounds for unlawful intervention in the democratic and lawful regime, a "precursor to overt and covert *coups*."[30]

Despite this criticism, the MGSB was accepted by the Cabinet of Ministers in a March 20, 2006 meeting. In the wake of this event, the IHD and the Human Rights Foundation of Turkey petitioned the Council of State on March 24, 2006, requesting that the Cabinet of Ministers suspend its decision to accept and ratify the MGSB. This request was based on the conflict with Articles 2 and 6 of the Constitution to determine the authority of the Cabinet and with Articles 112 and 118, which determine the MGK's authority, as well as the conflicts with Law No. 2945 on the MGK General Secretariat, with UN conventions, and with the European Convention on Human Rights, of which Turkey is a party. Chamber No. 10 of the Council of State, which heard the case, recommended that the request for the suspension "be examined after having heard the defense of the defendant administration or after the legal defense period is over, [...] and that the defendant administration be informed that the original, or an approved copy of, the file related to the case, containing the decision in dispute by the Cabinet of Ministers and the National Security Policy Document be sent to the Council of State together with the defense."[31] However, this recommendation, considered by liberal circles as promising from a democratic perspective, was not complied with. Indeed, just before the deadline, the Office of the Prime Minister informed the Council of State that the MGSB would not be sent, on the basis of Article 20 of the Law on Administrative Criminal Procedures regulating provisions concerning confidential state documents.[32] In August 2006 the Court on Call (in place of Chamber 10 of the Council of State, which was on judicial recess) rejected the case without examining the document, on the grounds that "the document qualifies as a recommendation."[33] The plaintiffs objected, but the State of Council's Council of Chambers of Administrative Cases, which heard the objection on October 12, confirmed that the document "qualified as a recommendation" and deemed unsuitable the plaintiffs' grounds for objection.[34]

As the case was going on, in March 2006 the Domestic Security Strategy Document, based on the previous MGSB, was found in the safe of one of the suspects of

28 On this subject see, Özcan, 2005, pp. 38-40.

29 Deniz Zeyrek, "Gerekirse asker yine göreve" (If necessary, the military will do their duty), *Radikal*, October 26, 2005.

30 Kemal Özmen, "Hükümet İstemezse MGSB ''Gizli Anayasa'' Olmaz" (If the Government Doesn't Want It, the MGSB Will Not Be A "Secret Constitution"), *Bianet*, November 1, 2005.

31 Murat Yetkin, "Danıştay çığır açıyor" (The Council of State Marks a new era), *Radikal*, June 21, 2006.

32 "Her Yerde Var Danıştay'da Yok" (Everywhere except for in the Council of State), *Birgün*, July 22, 2006. Article 20, paragraph 3 of the Law on Administrative Criminal Procedures, stipulates the following: "However, if the information and documents requested concern the security or supreme interests of the State, or foreign states related to the security and supreme interests of the State, the Prime Minister or a relevant Minister may refuse to supply the information and documents in question by declaring the grounds for the refusal. (Additional sentence: June 10, 1994 – 4001/10 md.) Judgments cannot be given on defenses based on information and documents that are not supplied."

33 "Gizli anayasa tavsiyeymiş" (It seems as if the Secret Constitution was a recommendation) *Radikal*, August 30, 2006.

34 "Kırmızı Kitabın Ret Talebine Ret" (Rejection of the Demand for the Rejection of the Red Book) *Objektifhaber*, October 12, 2006.

the "Sauna Gang" case,[35] further contributing to the belief that this document constituted the grounds for military *coups*.

The harshest criticism about this incident was made by Bülent Arınç, then-President of the Assembly. On April 23, 2006, shortly after the MGSB came into force without being published in the Official Gazette owing to its top-secret status, Arınç gave a speech in the National Assembly where he said:

"At times the National Assembly is excluded from some very important mechanisms and its functions are restricted. For example, our Assembly and our relevant commissions are completely excluded from the preparation of the National Security Policy Document [MGSB], which is extremely influential in the country's domestic and foreign policies and is unacceptably defined as the "secret constitution." It is very interesting that this document, the disclosure and publication of which is completely forbidden, should be featured in newspapers the day after its final version is established. And the unfortunate discovery of the Domestic Security Strategy Document, which is based on the MGSB, in the archives of people on trial for forming a criminal organization, does not in any way befit the dignity of the state. The exclusion of our Assembly from the preparation of this document indicates how little the function of our parliament and the will of the people are valued."[36]

In response to Arınç's criticism, MGK General Secretary Alpdogan said, *"The claim that it is a secret or a second Constitution is not correct. The MGSB does not exist only in Turkey. All countries have documents of this kind. The USA publishes its document on the internet. Many other countries keep theirs secret. This document establishes the national interests and objectives of the country and the domestic and foreign security and defense policies to be followed to achieve these...,"* but he did not elucidate any of the main subjects of criticism.[37]

The degree to which governments are bound by the contents of the MGSB, at a time when the MGK has acquired advisory status as a result of the EU integration process, is also subject to debate. Cengiz Aktar, an expert on the EU accession process, claims that the EU will not be concerned by what is said by an advisory institution; however, if the contents of the document leaked to the press are implemented, the EU would take up the matter. Professor Dr. Zafer Üskül, then of Boğaziçi University, said that if the document's policy recommendations were implemented by the government, this would result in some consequences, but that "in its present state it could not be considered unlawful."[38]

Another criticism regarding the new MGSB is that the extreme right-wing, considered a domestic threat in 1997, was removed from the list of threats and is defined merely as an "element to be kept under observation." At a time when leftist movements have lost considerable power, right-wing nationalism is on the rise, and a number of illegal nationalist organizations have been formed, the media has noted this decision "will encourage racism, mafia leaders and lynching attempts."[39]

In response to the harsh statement by then-Chief of the General Staff, Yaşar Büyükanıt, made during a speech on October 2, 2006 at the Military Academy, where he said "reactionary movements do exist"– Prime Minister Erdoğan proposed finding a "common definition for reactionary movements" and attention reverted once again to the MGSB. As a result, the statement that "some groups and individuals, including some political parties, are considered to be part of this group" was added to the section on "factions that use religion for their own individual or political objectives" of the "Domestic Security Strategy Document."[40] The fact that this approach, which covertly targets the ruling political party, exists in the 2005 MGSB that considers reactionary

35 With the Küre (globe) operation of February 2006, police in Ankara exposed a criminal organization that contained members from the public authorities and mafia. This organization, later known by the public as the "Sauna Gang," was accused of setting up hidden cameras in some saunas in Ankara and recording adulterous videos of politicians and high-ranking bureaucrats who visited them. The operation was initiated on the basis of some blackmailing complaints by various massage salons. As part of the operation the police confiscated maps showing strategic points in Ankara, information relating to the Special Forces headquarters, some sketches, card indexing information on ministers and deputies. Many people, including a former Chief of Police and a Special Forces Captain were taken into custody within the scope of this operation. Mehmet Kamış, "Sauna, Atabey, Council of State", *Today's Zaman*, May 26, 2007. The suspects of the Küre Operation asserted that "they acted on the orders of high ranking military officials, they are a part of the Special Forces, and they observe and lead social movements." Yet the scope of the trial was not broad enough to include such claims in that particular trial. The case was closed without a broader investigation to prosecute these claims. İhsan Bal "Ergenekon Case and Indecent Proposals", *Journal of Turkish Weekly*, February 6, 2009.

36 For the text of Bülent Arınç's speech on April 23, 2006 see <http://www.turkish-media.com/forum/lofiversion/index.php/t24419.html>

37 Muharrem Sarıkaya, "Arınç'ın mesajının adresi" (The addressee of Arınç's message) *Sabah*, April 25, 2006.

38 Kemal Özmen, "Hükümet İstemezse MGSB "'Gizli Anayasa'' Olmaz" (If the Government Doesn't Want It, the MGSB Will Not Be A "Secret Constitution"), *Bianet*, November 1, 2005.

39 Can Dündar, "Savaş kültürü ve ırkçı tehdit" (The culture of war and racist threats), *Milliyet*, February 13, 2007.

40 "Kırmızı Kitap'ta irtica" (Reactionary movements in the Red Book), *Sabah*, October 6, 2006.

movements as the principal threat, led to debates about the "state-nation conflict," which have been ongoing since Ottoman times, played out on a national security axis. While many jurists, including Assoc. Prof. Adem Sözüer, who was on the team that prepared the new Turkish Criminal Code (*Türk Ceza Kanunu*, TCK), believe that "reactionary movements are not a crime according to the TCK," other academic and political analysts, who consider reactionary movements to be an ambiguous and political term, claim that the issue is not the concept itself, but the fact that factions referred to by this concept have acquired social visibility and have come to power.[41] On the other hand, some former high-level jurists and the main opposition party, the CHP, have stated that reactionary movements, as defined by the MGSB, are one of Turkey's primary threats.[42] Within this debate, CHP Group Deputy President Ali Topuz, speaking on behalf of the party, harshly reminded the Prime Minister that he had signed the MGSB.[43]

Unlike similar documents in democratic countries, whose final contents are prepared by civilians in coordination with the security bureaucracy, in Turkey the MGSB is given its final shape by the security bureaucracy and military authorities alone. Consequently, the document's contents reflect the military's political imagination and its threat definitions and priorities. The document addresses many subjects that should fall under the realm of the executive and legislative branches and that should be dealt with by other means by different social and political groups, are seen from a deeply entrenched military point of view, dealt with accordingly, and excluded from the political sphere.

Although the "frequently asked questions" section of the MGK General Secretariat's website defines the MGSB as a document of the Cabinet of Ministers that complies with the hierarchy of norms,[44] no set period has been given for its updating and its renewal is left to the MGK's discretion.[45] As such, it binds not only the government that ratifies it but successive ones as well.

Although the judiciary determined that the MGSB is simply a recommendation, taking into consideration the occasional state-government conflict and the continual state-society conflict in Turkish political life, there is still a question regarding the degree to which this holds true in practice.

At this point, as long as Article 35 of the Law on the TSK's Internal Services is in force, objecting to the statement that the army "may assume power when necessary [...] against domestic security threats," which is reportedly in the MGSB, will not mean much by itself.[46]

INSTITUTIONS THAT HAVE TAKEN OVER THE FUNCTIONS OF THE GENERAL SECRETARIAT OF THE NATIONAL SECURITY COUNCIL

An important development, believed to result in a lessening of the MGK's influence over domestic security and especially the fight against terrorism, happened in early 2006. During the December 29, 2005 MGK meeting, it was decided that the Supreme Council for Counter-Terrorism (*Terörle Mücadele Yüksek Kurulu*, TMYK) would become functional and would include a secretariat. Following the February 23, 2006 MGK meeting, in line with this decision, the government decided to raise the Department of Security Affairs to the level of a general directorate and to grant it broader authorities. The draft law regarding this new structure, called the "General Directorate of Security Affairs" (*Güvenlik İşleri Genel Müdürlüğü*, GIGM), a body that would become the secretariat of the TMYK, was presented to the National Assembly on March 7, 2006 and began to be debated in the TBMM's Internal Affairs Commission on March 23. The draft bill defines the institution's aim as "ensuring that the Office of the Prime Minister plays a more effective role in security matters and counter-terrorism."[47]

Officials from the Prime Minister's office noted that if the GIGM were recognized by law, its duties would coincide with the MGK's domestic security duties. Officials claimed that the new structure would take on the MGK's domestic security duties and be responsible for implementing the economic and social package proposed by the government for the Southeast. Interestingly, these officials stated that "democratization within the

41 Hasan Öymez,"İrtica Boldu" (Reactionary movements were abundant), *Star*, November 6, 2006; "Çiçek: Kanunlarda 'irtica suçu' diye bir suç yok" (Çiçek: The laws do not contain a crime entitled "reactionary movements"), *Sabah*, 2 Kasım 2006.

42 *ibid*, 2006.

43 "Başbakan'a ağır suçlama!" (The Prime Minister faces serious accusation!), *Haber Aktüel*.

44 <http://www.mgk.gov.tr/Turkce/sss.html#soru_34>

45 According to information provided in the official website of the General Secretariat, "There is no set time for the up-dating of the National Security Policy Document. The National Security Council advises the government to update the Document on the basis of the evaluation of Turkey's national security needs, within the scope of changes in the national, regional, and global security sphere and the consequences of the implementation of the national security policy. <http://www.mgk.gov.tr/Turkce/sss.html#soru_34>

46 According to Article 35 of Law No. 211, dated January 10, 1961, on the TSK's Internal Services, "The Armed Forces' duty is to protect and safe keep the Turkish homeland and the Republic of Turkey, established via the Constitution."

47 Yetkin, *ibid*, 2006.

MGK is not yet complete. There are conflicts between the Office of the Prime Minister and the MGK."[48]

The GIGM, which is structured like the US Federal Bureau of Investigations (FBI), became operational after the related law was published in the Official Gazette on May 30, 2006.

The duties of the GIGM are: "conducting the relationships between the Office of the Prime Minister and the institutions responsible for domestic security, foreign security, and counter-terrorism (TSK, Gendarmerie, General Directorate of Security, National Intelligence Agency, Coast Guard Command, and the Ministry of Foreign Affairs) and, when necessary, ensuring coordination among these institutions; carrying out investigations and research into matters related to domestic security, foreign security, and counter-terrorism, evaluating them, and making proposals; in regions where martial law or a state of emergency has been declared, gathering and evaluating information and ensuring coordination on relevant matters; informing the public of its duties; conducting the secretariat work of councils established on subjects related to its duties; and fulfilling other duties as assigned by the authorities."[49]

As the GIGM will also carry out the TMYK's secretariat work, it has begun to work under the *de facto* guidance of Abdullah Gül, who is the president of this council. Over 200 posts in the Department of Security Affairs were abolished and six new posts were allocated to the GIGM, consisting of a general director, four department heads, and one undersecretariat principal clerk. Muammer Türker, who worked for three years as Assistant Undersecretary in the Ministry of Transport, was appointed GIGM President.[50]

The government's attempts to functionalize the GIGM were reflected in the answer given to the parliamentary question presented by CHP MP Hüsnü Çöllü concerning the number of people on whom the National Intelligence Agency has conducted security investigations from 2003 to 2008. The government replied that during the period in question, "National Security investigations were conducted on 4,486 people at the request of the General Directorate of Security Affairs under the Office of the Prime Minister."[51]

Civilianization progressed further through the establishment of the Crisis Management Center of the Office of the Prime Minister (*Başbakanlık Kriz Yönetim Merkezi*, BKYM), which was an effort to establish a unit belonging directly to the Office of the Prime Minister, operating within the MGKGS and taking on the duties and responsibilities of the Total Defense Civilian Services Department, affiliated to the General Secretariat. The BKYM regulation, which was created during the February 28 process and emphasizes "political crises" rather than probable disasters, grants the center the authority to intervene not only during crises and natural disasters but also in the event of an impending political crisis. What matters the most here is that apart from the MGK, the MGK General Secretary, who was appointed from the military until the reform brought in line with EU standards, is also granted the power to propose that the center become operational. The regulation also grants the Crisis Coordination Council, whose secretariat work is conducted by the MGK, the power to propose to the relevant authorities the declaration of a state of emergency, martial law, mobilization, or war, in the event that a crisis intensifies. Taking into account the balance prior to the EU process, political will can be bypassed to a significant degree in the case of crisis management. The first step towards reorienting crisis management in the interest of civilians was taken in a draft law in 2005.[52] In August 2008, the government stated that crisis management units would be gathered into the Department of Natural Disaster and Emergency Situation Management[53] directly under the Office of the Prime Minister would have all power concerning risk and crisis management, based on a draft law presented to the National Assembly in March 2008.[54] However, as of the end of 2008 the draft bill had still not become law and the "National Crisis Management Maneuver," entitled "Security-2008," was held on December 1-5, 2008 under the coordination and responsibility of the MGKGS.

Another important development related to the MGK was the decision to form a new (as yet un-named) structure

48 "MGK'nın ''etkinliği" azaltılacak" (The MGK's "influence" will be decreased), *Bugün*, April 20, 2006.

49 Law No. 5508, dated May 24, 2006, on the Amendment of the Law on the Amendment and Acceptance of the Statutory Decree on the Organization of the Office of the Prime Minister, Official Gazette No. 26183, dated May 30, 2006.

50 Özgür Akbaş, "Terörle mücadelede FBI modeli" (FBI model for the fight with terrorism), *Bugün*, November 6, 2006.

51 Cemil Çiçek, "İçişleri Bakanı Cemil Çiçek'in Milletvekili Hüsnü Çöllü'nün yazılı sorusuna verdiği cevap" (The response given by Cemil Çiçek, Minister of Internal Affairs, to the question in writing by MP Hüsnü Çöllü) July 25, 2008.

52 Ufuk Hiçyılmaz, "Başbakanlık Krize Talip" (The Office of the Prime Minister Seeks a Crisis), *Aksiyon*, May 2, 2005.

53 "Acil durum yönetmeliği imzada" (The regulation on states of emergency is about to be ratified), *Yeni Şafak*, January 7, 2008.

54 For the complete text of the "Draft Bill on the Organization and Duties of the Disaster and Emergency Situation Management Department" see, <http://www2.tbmm.gov.tr/d23/1/1-0552.pdf>

within the Ministry of Internal Affairs. This decision essentially meant that the "security bureaucracy changed hands." This structure was first described by Nihat Ergün, Deputy President of the AKP's TBMM Group, during meetings in October 2008 regarding permission for military deployment. Ergün claimed that the role of the regular army in counter-terrorism would be limited to cross-border operations complying with international law and that all other forms of combat would be carried out by domestic security units, such as the police and gendarmerie."[55] Within this framework, domestic security bodies would be re-structured in order to carry out counter-terrorism, but did not provide details. According to a report by the Anadolu Agency, this structure, which was expected to be led by a high-level civilian administrator at the undersecretary or assistant undersecretary level, would also include high-level administrators from the Office of the Chief of the General Staff, the Gendarmerie, the National Intelligence Agency (*Milli İstihbarat Teşkilatı*, MIT), and the General Directorate of Security. This new structure, which would operate like an "Undersecretariat of Domestic Security," would prepare and implement strategic plans on matters related to counter-terrorism. It would ensure intelligence-sharing among the security forces, create a common "information pool," and have a dynamic structure that convened frequently. The same report stated that the structure would aim to prevent people from joining terrorist organizations in the mountains, to convince people who have joined those organizations to return to society, and to effectively implement the repentance law. The structure would include the psychological operations departments of civilian and military security forces, which would participate in its work.[56]

Apart from these steps aiming the civilianization of security bureaucracy, one must address a critical issue that calls into question the thesis that the civilianization of the MGK will bring about democratization. The functions of the TIB – one of the most criticized MGKGS units because of its role in psychological operations, abolished through the Seventh EU harmonization package -- continue to be carried out by equivalent military and civilian units.

In fact, following the TIB's abolition in late 2004, the unit and all its personnel, consisting of members of the military, were moved to the TSK and their activities thus acquired an official status.[57] More evidence of the TIBs indispensability to the state is the MGK's decision, made during the preparations for the Seventh Harmonization Package, to devolve the unit to the Ministry of Internal Affairs. Preparations began for a new organization within the Ministry of Internal Affairs, in the form of a central Public Relations Department and provincial Public Relations Offices, and a directive was ratified on April 30, 2003.[58] The classified circular sent by the Ministry of Interior to the governors of 81 provinces on May 22, 2003, part of which was leaked to the press, referred to the necessity for implementing psychological operations: *"National policy principles concerning matters required by the national interest should be supported by psychological operations. Our Ministry holds very important duties regarding psychological operations programs and we need to strengthen the support we provide to these activities. We have therefore decided that it would be appropriate for the activities of the Community Relations Department within our Ministry, which functions as a unit executing psychological operations, to be conducted by the 'Public Relations Department.'"*[59]

According to another news report, it was claimed that the "'civilian TIB would ensure coordination with the General Directorate of Security, the MIT, and the Office of the Chief of General Staff on matters related to counter-terrorism and psychological operations, [...] and that it would also fill the void left by the elimination of the Office of the Governor for the State of Emergency in 2002."[60]

55 Fatih Uğur, "İçişleri Bakanlığı, İç Güvenlik Bakanlığı'na dönüşebilir" (The Ministry of Internal Affairs may turn into a Ministry of Domestic Security), *Aksiyon*, October 20, 2008.

56 In May 2009 the Cabinet of Ministers completed the draft law on the structure in question. The draft plans for the formation of the aforesaid structure under the title of Undersecretariat for Public Order and Security within the Ministry of Foreign Affairs. The undersecretariat will also act as the secretariat of the Council for the Coordination of Counter-Terrorism, founded by the same law. When the duties and authorities stated in Article 6 of the draft law are taken into consideration, it becomes clear that the undersecretariat to be founded will to a great degree take over the function of the MGKGS. For the full text of the Draft Law dated May 11, 2009, on the Organization and Duties of the Undersecretariat for Public Order and Security, see <http://www.basbakanlik.gov.tr/sour.ce/index.asp?wss=basbakanlik.gov.tr&wpg=detay&did=basbakanlik.1004933>

57 Özcan, 2005, p. 42. The change of the title of the Psychological Operations Department, affiliated to the Office of the Chief of General Staff, into "Information Support Department" in 2005, because of public concern regarding it, constitutes another important development on this subject. Gökçe Susam, "Devletin Değil İnsanların Güvenliği" (The Security of People and not of the State), *Bianet*, March 1, 2005.

58 Soner Arıkanoğlu, "Sivil TİB, MGK Tavsiyesi" (Civilian TIB, MGK Recommendation), *Radikal*, October 24, 2003.

59 Mustafa Balbay, Cumhuriyet, October 22, 2003; "Balbay'ın bu 'bomba'sına lafımız yok..." (We have nothing to say on this "bomb" of Balbay), *Yeni Şafak*, October 23, 2003.

60 Arıkanoğlu, 2003.

Following these reports, Emin Şirin, MP for the Liberal Democrat Party, presented a written question to the National Assembly on whether the "Public Relations Offices" complied with EU harmonization laws.[61] In response, then-Minister of Internal Affairs, Abdülkadir Aksu, defined the EU as a process that began as an economic union and then extended to the political sphere, the intellectual infrastructure of which had not yet been completed. He then emphasized, *"within this framework, EU member countries do not completely [abandon] their own national sensitivities and values."* Aksu stated that "no bureaucratic organization devoted to our country's needs or its security can be seen as contrary to the EU philosophy," and he emphasized that it is necessary *"to consider as natural that the government establish 'National Policy' and principles on the basis of the country's interest and constitutional and legal grounds."* In his answer, Aksu also said that a legislative study on the formation of the Public Affairs Department was carried out by the Ministry of Internal Affairs, but that the subject would be considered once again within the scope of the "Fundamental Law on Public Administration."[52] Although this answer provides little information on with whom, against whom, and how the units in question would work, it raises concerns that the September 12 mentality has not yet disappeared, even in the civilian sphere, and that these functions were simply transferred from one institution to another for appearances. As of December 2008, the website of the Ministry of Internal Affairs did not contain any information on the organizational structure or duties of the Public Relations Department, which is included in the "organizations" section.[53]

CONCLUSION

The military coup of September 12, 1980 constitutes the peak of the institutionalization of the political arrangement known in political literature as a "National Security State." According to this arrangement, the MGK and its General Secretariat have been the key security actors for nearly 20 years. These institutions, officially structured as advisory and/or bureaucratic bodies and operating under military authority, were able to extend their already broad jurisdiction until the mid 2000s thanks to secret regulations and exercise domestic rule without judicial oversight. This created an institutional structure able to intervene directly in the executive branch, and to restrict many state institutions, including administrative organs, by compelling them to "comply with the requirements of national security policy" via legislation determined by the National Security Policy Documents created by the MGK and its General Secretariat. Democratic rights also fell under its jurisdiction and could be restricted on national security grounds. This structure was also able to usurp the power of the legislative branch by appointing General Secretariat members to parliamentary commissions and budgetary planning processes.

This structure gradually consolidated MGK's authority from the 1980s to the 2000s until it was dissolved in order to comply with democratic and rule of law criteria set forth the EU accession process. The developments that took place following Turkey's candidacy for accession, which steered the political and social sphere towards significant civilianization and democratization, cannot be denied. In the period from 2006 to 2008, even prior to legal reforms, many institutional functions of the MGK and especially of its General Secretariat were gradually transferred to civilian institutions.

On the other hand, despite the solution of issues included in the agenda of the MGK between 2006 and 2008, it cannot be said that the role of the military within politics has been reduced to a level appropriate for democratic, parliamentary systems. Furthermore, during that period, in order to convey messages or form public opinion, the military continued to use many different channels, apart from the MGK, long legitimized as the venue for debates and solutions.

Further evidence is the MGSB's ongoing existence. This document is based on the military's perception of threats and excludes all parliamentary and most executive input, a reminder to governments of the boundaries of their political rule.

Overcoming the current structure – which privileges the rights of the state over those of citizens – and replacing state- and defense-centric reflexes with democratic values and principles will require a paradigm shift not only for the security bureaucracy but also for politicians and the social groups they represent. In this context, Turkey needs more time to situate its national security within a framework that is both civilian and democratic.

61 For the question No. 7/1374-3440 see the official website of the TBMM, <http://www.tbmm.gov.tr/develop/owa/yazili_soru_gd_22.onerge_bilgileri?kanunlar_sira_no=25516>

62 For the full text of the response presented to the TBMM Presidency by the Public Relations Department of the Ministry of Internal Affairs on December 4, 2003, see <http://www2.tbmm.gov.tr/d22/7/7-1374c.pdf>

63 The official website of the Ministry of Internal Affairs, section on "Organizations," <http://www.icisleri.gov.tr/_Icisleri/Web/Gozlem2.aspx?sayfaNo=638>

SECURITY INSTITUTIONS

Turkish Armed Forces: Institutional and Military Dimension

Hale Akay

In its traditional sense, an army is the permanent organization of a nation-state that protects the country mainly from foreign threats, though it may also play a role in domestic security under extraordinary circumstances. Nevertheless, except for a few cases, no country's army and its influence on political and social life can be examined on the basis of such a simple definition.

In Turkey the army has many guises: founder of the state and its custodian, a domestic policy body, a foreign policy actor, a military organization, a producer and user of arms, and a commercial company. Moreover, because of interlocking features, it is quite difficult to isolate these from one another.

Despite this difficulty, this section endeavors to examine the Turkish Armed Forces (*Türk Silahlı Kuvvetleri*, TSK) from the perspective of its institutional structure, command echelon, core legislation, personnel administration, finance, arms procurement organization, and core military security strategies, focusing predominantly on the TSK's Land, Naval and Air Forces.

OFFICE OF THE CHIEF OF GENERAL STAFF

According to its own Law on Internal Services, the Turkish Armed Forces are the armed forces of the state that consist of the officers, military employees, non-commissioned officers, petty officers, private soldiers, and military cadets of the Land Forces (including the Gendarmerie), Naval Forces (including the Coast Guard), and Air Forces, that are complemented with reserve corps during military expeditions.

The TSK's command echelon is stipulated by Article 117 of the Constitution of 1982, which identifies the President of the Republic as the Commander of the Armed Forces. These duties are fulfilled on behalf of the President by the Chief of the General Staff, who is nominated by the Cabinet of Ministers appointed by the President, and accountable to the Prime Minister. The powers of the Chief of General Staff and of Force Commanders are regulated by law.

According to Law No. 1324 on the Duties and Powers of the Chief of General Staff, the Chief of the General Staff is responsible for determining the principles, priorities, and core programs concerning personnel, intelligence, operations, organization, training and logistical services in the preparation of the Armed Forces for war. He is consulted on international treaties and the military aspects of military treaties and when necessary he attends meetings on these or sends a representative. He may correspond or communicate in person, or via persons and institutions he authorizes, with ministries, offices, and institutions on matters related to his duties and powers. The duties and powers he is granted via special laws are reserved. He cooperates with the Ministry of Defense on the fulfillment of military services.

The duties of the Chief of the General Staff are described in more detail in Law No. 926 on the Turkish Armed Forces Personnel. These include granting permission to students to receive training in foreign military academies, establishing the classes of TSK officers and deciding which officers belong to combat and which to service operations, making changes when necessary to the force and venue of personnel, and determining the cadre to be implemented every year after August 30.

The terms of office and the age limits of the Chief of the General Staff and of Force Commanders are regulated by the same law. The Chief of the General Staff is proposed by the Cabinet of Ministers from among full generals and admirals who have been Commanders of the Land, Naval, and Air Forces and is appointed by the President of the Republic; the term of office is four years and the age limit is 67. The appointment to another post or the

retirement of the Chief of the General Staff is carried out in accordance with his appointment procedures. The term of office for Force Commanders is two years and can be extended by one year, provided that the age limit is not exceeded and that Force Commanders can be dismissed via a process complying with their appointment procedures. Similar conditions are valid for all full generals and admirals.

Within this structure, the Ministry of National Defense (*Milli Savunma Bakanlığı*, MSB), which is also accountable to the Prime Minister, plays an auxiliary role and is responsible for ensuring coordination. According to Law No. 1325 on its organization, the duties of the MSB are carrying out political, legal, social, financial, and budgetary services and, according to the principles, priorities, and core programs established by the Office of the Chief of the General Staff, undertaking the following: recruitment; procurement of arms, vehicles, equipment, and logistical material of all types; health and veterinary services; construction, property, settlement, and infrastructure; and financial accounts and inspection services. The MSB carries out these services via its undersecretariat, other affiliated organizations, and the Commands of the Land, Naval, and Air Forces and it works in close collaboration with the Office of the Chief of the General Staff. The MSB does not exercise any control or oversight on the Office of the Chief of the General Staff.

From a political perspective, defense affairs are carried out and organized by the Ministry, responsible towards the Prime Minister confers the Office of the Chief of the General Staff a status of autonomy, equality, and guidance before the ministry and its dependence-responsibility system remains at a symbolic level. According to Bayramoğlu:

> This situation can be defined as an 'instability between the responsibilities of authorities'. Within this framework, the military authority has subordinated the minister of national defense to itself, thus becoming unaccountable to and independent of political rule. The ministry, on the other hand, has taken on the duty of a "buffer institution" between the TBMM and the Armed Forces, disposing of the TBMM's oversight and other decisions over the Armed Forces and preparing the ground for the Armed Forces to intervene more effectively in political decision-making, thanks to its broad and unaccountable authority. This mechanism not only confers it a broad and protected place within the state organization and political decision-making, it will also result in an increase in the military authority's political power via its ample movement within a wide area of action, the further expansion of this area, and exemption from oversight.[1]

The political importance of this matter and its determinant position within the Turkish security sector is revealed more clearly when compared to practices in advanced democracies. From the point of view of the oversight of the defense organization in all its stages and the dominance of political rule in decision processes, in advanced democracies the chief of the general staff is accountable to the minister of defense, rather than to the prime minister. Through this arrangement, the power and autonomy of high-level military authorities are tightly restricted to matters related to the preparation of defense policies, planning, programming, budgeting, and spending. The resulting picture regarding the Turkish military's autonomy becomes clearer when one also considers the loopholes concerning the trial of military members holding the rank of full generals in Turkey[2] and the executive position equal to that of elected officials, as indicated by the National Security Council (*Milli Güvenlik Kurumu*, MGK).[3]

This mechanism is also consolidated by the extremely hierarchical and centralized relationship between the office of the Chief of the General Staff and force commanders. As Bayramoğlu notes, in the Turkish system, the Office of the Chief of Staff is:

> not a coordination unit that symbolically gathers all command powers,... but a 'center of power' representing an extremely vertical organization that, like a magnet, gathers around it all units, from the military justice system to the force commands. All other political powers of the army, including powers related to the military organization, the chain of command, national defense, and military policy, are therefore gathered under one authority and, more importantly, its ambiguous jurisdiction is established by a single authority. This situation protects and increases the political power of the army by creating a military

1 Ali Bayramoğlu, "Asker ve Siyaset" (The Military and Politics), Ali Bayramoğlu and Ahmet İnsel (ed.), within *Bir Zümre, Bir Parti Türkiye'de Ordu* (The Army in Turkey, A Group, A Party), p. 69

2 See Ümit Kardaş, "Askeri Yargı" (Military Jurisdiction), within *Almanak 2006-2008 Güvenlik Sektörü ve Demokratik Gözetim* (Almanac 2006-2008: Security Sector and Democratic Oversight).

3 See Zeynep Şarlak, "Milli Güvenlik Kurulu" (The National Security Council), within *Almanak 2006-2008 Güvenlik Sektörü ve Demokratik Gözetim* (Almanac 2006-2008: Security Sector and Democratic Oversight).

> system that does not allow any interference to it but that is ready to intervene in other spheres.[4]

This structure is frequently criticized, especially within the EU accession process. The EU Progress Report from 2000 stated that the TSK needed to be attached to the Ministry of National Defense.[5] However, it is apparent that the TSK's high-level administration does not welcome this kind of re-structuring. İlker Başbuğ, Chief of the General Staff, argued:

> Decision-making mechanisms in every country and the sharing of authorities and responsibilities among the military and civilians take place in accordance with the constitution and the laws of those countries. Political and institutional culture, the security environment, and social perceptions also play a determinant role on this matter. That is why civil-military relations should be examined on the basis of each country's specific conditions.... They say that, "The military make proposals on a certain subject and that is where their duty should end." This view is not exactly correct.... According to Article 117 of the Constitution, the Chief of the General Staff is the Commander of the Armed Forces, and is therefore authorized and responsible for carrying out civil-military relations. It is not correct to consider the execution of civil-military relations by the Chief of the General Staff as a political act. On the contrary, this is a requirement and it is also indisputably in line with the essence of the job. [6]

The autonomy of the military within the sphere of the state in Turkey leads to civilians' hesitation in involving military issues, the militarization of strategic issues, and the monopolization of information concerning the military.

FORCE COMMANDS

The structure of the Land Force Command is as follows: Four armies, nine corps, one infantry division, two mechanized infantry divisions, one armored division, one training division, 11 infantry/ motorized infantry brigades, 16 mechanized infantry brigades, nine armored brigades, five commando brigades, one army aviation brigade, two artillery brigades, five training brigade, and one humanitarian aid brigade.[7]

The website of the Land Force Command refers to three types of responsibility: 1) duties and responsibilities regarding foreign threats; 2) duties regarding the achievement of international stability; and 3) duties and responsibilities regarding the achievement of domestic stability, including achieving peace and security during the war against terrorism and during civil disorders.

The last type of duties and responsibilities are the most critical and controversial. The duties of military troops, including Land Forces, regarding domestic security, as well as state of emergency and martial law, are stated in Article 11/d of the Law on Provincial Administration and are subject to public authorities' oversight. However, this subject is regulated by a protocol on the relevant article that reverses completely the fundamental criteria of the law itself and confers military authorities the ability to carry out raids in internal security operation areas as well as routine and autonomous operations and actions in other provinces.[8]

Another issue and debate concerning the Land Forces and domestic security matters consists of the domestic security brigades. There are 12 of these under the Land Force Command. The existence, functions, and regional distribution of these brigades is interesting. Their status is controversial because of the TSK's domestic security powers and on legal grounds. Domestic security brigades have been set up not only in internal security operation areas,[9] but in other areas as well. As can be verified from the charts in the 2005 Security Almanac, the 48th Domestic Security Brigade of the Third Army Command's

4 Ali Bayramoğlu, "Asker ve Siyaset" (The Military and Politics), Ali Bayramoğlu and Ahmet İnsel (ed.), within *Bir Zümre, Bir Parti Türkiye'de Ordu* (The Army in Turkey, A Group, A Party), p. 66.

5 The evaluation of civil-military relations in the European Union's Progress Reports is dealt with in "Avrupa Birliği:Güvenlik ve Sivil-Asker İlişkileri" (The European Union: Security and Civil-Military Relations), within *Almanak 2006-2008 Güvenlik Sektörü ve Demokratik Gözetim* (Almanac 2006-2008: Security Sector and Democratic Oversight).

6 "Genelkurmay Başkanı Orgeneral İlker Başbuğ'un 14 Nisan 2009 Tarihinde Harp Akademileri Komutanlığında Yaptığı Yıllık Değerlendirme Konuşması" (The Annual Assessment Speech Given by Chief of General Staff General İlker Başbuğ at the Military Academy, on April 14, 2009).

7 The previous force structure was: four armies, 10 corps, two mechanized infantry divisions, two mechanized infantry division headquarters, one infantry division, one training division, 14 mechanized infantry brigades, 14 armored brigades, 12 infantry / domestic security brigades, five commando brigades, and five training brigades. In the IISS 2008 Military Balance report the force structure of the Land Force Command is listed as follows: four armies, 10 corps, 17 armored brigades, 15 mechanized infantry brigades, two infantry divisions, 11 infantry brigades, one special force headquarters, one combat helicopter battalion, four aviation regiments, three aviation battalions, and four training/ artillery brigades.

8 This subject is dealt with in detail in the EMESYA article within *Almanak 2006-2008 Güvenlik Sektörü ve Demokratik Gözetim* (Almanac 2006-2008: Security Sector and Democratic Oversight).

9 Domestic security troops have a problematic status even in domestic security operation areas. According to the protocol to Article 11/d of the Law on Provincial Administration, the chain of command in domestic security operation areas is transferred to the highest military authority. Although these areas are provisionally declared as domestic operation areas, the real situation is quite different. In fact, in Batman, Diyarbakır, Hakkari, Mardin, Siirt, Şırnak, Şanlıurfa and Van this situation has become continuous. The Domestic Security Brigades, the majority of which are on duty in these areas, have become permanent within this scope. On this subject, see "EMASYA" *Ibid*.

Ninth Corps, deployed in Trabzon, is quite interesting from this point of view. These troops, featured in charts on the Land Force Command's website until the end of 2006,[10] have since been removed, and it is not possible to determine whether this change implies the abolition of these troops or just a renaming. Nevertheless, these troops are known to be carrying out their function and this has been confirmed by the military authorities themselves. In fact, during a briefing held in September 2008, General İlker Başbuğ noted:

> Two matters are of great importance in a domestic security operation: one is experience and the other is continuity. That is why specialist personnel are of such importance to us. The special operations battalions of the General Command of the Gendarmerie, deployed in the region, consist entirely of professional personnel. Our aim is to professionalize all five of these brigades.... We have other troops in the region apart from these five commando brigades, called domestic security brigades. There too, there are specialist petty officers, as well as our brave privates.[11]

The Naval Force Command explains its duties as the protection of the country against threats that may come from the sea and the protection and safekeeping of interests related to the sea. At times of peace these duties are: making its presence felt at sea; participating in peace, humanitarian aid, and search and rescue operations; cooperating with security forces, allied forces, and when necessary non-governmental organizations for operations against terrorism, drug trafficking, and other types of smuggling; and cooperating with the Coast Guard Command on the protection of national interests within exclusive economic zones and of the sea environment.

The Naval Force Command is divided into the North Sea Command, the South Sea Command, the Navy Command, and the Naval Training Command. According to the website of the Office of the Chief of the General Staff, the Naval Force Command consists of 13 submarines, 18 frigates, six corvettes, 20 mine hunters and sweepers, and 24 assault boats with guided missiles. In addition, the Naval Force Command is responsible for the following platforms: corvettes, tank landing ships, mechanized vehicle landing ships, school ships, patrol boats, fast patrol boats, training boats, fuel tankers, dry cargo ships, water tankers, rescue ships, tugboats, net ships, search ships, and personnel transfer ships. Of these, patrol boats are used in the defense of the Straits.

The duties of the Air Force Command are humanitarian aid operations, operations against crises and to establish and preserve peace, low intensity combat, and general combat. The Air Force Command consists of the First and Second Air Force Commands and the Air Training and Air Logistics Commands. According to data supplied by the Office of the Chief of the General Staff, the Air Force consists of 17 combat squadrons, one reconnaissance squadron, one tanker squadron, five transport squadrons, three search and rescue squadrons, and 10 training squadrons.

SPECIAL COMMANDS

Three units affiliated with the Operations Department of the Office of the Chief of the General Staff are distinct and related to domestic security issues: the Psychological Operations Department, the Domestic Security Operations Department, and the Special Forces Command. The Domestic Security Operations Department is the coordination center for the above-mentioned domestic security brigades and troops. It is based on the *de facto* continuous status of domestic security operation areas in the Southeast and East. It has not been possible to obtain any clear information on the Psychological Operations Department. As of 2008, press reports have claimed that the Psychological Operations (at times referred to as Warfare in the press) Department is now called the Information Support Department or the Information Support Branch of the Office of the Chief of the General Staff.[12]

The most interesting of these three structures is the Special Forces Command, which was founded in 1992, when the Special Warfare Department was abolished. Established with the aim of meeting special operations needs, the Command is equipped with communications capabilities, search and rescue, and planning and execution of domestic security operations. That is why, like the domestic security brigades, this command is one of the TSK's domestic operation units. In an explanation given on the TSK's website until recently, the origin of

10 Ahmet İnsel, "Rutini iç güvenlik olan TSK" (The TSK deals routinely with domestic security), *Radikal İki*, July 30, 2006.

11 "Genelkurmay Başkanlığında 16-17 Eylül 2008 Tarihlerinde Yapılan İletişim Toplantısı Görüşmelerinin Özeti" (Summary of the Briefing held on September 16-17, 2008, at the Office of the Chief of Staff).

12 "İşte Silahlı Kuvvetler'in Ergenekon eylem planı" (Here is the Armed Forces' Ergenekon Action Plan), *Taraf*, June 12, 2008. A copy of the 73 page "memorandum," entitled "Non-Governmental Organization," claimed to have been prepared by the Information Support Department in March 2006 and presented for approval to the 2nd Office of the Chief of General Staff, was reported in the press in April 2008, see "Hiç işiniz mi yok, vaktiniz mi çok" (Have you nothing to do, or too much time on your hands), *Radikal*, April 8, 2008.

the Special Forces Command dates from the raiders of the Hun Turks[13] and that:

> The bands that assisted in the dispatch to Anatolia of personnel, arms, ammunition, and equipment needed by the national army during the Independence War and in the National Fight carried out against occupation forces throughout the country, and that dealt a major blow to the occupation armies behind the front and the Special Organization (*Teşkilat-ı Mahsusa*) were organizations that fulfilled the duties of the Special Forces in those times. The command passed one of its most serious tests during the Republican period, by taking part within the Turkish Resistance Organization that was active in the liberation of Turkish Cypriots.

The Special Forces Command was raised to the level of corps following a YAŞ decision in 2006. The Civilian Military Cooperation Command (*Sivil Asker İşbirliği Komutanlığı*, SAI), founded with the aim of facilitating civil-military cooperation in responding to natural disasters following the 1999 earthquake in Izmit, is also part of the Special Forces. In addition to its duties at times of natural disasters or war, the activities of SAI at times of peace are: to prepare plans, procedures and principles concerning preparations for mobilization and war; to make changes as necessary; to establish priorities in the planning of national resources in order to meet the needs of the armed forces, the public, and the private sector; to protect the people following an enemy attack or a natural disaster, including warnings and alarms; to take necessary measures for civilian defense, such as population movements, rescue, debris removal, and first aid; and to identify areas and facilities sensitive to enemy threats, prohibited military zones, and security zones.

This new structure gave the Special Forces Command the possibility for improved movement and re-structuring and the ability to act in civilian spheres and at peacetime.

MODERNIZATION

As of 1995, the TSK began implementing a 30-year modernization plan. According to the Ministry of National Defense, a USD 67 billion section of this modernization, which would cost a total of USD 150 billion, would take place within the first eight years.[14] Later on it was stated that this amount was not realistic, that such a high amount was expressed as part of the TSK's political-psychological operations. The Ten-Year Procurement Plan (*On Yıllık Tedarik Planı*, OYTEP), which covered the period 1997-2006 of this modernization plan, began with the aim of procuring equipment and ammunition that were needed by Turkey for counter-terrorism but were difficult to procure abroad, including the domestic production of vehicles. The gradual strengthening of asymmetrical targets in the meantime and the reorganization of armed forces by decreasing the number of soldiers in many other countries influenced Turkey too. Officials frequently expressed the desire to transform the TSK into a rapid, effective, and streamlined army. The implementation budget of the ten-year plan was approximately USD 3-3.5 billion.[15]

The Modernization Plan continued with the subsequent Force 2014 and Personnel 2010 programs, which established new strategic objectives concerning arms procurement. In his handover speech in August 2008, Chief of the General Staff İlker Başbuğ said:

> We will always aim for the Turkish Armed forces, which constitutes the backbone of the implementation of our country's security strategy, to be a deterrent force that is able to execute symmetrical (conventional) and asymmetrical operations with the cooperation of all three forces, that has been modernized and streamlined but that is better qualified, has higher survival capabilities, is modular and flexible, and is able to operate in environments of all kinds.[16]

In April of the same year, in an interview given to the *Savunma ve Havacılık* (Defense and Aviation) Magazine, General Yaşar Büyükanıt, as Chief of the General Staff, stated that the division-regiment-battalion structure of the Land Force Command would be replaced by a less cumbersome brigade-division structure with a higher movement capability and firepower, that personnel recruitment had begun for critical posts, and that a certain reduction had already been achieved by lowering military service from 18 to 15 months. Büyükanıt also highlighted that the main structures of the Naval and Air Force Commands were preserved but that they had

13 Information in the websites of both the Office of the Chief of General Staff and of force commands has recently been changed or reduced. The Special Forces Command is among the information that was removed. However, there are other web-sites that still includes this content, such as http://www.turkcebilgi.com/t%C3%BCrk_silahl%C4%B1_kuvvetleri/ansiklopedi

14 Gülay Günlük-Şenesen, "TSK'nin Modernizasyon Programının Bir Değerlendirmesi" (An Evaluation of the TSK's Modernization Program, 2000.

15 See Gülay Günlük-Şenesen, "Türkiye'nin savunma harcamaları" (Turkey's Defense Expenditures), within *Almanak 2006-2008 Güvenlik Sektörü ve Demokratik Gözetim* (Almanac 2006-2008: Security Sector and Democratic Oversight).

16 "Orgeneral İlker Başbuğ'un Genelkurmay Başkanlığı Devir-Teslim Töreni Konuşması – 28 Ağustos 2008" (The Handover Speech of General İlker Başbuğ, Chief of General Staff, on August 28, 2008).

acquired the skills necessary for the new equipment in their inventory and for modern combat.[17]

In a briefing that İlker Başbuğ held after he took up the post, he explained that 17 battalions (close to three brigades) had been abolished from the Land Forces and he emphasized that this kind of personnel reduction was only possible because of the effectiveness achieved through modernization. The fact that the majority of the battalions abolished were tank battalions is due to the transition from M-48 tanks to leopard 2-A4 tanks.[18]

When we look at these statements and at the changes that we will refer to in later sections, we can say that the TSK's modernization plan consists of the following phases:

1. Increasing domestic production in the defense industry and enlarging the foreign market volume. Raising domestic industry up to the capacity necessary for developing new technologies and designs, through investment in research and development.
2. Reducing personnel, especially in the Land Forces Command, through professionalization and the reduction of compulsory military service.
3. Carrying out the necessary changes in restructuring Force Commands.
4. Re-establishing and improving the income, personal rights, and ranks of TSK personnel, starting with non-commissioned officers.

THE LAW AND REGULATION OF THE TSK'S INTERNAL SERVICES

The Law on Internal Services regulates the service areas of the TSK within a broad framework that extends from definitions used within the TSK to discipline and personnel affairs, from uniforms to social services. Articles 35 to 44, which regulate the TSK's General Duties, constitute the most important part of the law. According to Article 35, "The duty of the Armed Forces is to protect and safeguard Turkey and the Republic of Turkey as stated by the Constitution." Article 36 confers the armed forces the duty of learning and teaching warfare, as well as forming the necessary organizations and taking measures to fulfill this duty. Article 39 establishes the values of TSK members:

> Besides military training, great care is taken in the Armed Forces to develop morality and spirituality and the strengthening of national feelings. Loyalty to the republic, love of the motherland, strong moral values, obedience to superiors, steadfastness and fervor, courage and hardiness in carrying out duties, if necessary disregarding one's own life, getting along with fellow soldiers, providing mutual help, being orderly, refraining from what is forbidden, being healthy, and the ability to guard secrets are the main duties of all soldiers.

The law also states that "the Turkish Armed Forces lie outside and above all political influences and thoughts," and restricts TSK personnel's membership in political parties, associations, and clubs.

The 1961 Regulation on the TSK's Internal Services deals in more detail with matters regulated by law. Article 1 emphasizes the importance of discipline:

> The achievement of the country's and the nation's happiness and peace and the protection of the Republic is only possible through perfectly disciplined Armed Forces. For discipline to take root within the Armed Forces, it is necessary to train all members of the Armed Forces to fulfill their duties honestly and with a feeling of absolute obedience and conscience, to carry out all services willingly and with great care, down to the smallest detail; to insert love for their country, Republic, nationality, profession, and duty into their hearts. These are the duties of all superiors.

Article 35 is the most important and most famous provision of the Law on Internal Services. This article is cited as the legal grounds for the TSK's direct and indirect interference in the political sphere, despite the fact that the Constitution does not prescribe such a duty for the armed forces. Similarly, international treaties acceded to by Turkey and international organizations of which Turkey is a member do not stipulate protecting the regime as a duty for the armed forces. Although international treaties and constitutional provisions have supremacy in the hierarchy of norms, when it comes to the duties of the armed forces in Turkey, it is as if the Law on Internal Services has a higher position. As a result, Article 35 is a problem from the perspective of civil-military relations in Turkey. The existence of that provision has never been questioned and no serious attempt to abolish it has been made until one recent initiative. That is why the entire state structure, including the government and the National Assembly, can be said to consent to the existing regulation and its interpretation.

17 "Orgeneral Büyükanıt Tehlikeleri Sıraladı" (General Büyükanıt listed all the dangers), *Haber7*, April 4, 2008.

18 "Genelkurmay Başkanlığında 16-17 Eylül 2008 Tarihlerinde Yapılan İletişim Toplantısı Görüşmelerinin Özeti" (Summary of the Briefing held at the Office of the Chief of General Staff on September 16-17, 2008).

FINANCIAL INFORMATION

Minister of National Defense Vecdi Gönül stated that the ministry's budget for 2009 was ratified by law as Turkish Lira (TL) 14,532,000 ($9.56 billion) in which 42.5% would be allocated to personnel expenditures, 6.2% to premium expenditures for social security institutions, 49.2% to purchase of good and services, 1.2% to medical treatment, 0.6% to current transfers, and 0.3% to capital expenditures.[19] The MSB's 2009 budget, established according to a classification made in line with Law No. 5018, dated 2003, on Public Financial Management and Control, is below the budget for the Ministry of National Education, as has been the case for the last several years.

However, these figures do not give the full picture of Turkey's total defense expenditures. The budget for the Ministry of National Defense covers only the Office of the Chief of General Staff and the Land, Air, and Naval Force Commands. The Undersecretariat for Defense Industry (*Savunma Sanayii Müsteşarlığı*, SSM), which is responsible for the procurement activities of the TSK and other security institutions, and the Support Fund for the Defense Industry (*Savunma Sanayii Destekleme Fonu*, SSDF), founded with the aim of providing funds necessary for the defense industry from resources outside the general budget, are excluded from this total. When their budgets are included, the defense budget reaches TL 16,354,000. The proportion of the defense budget to the Gross Domestic Product (GDP) is thus elevated from 1.3% to 1.4%. Moreover, the budgets of the General Command of the Gendarmerie and of the Coast Guard Command are no longer included among Defense Services. According to the total amount of defense expenditures calculated in "Guide to Monitor Military and Domestic Security Expenditures, 2009-2010-2011" (*Askeri ve İç Güvenlik Harcamalarını İzleme Kılavuzu* 2009-2010-2011), prepared by Nurhan Yentürk by adding the expenditures of the Mechanical and Chemical Industry Corporation (*Makine ve Kimya Endüstrisi Kurumu*, MKEK) and research and development spending on defense matters by the Scientific and Technological Research Council of Turkey (*Türkiye Bilimsel ve Teknolojik Araştırma Kurumu*, TÜBİTAK), the total budget increases to TL 20,424,000, which constitutes 1.84% of GDP. Domestic security expenditures is also covered in the aforesaid study, which found that the total defense and domestic security spending for Turkey in 2009 was TL 34,587,000, almost 3% of GDP. Yentürk's results are presented in the table 6 following this article.[20]

According to figures for 2007, published by NATO, the amount allocated by Turkey for defense spending is TL 15,392,000 (the expenditures by the MSB within the general budget for the same year are of TL 11,844,000). Accordingly, in terms of the ratio of defense spending to GDP, Turkey occupies the sixth place among NATO countries with Estonia and Poland.

If we were to examine the TSK's financial size on the basis of not only annual budget figures but also opportunity costs, we would need to be able to calculate also the value of property and equipment under the control of the TSK. The TSK controls a significant amount of property in Turkey. Moreover, the Law on the TSK's Internal Services allows for the establishment and operation of army markets, officers' clubs and military messes, recreation camps, and military canteens. It is difficult to calculate their total value, as the total number of properties in the TSK's use and their monetary values are not known. Just to give a rough estimate about the extent of TSK's land property, the media reported in 2008 that, according to the Istanbul Greater City Municipality, the TSK controlled 6,877 hectares of property within the municipality borders and 4,479 hectares outside the municipality borders.[21]

In the preamble to the budget for 2009, the table on properties of public administrations reports 41,701 lodgings and 327 recreational facilities belonging to the MSB. The General Command of the Gendarmerie owns 15,209 lodgings and 75 recreational centers, and the Coast Guard Command has 310 lodgings. To compare these figures, the Ministry of National Education has 44,096 lodgings, while the General Directorate of Security has 46,085 lodgings. Since the criteria according to which these figures are established and which institutions are included within this scope are not clear, the real number of lodgings and recreational facilities used by the military is also unclear.

The TSK has three officers' clubs in Ankara (Sıhhiye, Merkez, and Gazi), eight in Istanbul (Aksaray, Fenerbahçe, Harbiye, Kalender, Kasımpaşa, Maslak, Sarıyer, and Selimiye), and one in Izmir. The total number of officers' clubs is believed to be 43. The TSK also has

19 "5018 Sayılı Kanunun 10'uncu Maddesi Gereğince Milli Savunma Bakanı'nın Kamuoyu Bilgilendirmesi" (Provision of Public Information by the Minister of National Security, in accordance with Article 10 of Law No. 5018), Ministry of National Defense, p.15.

20 For details on the method of this study and for more detailed tables, see Nurhan Yentürk, "Askeri ve İç Güvenlik Harcamalarını İzleme Kılavuzu 2009-2010-2011"(Guideline to Monitor Military and Domestic Security Expenditures, 2009-2010-2011).

21 "TSK 125 Milyon Metrekare ile İstanbul'un Arazi Zengini" (The TSK is among the biggest property owners in Istanbul, with 125 million square meters), *emlakkulisi*, April 24, 2008.

recreational facilities in touristic areas such as Bodrum and Antalya. By employing conscipts, these facilities make huge savings in terms of personnel expenditures which is generally the major cost item in the service sector. These services offered at lower prices decreases the personal expenditures of TSK members; however, when one takes into account the total welfare of the society, they can be regarded as some sort of income redistribution through in-kind transfers. In a briefing on the MSB budget for 2009, Minister Gönül said: "The MSB budget for 2009 has been prepared on the principle of maximum savings, taking into consideration efforts to lower public spending..., the TSK's obligatory needs, and the international political situation, with the aim of keeping public deficit low, within the framework of existing economic and social policies, the Medium Term Program, and the program to fight inflation." However, it seems that no savings measures are being taken regarding that type of in-kind transfers.

According to the Regulation on Moveable Property, the registration, administration, and oversight of moveable property used for defense and security purposes of the TSK (including the General Command of the Gendarmerie and the Coast Guard Command) are subject to special provisions. The Court of Accounts is responsible for the oversight of all moveable and immoveable property of public administrations; related legislation and developments are examined in detail under the chapters of "Legislation: The Turkish Grand National Assembly" and "The Parliamentary and Judicial (Court of Accounts) Oversight of Military Expenditures and Military Property" in this Almanac.

It is frequently said that members of the TSK have a secluded life because of living in lodgings and social facilities, which limit their interactions with the rest of society.[22] Considering that TSK personnel meet their needs to a large degree within such facilities, it is quite natural that this situation creates a sense of distinction between members of the TSK and the rest of society.[23]

Developments concerning TSK immovable properties from 2006-2008 are:

- In addition to existing lodgings in Yüksekova, Hakkâri, 60 apartments built by the General Command of the Gendarmerie were completed and distributed. The Land Forces Command is building a guesthouse for 52, together with the Housing Development Administration of Turkey (*Toplu Konut İdaresi Başkanlığı*, TOKI).
- 168 outposts are to be constructed until 2008. The construction of thirteen outposts is completed, including the Aktütün outpost known for the PKK's 2008 attack to this outpost killing 13 soldiers. It was announced that the construction of another 162 would begin in 2009.
- Article 664, paragraph 8 of the Regulation on the TSK's Internal Services was amended as follows: "Officers' clubs and military messes are exclusively for the use of TSK staff. When necessary, members of foreign armed forces may benefit from these places with the written permission of the Office of the Chief of the General Staff. Eminent civilians and their families may enter these places at the invitation of commanders, for concerts and conferences and on ceremonial days. Officers, military employees, and non-commissioned officers may not bring civilians into officers' clubs and military messes. Eminent people considered appropriate by garrison commanders may enter officers' clubs with entry cards supplied by the administrators of officers' clubs." This amendment has greatly restricted the opportunity of civilians to benefit from TSK facilities.

PERSONNEL

Unfortunately, there is a lack of information regarding the exact number of personnel employed by the TSK. According to the White Book, published in 2000, the total number of employees is 800,200; 402,000 of these are in the Land Forces, 53,000 in the Naval Forces, 63,000 in the Air Forces, 280,000 in the General Command of the Gendarmerie, and 2,200 in the Coast Guard Command. According to reports by the Ministry of National Defense for 2002, the ratio of professionals is of 54.4% in Air Forces, 47.5% in Naval Forces, 17.7% in the Gendarmerie, and 16.7% in Land Forces. These figures show that the Gendarmerie and the Land Forces still rely to a great degree on personnel supplied via compulsory military service. Although over time partial

22 Ahmet İnsel, "Bir toplumsal sınıf olarak Türk Silahlı Kuvvetleri" (The Turkish Armed Forces as a social class), Ali Bayramoğlu and Ahmet İnsel (ed.), within *Bir Zümre, Bir Parti ; Türkiye'de Ordu* (The Army in Turkey, A Group, A Party), İletişim Publications, 2004.

23 "Genelkurmay: TSK'nın itibarı zedeleniyor" (General Staff: "the TSK is losing prestige) *Habervitrini*, March 20, 2009.

professionalization has been achieved, the above ratios for the Gendermerie and Land Forces are still very low compared to those of the Air and Naval Forces. It has been argued in many sources that the TSK aims to reduce the number of conscripts to 300,000 in time. In figures supplied by NATO for 2007, the TSK is still NATO's second largest army with 496,000 soldiers. However, NATO figures display a sudden decrease in the number of TSK personnel which is not verified by other relevant information sources. The reason is probably the exclusion of the Gendarmerie and Coast Guard Command personnel from these figures. When their personnel are taken into account, the total number of personnel in the TSK is estimated to be around 600,000.

Personnel employed by the Turkish Armed Forces can be classified as follows:

Professionals

- Officers
- Non-commissioned officers
- Specialists
- Civilian employees and workers

Personnel fulfilling their compulsory military service

- Reserve officers
- Short-term private soldiers
- Long-term private soldiers

81% of the personnel in the core command structure are military academies' graduates. Women have only been accepted into military academies since 1992 and they are now employed within the TSK.[24] Officers, non-commissioned officers, and military employees are subject to Law No. 926 on TSK Personnel.

Military personnel within the Land, Naval and Air Forces are divided into combat and auxiliary corps, while military students are divided into students of military academies and students studying in other faculties and academies on account of the TSK. The appointment procedures for military personnel is different for each type.

The recruitment of specialist petty officers was introduced by Law No. 3269, dated 1986. According to this law, specialist sergeants are those who have at least a high school or an equilavent degree, or who have graduated from at least primary school and have completed their active service at the rank of sergeant and are employed within the cadre of sergeants. Specialist corporals are defined as those at least with a primary school or an equilavent degree, who following their active service are employed in technical and critical specialist duties of a continuous nature within the TSK. Specialist sergeants initially have a four-year contract. If their record is positive, the contract is extended for ten years. The age limit for retirement is 48. Specialist sergeants can benefit from TSK's lodgings, but the law does not specify if they have rights to recreational facilities and officers' clubs. Moreover, in the event that specialist sergeants fulfill the education requirements specified by the Office of the Chief of the General Staff, they can be promoted to the rank of non-commissioned officer. According to Law No. 3446 on Specialist Gendarmes, specialist gendarmes are personnel who have successfully completed Specialist Gendarme Schools and who rank between specialist gendarme sergeant and specialist gendarme sergeant of eighth degree. Specialist gendarme sergeants who fulfill the necessary conditions may be promoted to the rank of non-commissioned officer and may benefit from lodgings and from recreational facilities of the General Command of the Gendarmerie.

Strict disciplinary rules and regulations are in force for military personnel. The Record Evaluation and Inspection Council has a critical place within the military organization. While military crimes are punished by military discipline courts, disciplinary actions are punished by the closest disciplinary superior and sometimes by higher superiors. Military personnel do not have the right to petition military courts to waive punishments for disciplinary infractions. They only have the right to present a complaint to the superior of the superior who issued the punishment and the decision made by that superior is final. Disciplinary punishments for military personnel consist of warnings, salary deductions, dismissal, relocation (not by law but in practice), room confinement or arrest in quarter, deprivation of leave (for military students and petty officers), extra duty services (for petty officers), and revocation of rank (for petty officers).[25]

According to Law No. 657 on Civil Servants, the TSK is also able to recruit temporary or exceptional personnel. Exceptional employees can benefit from lodgings and facilities such as officers' clubs similarly to non-

24 Ümit Gencer and H. Canan Sümer, "Recruiting and Retention of Military Personnel: Turkey," within *Recruiting and Retention of Military Personnel.*

25 İpek Özkal Sayan, "Türkiye'de Kamu Personeli Sistemi: İdari, Askeri, Akademik, Adli Personel Ayrımı" (The Public Personnel System in Turkey: Distinctions among Administrative, Military, Academic and Judicial Personnel), *Ankara University SBF Magazine*, 64 (1), pp. 237 and 240-241.

commissioned officers. The personal rights of contracted employees are in accordance with Law No. 657, which encomposses al public servants except military personnel, but when it comes to disciplinary punishments they are subject to the provisions of the Law on Internal Services and Military Punishments, in accordance with Article 223 of Law No. 657.

According to Article 72 of the Constitution of 1982, "Serving the motherland is the right and duty of all Turks." The implementation of military service is regulated via Law No. 1111 on Military Service. Draft age is between 20 and 41 and this period can be extended or reduced by five years. Military service is 15 months for petty officers and private soldiers and this period can be reduced to 12 months. Law No. 1076 on Reserve Officers and Reserve Military Employees (Amended by Article 1 of Law No 2338, dated November 12, 1980) allows for graduates of faculties, academies, colleges, and institutes of four years or longer, and educational institutions abroad that are considered the equivalent of the former by the Ministry of National Education, to fulfill their military service as reserve officers. Reserve officers have the right to a salary during military service. The period of military service for persons who have fulfilled the conditions for being a reserve officer – except for graduates of medical faculties – but who wish to be a petty officer or private soldier, is half that of reserve officers. In line with an amendment brought in 2003 to the existing practice, long-term military service lasts 15 months, reserve officers' term is 12 months, and short-term military service is six months. Moreover, the practice of military service by foreign exchange is in force for Turkish citizens who can prove that they have worked in a foreign country for at least three years. Military service by foreign exchange lasts 21 days. The cost is 5,112 Euro for people below 38 and 7,668 Euro for people above 38. Payment in lieu of military service was granted in the years 1987, 1992, and 1999.

Proposed amendments concerning the number, quality, and rights of personnel constitute an important part of the TSK's modernization plan. According to the website of the Office of the Chief of the General Staff, the Personnel Management 2010 project aims to re-shape the TSK's personnel policy in accordance with contemporary requirements. This project consists of six elements: establishment, recruitment, training, employment of manpower, fees and social policies, severance, and resignation. General Hilmi Özkök, then-Chief of the General Staff, supplied the following information on this project in 2006:

> All work within this project is shaped on the basis of a "promotion system":
>
> - Work on the promotion system aims to create the widest possible pool of candidates for promotion and to enable personnel at different levels of merit to be promoted at the end of periods of different length, while preserving the structure established for the TSK,
> - Work on a new evaluation system aims to enable personnel to correctly display their potential and their performance, as well as to enable the evaluation of all sources of information, in addition to evaluation by superiors.
> - Work on the training system aims to establish professional development patterns complying with the new promotion and evaluation system, to use more efficiently resources allocated to training and to apply them more widely, in order to cover a larger mass of personnel.[26]

Amendments made in personnel management during the period 2005-2008 and subjects and related issues brought into question are summarized as follows:

- Non-commissioned officers who pass the exam to become officers were allowed to be promoted to the rank of lieutenant; master sergeants and senior master sergeants were granted record authority; and financial improvements were implemented for high school graduate personnel, non-commissioned officers, and retired non-commissioned officers.
- A legal amendment was made on February 5, 2009 exempting from military service the brothers of persons who, during or as a result of their military service, died, were declared disappeared, have an unknown fate, or have become so disabled as to require a disability pension. The same legal amendment also stipulated that reserve officers will be promoted the same as active officers, at times of both peace and war. The latency period of non-commissioned officers and the promotion principles of staff sergeants, senior master sergeants and master sergeants were amended.
- In the spring of 2008 it was announced that reserve officers would no longer be commandos and that as of the beginning of 2009 the same would be valid for petty officers and private soldiers. It was stated that 40% of commandos would consist of officers,

26 Speech given by General Hilmi Özkök, Chief of General Staff, at the Military Academy Command, on March 16, 2006.

non-commissioned officers, and specialist sergeants and 60% of professionals on the basis of volunteership and that the Special Forces Command would constitute the backbone of this regulation, which covers 9,500 people.[27] During a briefing held in September 2008, General İlker Başbuğ, Chief of the General Staff, stated,

> There are five commando brigades operating in the region. They are main units and they are operative. So we decided to professionalize these five brigades completely. At what point are we now? When we were talking about this last year we were at 40%. Now we are at 70%. We will complete everything by the end of 2009. Two subjects are of great importance from the point of view of domestic security operations: one is experience, the other is continuity. That is why specialist personnel are so important to us. The Special Operations Battalions of the General Command of the Gendarmerie consist entirely of professional personnel. We aim to completely professionalize these five brigades too. We are at about 70% and we are continuing as planned."[28]

Another amendment expected to come into force by 2010 aims to rejuvenate the TSK and to reduce the ages of promotion to upper ranks. The practice of automatic promotion once latency periods for lower ranks have been completed is subject to having a good record.[29]

It is not clear to what degree this pretentiously announced personnel policy change will be implemented. The main problem lies in its unpredictability; the TSK's personnel policy is perceived as an internal issue and proposals and projects concerning these matters are usually legislated without public debate. Public opinion in Turkey passively accepts the policy change of an institution that receives a significant share of the overall budget and employs a high number of personnel.

Payment in lieu of compulsory military service and the probable reduction of compulsory military service have been subjects of much debate since 2006. According to a recent statement by Defense Minister Gönül, 18,433 people paid in lieu of performing military service in 1987, 35,111 people in 1992, and 72,290 people in 1999.[30] This is a hot topic in Turkey, where, according to unofficial figures, there are 250,000 draft dodgers, but it has been stated that no work was carried out on this matter. In 2009, Alim Işık, MP for MHP, presented a question on payment in lieu of compulsory military service and Hasan Çalış, also MP for MHP, prepared a bill of law for payment in lieu of compulsory military service for people born before 1983, which was withdrawn the following day. In a statement made in April 2009, Chief of the General Staff İlker Başbuğ said once again that payment in lieu of military service was not on the agenda and added, "Nine sons of this country have been martyred. And then there are young people who perform a short military service in return for payment. We can't explain this to anybody." All these developments show clearly that the TBMM is not able to act out of its own initiative even on a matter such as payment in lieu of compulsory military service, that subjects regarding the military cannot debated, and that when it comes to the military, the Office of the Chief of the General Staff always has the final word.

Another issue is the reduction of compulsory military service. As stated before, one of the objectives of personnel policy reforms is to reduce the number of compulsory soldiers to 300,000. On April 5, 2005, Minister Gönül stated that there were plans for the 15-month military service term to be reduced to 12 months and for the six-month periods of reserve officers and short-term military service to be reduced by two to three months,[31] but this statement was denied by the Office of the Chief of the General Staff the very next day.[32] The proposal by the Council of Higher Education (*Yüksek Öğretim Kurulu*, YÖK) for graduates of two-year professional colleges to benefit from short-term military service was rejected by the Office of the Chief of the General Staff. In the spring of 2009 there were news reports that military service would be standardized, short-term military service as private soldiers and as reserve officers would be abolished, and a system consisting of 12 or 15 months of military service would be implemented. However, both the Ministry of National Defense and the Office of the Chief of the General Staff stated that although work was conducted on a variety of alternatives, a standardization of this type would not be possible in the short term.

27 "Yedek subaya komandoluk yok" (Reserve officers will not become commandos) *Yeni Şafak*, May 4, 2008.

28 "Genelkurmay Başkanlığında 16-17 Eylül 2008 Tarihlerinde Yapılan İletişim Toplantısı Görüşmelerinin Özeti" (Summary of Briefings held in the Office of the Chief of General Staff on September 16-17, 2008).

29 TSK'da 'Kurmay' devrimi: Harp Akademileri sınavı kaldırılacak" ("Staff" Reform in the TSK: The Military Academy Exam will be ABolished), *Nethaber*, March 9, 2009.

30 "Bugüne kadar kaç kişi bedelli askerlik yaptı?" (How many people have performed military service by payment?) *Star*, May 16, 2009.

31 "Gönül: Askerlik kısalıyor" (Gönül: Military service will be shorter), *Kenthaber*, April 5, 2005,

32 "Üç ay erken tezkere' muamması" (The dilemma of "three months early discharge from the military"), *Sabah*, April 6, 2005.

It is therefore clear that the abolition of compulsory military service, the recognition of the right to conscientious objection, and the transition to compulsory public service as an alternative to military service are not on the agenda of any institution.

The cost of full professionalization is not known. Then-Chief of the General Staff Yaşar Büyükanıt in different interviews stated that it would double[33] or even triple[34] the defense budget.

Although the part of the defense budget allocated to personnel expenditures in Turkey is publicly known, there is not enough information for a healthy debate on alternatives. No information on military salaries[35] is available and the recruitment cost of private soldiers and reserve officers cannot be calculated. In the previous *Almanac*, taking into consideration a variety of items, Lale Sarıibrahimoğlu estimated that the daily average cost of a soldier is around TL 8-10 and the yearly average cost is TL 3,000-4,000.[36] These figures do not include training expenditures or the cost resulting from the change in personnel at every draft period. The proportion of soldiers employed in services directly related to military matters and of those appointed to services of non-military nature is not known. Although it is said that practices such as payment in lieu of compulsory military service result in inequality, the fact that doctors, who are already required to fulfill obligatory public service, should not be able to benefit from short-term military service is never questioned. While TSK gives the impression of being the only decisive institution about this low cost employment provided by conscription, the governments are hesitant to play a role on this issue since it also serves as a veil that slightly hides the real level of unemployment among the young population.

Compared to all other state bodies and public institutions, TSK is probably the only institution that enjoys the highest level of diversity in terms of personnel. When the job announcements of the various force commands is examined, one can see that recruits vary greatly, ranging from sopranos to masseurs, from air conditioning technicians to experts on international relations. It is not known whether saving measures such as ceasing the practice of separate staff officers for the three force commands have been taken into account and whether lower cost methods to supply services are being debated. The short-term and long-term effect of alternative recruitment systems for military personnel should be taken into consideration separately. For example, although professionalization may create an extra load for the budget in the short term, the long-term reduction in training costs and in the number of personnel losses may lessen this impact.

Lastly, General Başbuğ and Minister Gönül noted that the TSK's recruitment goals are not being met, reaching 66% in 2008 and expecting to fall to 64% in 2009.[37] These figures, indicating that the TSK has a 35% soldier deficit, are in conflict with statements concerning the reduction of the army. Due to all these conflicts and the narrow scope of the amendments made to date as part of Personnel Management 2010, it is debatable whether a personnel policy actually exists or not. Perhaps the only result that we can reach on the basis of these developments is that the change in personnel policy consists of some low-level improvements, some changes in the promotion mechanism, and the professionalization of a very limited number of duties.

TRAINING

The TSK's need for trained commissioned and non-commissioned officers is largely met by education institutions within the TSK itself. These, from lowest to highest degree, are military high schools, vocational high schools for non-commissioned officers, military colleges, schools under the Gülhane Military Medical Academy, and military academies.

Military high schools are institutions that provide five years of education, including preparatory classes, within the scope of the "Regulation on Secondary Education by the Turkish Armed Forces," which came into force in 2008. There are four military high schools: the Kuleli Military High School, the Maltepe Military High School, the Naval High School, and the Işıklar Military High School. The Preparatory School for Non-Commissioned Officers in Bands should also be added to these. The total number of students is approximately 900. According to the Regulation, the pre-requisites for attending military

33 "Büyükanıt'ın Profesyonel Ordu Şartı" (Büyükanıt's Condition for a Professional Army) *Platform magazine*, May 31, 2008.

34 "Profesyonel ordu bütçeyi 3'e katlar" (A Professional army will triple the budget), *Star*, October 3, 2006.

35 Information concerning military salaries is given in the attached tables. Since no decision could be obtained regarding salary raises and compensations paid to military personnel, the real level of salaries could not be calculated. The Cabinet of Ministers' Decision No. 10344, dated 2006 on personnel covered by Law No. 657 covers a limited number of military employees.

36 Lale Sarıibrahimoğlu: "Türk Silahlı Kuvvetleri" (Turkish Armed Forces) Ümit Cizre (ed.), within *Almanak Türkiye 2005 Güvenlik Sektörü ve Demokratik Gözetim* (Almanac Turkey 2005: Security Sector and Democratic Oversight), p. 67.

37 To give an idea on the correctness of these figures, see Jülide Yıldırım and Bülent Erdinç, "The Reinlistment Decision in Turkey: A Military Personnel Supply Model," *Defense and Peace Economics*, Volume 18, No. 4, 2007, pp. 377-389; Kadir A. Varoğlu and Adnan Bıçaksız, "Volunteering for Risk: The Culture of the Turkish Armed Forces," *Armed Forces & Security*, Volume 31, No. 4, pp. 583-598.

high schools include: "candidates, their parents, brothers and sisters, and guardians must not have adopted illegal, political, destructive, reactionary, separatist ideological views, and they must not have carried out or have been involved in such activities; they must have not have brought into disrepute the moral person of the Turkish Armed Forces nor have carried out actions that do not befit the honor and dignity of military service; they must not have earned and must not still be earning a living by means not approved by society; they must not have been convicted of crimes against the state, for infamous or defamatory crimes such as embezzlement, fraudulent conversion, corruption, bribery, theft, extortion, fraud, betrayal of trust, and indirect bankruptcy, or for smuggling, rigging of official bids or purchase and sales, and disclosing state secrets, and they must not be under investigation or prosecution for these crimes or for an action that requires more than a three-month prison sentence, other than crimes of negligence; their background check and security investigations must result in positive outcome, and their criminal records must be clean." According to the regulation, the objective of military education is "to provide the fundamental culture, knowledge, and skills prescribed by the Fundamental Law on National Education and to provide the fundamental military knowledge, capabilities, and skills required by the Turkish Armed Forces, in accordance with the principles of Atatürk."[38]

Vocational high schools for non-commissioned officers are institutions that provide undergraduate education in accordance with 2002 Law on Vocational High Schools for Non-Commissioned Officers and 2003 Regulation on Vocational High Schools for Non-Commissioned Officers. The total number of students for the six vocational high schools is 3,000. According to the relevant laws, the following are among these schools' educational principles: "providing students with service consciousness and professional values in line with the principles and reforms of Atatürk and loyal to Kemalist nationalism and to the principles of a democratic, secular and social state of law" and "the preservation and development of our national culture within universal values in accordance with forms and characteristics linked to our customs and mores and providing students with spirit and will-power that will strengthen national unity and solidarity." The pre-requisites for admission are the same as military schools, except for some technical provisions.

There are three **military colleges** -- Army, Naval, and Aviation Colleges – and these are subject to Law No. 4566 on Military Colleges and to Regulation No. 24536 on Military Colleges. Gendarmerie officers receive training in Army Military Colleges. Admission requirements and the objective of education in these colleges, which provide undergraduate education, is the same as that of other military schools. According to the relevant laws, these colleges aim to provide their students with the following skills: "to be able to interpret the principles and reforms of Atatürk in line with contemporary requirements, to adopt the Kemalist system of thought as a lifestyle, to endeavor to spread it and to share its universal dimensions with friends and allies; to be knowledgeable about national policies regarding the neighbors of the Republic of Turkey and countries within its sphere of interest, to assimilate our country's national interests in all areas and to be knowledgeable enough to be able to defend these in national and international platforms and to have the capability to act like an intelligence expert."

The **Gülhane Military Medical Academy** (*Gülhane Askeri Tıp Akademisi*, GATA) provides education to meet the needs of the TSK's doctors and health personnel at its 41 hospitals. The Academy contains a School of Nursing and a Health College for Non-Commissioned Officers. According to Law No. 2955, the objective of education at GATA is to train members "who know well and adopt Kemalism; who hold the national, moral, humanitarian, spiritual, and cultural values of the Turkish nation; who feel proud and happy to be Turkish; who hold public interest above personal interest and are full of love towards the family, the country and the nation; who are aware of their duty and responsibility towards the state of the Republic of Turkey and who have internalized them; ... who have been raised with the spirit of discipline which is fundamental to military service; who are obedient and demonstrate that they are ready to fulfill orders at the cost of their life; who have an unwavering loyalty towards their comrades in arms and to the Turkish Armed Forces; who have strong

38 The national anthems of these schools may be useful in understanding the educational aims of military schools. For example, the national anthem of the Kuleli Military High School is as follows: "The sea is yours, the earth is yours, the sky is yours/May victory be your most sacred desire/Foam and froth like waterfalls up to the heavens/Rise from the horizon and go beyond summits/Oh Kuleli, proud and glorious home/The whole world is your destination, onwards/Your sweet voice gives life to your homeland/Your royal blood is inherited from your ancestors/May your crescent and star shine in the sky/May Turks spread all over the world in your light/You are famous everywhere in this country/Your name is inscribed in the book of the Republic/Oh Kuleli, sacred, golden home/Your bosom contains the dream of brave acts."

feelings of duty and responsibility, who have the power of initiative; who are ready to sacrifice themselves and who would never deviate from the correct path; and who hold military honor and prestige above everything else."[39] GATA's administrative oversight is carried out by the Office of the Chief of the General Staff and its scientific oversight by the GATA High Council of Science.

The total number of students attending military colleges and GATA is 3,000. Women candidates are only accepted to Military Colleges, GATA, and the School of Nursing.

The **Command and Staff Officers' Course** (*Komutanlık ve Karargâh Subaylığı Öğrenimi*, KOMKARSU) consists of 40 weeks of training for lieutenants and majors. The aim of this course is to provide officers with information on military, social, and economic matters.

The **Armed Forces Academy** aims to provide staff officers with planning, guidance, and control techniques at the joint and combined headquarters and unit levels and with training that will serve in the administration of these headquarters and units. In the website of the Military Academy Command, the objective of the Academy is given as follows: "to ensure that strategic forecasts are made with the aim of protecting the national interests of our country and assessing the domestic and international situation; to develop staff officers' ability to create the future, form, manage and oversee a team in line with the requirements of modern administration, and implement these abilities in units and headquarters at strategic level and national, NATO, and joint and combined military headquarters and organizations."[40] In these academies training is conducted at a strategic level and at the level of national, NATO, and joint/combined military headquarters and organizations, and it aims to analyze domestic and foreign threats, national interests, national objectives, and strategies and national security policy and their implementation in contemporary conditions. The principle of academic training is: "the study of Turkey's strategic location and geopolitical situation; the study of national power elements and of past and present events and tendencies in the international sphere that are expected to (regionally and globally) shape the political, economic, social, technological, and military future; the production of scenarios regarding the future, the discussion of the past and present state of the national interests of Turkey and of the shape they will take in future, the establishment of the national security policy and strategy; in accordance with information gathered above, the formation of Turkey's National Military Strategy within the framework of set national objectives and national policy; the reflection of the military strategy on operations, directives, and concepts; common joint operations; peace operations, destructive and separatist activities, and terrorism-domestic security operations."[41] When we look at these elements, we understand that the Academy is the educational institution where the National Security Policy Document (*Milli Güvenlik Siyaseti Belgesi*, MGSB) and the National Military Strategic Concept (*Milli Askeri Stratejik Konsept*, MASK) are created and debated.

On the other hand, the **National Security Academy** trains civilians. Its objective is "to provide information and skills on national security to aspiring managers who are employed or will be employed in top-level posts in the Turkish Armed Forces, in public bodies and organizations, and if necessary in the private sector."[42] According to the website of the Military Academy Command, the Academy "provides training in the form of analysis, synthesis, and evaluation of the concepts of national security and national security policy and the state's national policy, and at the level of implementation, in line with the characteristics of each subject; and provides information and skills to participants on matters concerning global and national security, the protection of national interests, the establishment and evaluation of national power, the administration of crisis management, the principles behind the preparation of warfare directives and ministry plans, the total defense of the country, and related matters."[43] As can be inferred from these statements, the Academy provides top-level bureaucrats, journalists, and academics with "frozen state attitudes that are claimed to be above politics and the threat evaluation of the military"[44] Since there are graduate and doctorate programs on international relations and political science in universities, the only reason this type of training exists within the TSK is to train high-level, militarized, civilian manpower that are loyal to and that will adopt strategic evaluations and security policies.[45]

39 Part of the anthem of GATA is as follows: "Gülhane means honor and glory for medical science/It means a supreme knowledge to illuminate the world/An ocean that quenches parched hearts/At times of peace and war, whether to friends or enemies/Gülhane Military Medicine, the pride and joy of Turks/the home of doctors in whom Atatürk trusted."

40 Silahlı Kuvvetler Akademisi" (The Armed Forces Academy), the website of the Military Academies Command, http://www.harpak.edu.tr/pageContainer.aspx?PID=2.

41 *Ibid.*

42 *Ibid.*

43 *Ibid.*

44 *Ibid.*

45 For detailed information on education at the National Security Academy, see Yaşar Ateşsoy, "Bir Müdavimin Günlüğü-Ufkun Ötesine Yolculuk" (The Diary of a Participant – Journey beyond the Horizon).

TSK's training activities is not limited to the above. There are also a variety of trainings available for private soldiers, petty officers, and reserve officers fulfilling their military service. But there is no information on how much of these trainings are related to technical empowerment and how much of them focus on doctrine. For example, during a press briefing held on October 31, 2008, it was stated that personnel appointed to domestic security regions were trained on domestic security. Domestic security training is held at the Alpine Commando School and Training Center Command and at the Domestic Security Training and Maneuver Center in Isparta. Gendarmerie units on the other hand are trained in the Gendarmerie Commando School and Training Center Command and in the Domestic Security Maneuver and Training Center at Vize. Of these training programs, only information on training concerning skills has been reported. However, it is certain that training of this kind and orientation programs for private soldiers contain information on the TSK's strategy, its perception of threats, and its definitions of national power and interest.

There are two additional training institutions. The first, the General Staff Military History and Strategic Studies Department (*Genelkurmay Askeri Tarih ve Stratejik Etüt Başkanlığı*, ATASE), is in essence an archive center. ATASE's activities are conducting and publishing research on Turkish military history, conducting scientific studies on Atatürk and the Kemalist system of thought, and publishing documents on these subjects. Although the archive's documents are open to all researchers who meet certain conditions, these conditions have not been specified. The department also publishes periodicals such as Military History Research Magazine (*Askeri Tarih Araştırmaları Dergisi*), Gift of Atatürk Week (*Atatürk Haftası Armağanı*), Military History Bulletin (*Askeri Tarih Bülteni*), and Strategic Research Magazine (*Stratejik Araştırma Dergisi*). The department has also issued many publications such as Armenian Activities in Archive Documents 1914-1918 (*Arşiv Belgeleriyle Ermeni Faaliyetleri 1914-1918*) (8 volumes), Greek Activities in Archive Documents 1918-1922 (*Arşiv Belgeleriyle Rum Faaliyetleri 1918-1922*), Cypriot Greek-Greek Attacks and Genocide in Cyprus (*Kıbrıs'ta Rum - Yunan Saldırıları ve Soykırım*), Atatürk in Thought and Behavior (*Düşünce ve Davranışları İle Atatürk*), and Traces of Turkish Culture in Bosnia (*Bosna'da Türk Kültürünün İzleri*). It can be claimed that ATASE was founded with the aim of issuing publications that reflect the TSK's views and policies on historical matters.

The **Strategic Research and Study Center** (*Stratejik Araştırma ve Etüt Merkezi*, SAREM) is the consequence of the TSK's endeavors to become an active player in foreign policy. Described by the press as the army's think-tank, SAREM was founded with the aim of developing strategies and conducting activities concerning global and regional security. SAREM publishes the Strategic Research Magazine (*Stratejik Araştırmalar Dergisi*) and also organizes a variety of symposia, such as The Analysis of Areas of Crisis from the Perspective of Turkey, NATO, and the European Union and their Influence on Turkey's Security (*Türkiye, NATO ve Avrupa Birliği Perspektifinden Kriz Bölgelerinin İncelenmesi ve Türkiye'nin Güvenliğine Etkileri*) in 2004; The Attitude of Society, Administration, Administrators, and Leaders in Light of the Information Age and Technological Developments (*Bilgi Çağı ve Teknolojik Gelişmeler Işığında Toplum, Yönetim, Yönetici ve Lider Yaklaşımları*) in 2005; New Dimensions of Security and International Organizations (*Güvenliğin Yeni Boyutları ve Uluslararası Örgütler*) in 2007; and The Middle East: A Future Amidst Uncertainties and Security Issues (*Ortadoğu: Belirsizlikler İçindeki Geleceği ve Güvenlik Sorunları*) in 2008. In an article on SAREM, Mehmet Ali Kışlalı stated "that the center aims to educate public on military, strategic, and general security matters," "that well-intentioned people will acquire knowledge and form opinions so as to be able to contribute to subjects that up to now were only advocated by the military," "that some of the subjects dealt with by the MGK can be moved to a more comfortable platform," "that public opinion will obtain detailed and correct information on the requirements of country interests" and "that those who attempt to introduce to Turkey ideas produced in the West will encounter difficulties."[46]

The activities and symposia of SAREM are too broad to be examined one by one in this article. In general, however, it can be said that it would be difficult for papers presented by Turkish participants at these symposia to deviate from the TSK's main line.

PROCUREMENT OF ARMS AND AMMUNITION

The TSK's procurement system for arms and ammunition is regulated by Law No. 3238. The following bodies under the Ministry of National Defense are responsible for this task:

The **Supreme Board of Coordination for the Defense Industry**, which consists of 13 members and convenes twice a year under the chairmanship of the Prime Minister, carries out planning and coordination activities.

46 Etyen Mahçupyan, "Hazır olun... Eğitileceksiniz" (Be ready... you will be educated), *Zaman*, January 20, 2002.

It identifies arms systems and equipment to be procured in line with the Strategic Target Plan established by the Office of the Chief of the General Staff.

The **Defense Industry Undersecretariat** (*Savunma Sanayii Müsteşarlığı*, SSM) is the executive organ of the arms procurement system. The budget of the Undersecretariat may not constitute more than 2% of the Support Fund for the Defense Industry. This amount may be increased by 50% by the Cabinet of Ministers. The duties of the Undersecretariat, which is responsible for implementing decisions made by the Defense Industry Executive Committee, are "to meet the system needs of the TSK and of public bodies, to establish and implement strategies and methods aiming for the development of the defense industry." Law No. 3238 allows the Defense Industry Undersecretariat to obtain foreign project credit from abroad, apart from the Support Fund.

According to Article 12 of Law No. 3238, the **Support Fund for the Defense Industry** (*Savunma Sanayii Destekleme Fonu*, SSDF) enables the provision of funds outside the general budget for the modernization of the TSK and as an incentive for the Turkish defense industry. The revenues of this fund consist of allocations for this purpose from the general budget, transfers made by the Turkish Armed Forces Support Foundation (*Türk Silahlı Kuvvetlerini Güçlendirme Vakfı*, TSKGV) to the fund, a share from income and corporate taxes, a share of fuel consumption taxes and private consumption taxes, a share of national lottery and pari-mutual revenues, revenues to be obtained from payment in lieu of compulsory military service, and from the fund's assets and donations. The fund's expenditures include credits for arms production, capital, and the cost of arms purchases and production projects.

The **Defense Industry Executive Committee** consists of the Prime Minister, the Chief of the General Staff, and the Minister of National Defense. The committee makes decisions on the procurement of arms and other equipment domestically or abroad and gives directives to the SSM on research and development, prototype declaration, advance payments, and incentives and it determines principles of use for the SSDF.

The **Defense Industry Oversight Fund** oversees all the activities of the Undersecretariat and of the Fund. It consists of one member each from the Office of the Prime Minister, the Ministry of National Defense, and the Ministry of Finance; members are appointed for a two-year term. The Defense Industry Undersecretariat does not have an inspection mechanism other than internal auditing.

According to the Law on the Establishment of the **Turkish Armed Forces Support Foundation**, the Foundation aims to contribute to the development of the domestic defense industry, the establishment of new branches of industry, and the strengthening of the war power of the Turkish Armed Forces via the purchase of arms and equipment. The Board of Trustees of the foundation consists of the Minister of National Defense, the Second Chief of the General Staff, the Undersecretary of the Ministry of National Defense, and the Undersecretary of the Defense Industry in the Ministry of National Defense. All administrative posts of the foundation are occupied by the military. The TSKGV's revenues originate from liquid assets, properties and buildings owned by the foundation, and the stocks of its associates. TSKGV revenue and expenditures may not be accessed on its website. According to a statement made by the TSKGV General Manager, its revenue for the first nine months of 2006 was YTL 43 million; a minimum of 80% of revenues were allocated to the purchase of arms and equipment and to the development of the defense industry; TL 17 million would be transferred to 2007; and a resource transfer of YTL 22 million was planned for 2008.[47]

We are not going to examine financial information on the defense industry here, because by Gülay Günlük Şenesen and Lale Sarıibrahimoğlu examine this subject in the following chapters in this Almanac. However, it is necessary to refer to the Defense Industry Strategic Plan, which covers the years 2007-2011. This plan aims in particular to develop of the domestic defense industry. The strategic objectives of the plan are described as follows by the SSM:

1. Ensuring that procurement complies with users' needs and industrial objectives.
2. Re-structuring the defense industry so that it can generate domestic solutions and compete in the international sphere: raising the level of domestic supply to 50% in 2010, increasing defense industry exports to USD 1 billion in 2011, and achieving quality standardization.
3. Ensuring active participation in multilateral industry, defense, and security projects aiming for international cooperation, participating in at least four multinational projects by 2011, ensuring that one interna-

47 "Savunmada milli dönem" (National period in defense), *Tercüman*, May 12, 2007.

Modernization Projects

In a briefing held in 2009, Minister of National Defense Vecdi Gönül noted the following modernization projects:

1. ALTAY (Production of Modern Tanks with National Means) – ASELSAN, MKEK, ROKETSAN.
2. Assault Tactics/Reconnaissance Helicopter (ATAK) Project – TUSAŞ
3. Corvette type warship of national design (MİLGEM) – The Istanbul Dockyard Command, ASELSAN and HAVELSAN.
4. Development Project for Scientific Research and Technology Satellite for High-Resolution Imaging Purposes (GÖKTÜRK-2) – TÜBİTAK and TUSAŞ
5. ASELPOD Targeting Pods to be installed on warplanes – ASELSAN
6. Flight and Fire Management Mission Programs and Mission Computer
7. TCG IMBAT and TCG ZIPKIN, produced within the scope of the KILIÇ-II Class Assault Boats Project – Istanbul Dockyard Command
8. TCG 1. INÖNÜ, produced within the scope of the GÜR Class Submarine Project - Gölcük Dockyard Command
9. Design of Double Pilot Core Training Planes – TUSAŞ
10. Mini Unmanned Aircraft Systems
11. The modernization of F-16 planes with modern ammunitions, electronic warfare, and advanced avionics systems – TUSAŞ, ASELSAN and MİKES.
12. New Generation Warplane Project (F-35)
13. Leopard 2A4 Tanks purchased within the scope of the Interim Generation Tank Procurement Project
14. Purchase and production of 30 "F-16 Blok 50+" model planes – TUSAŞ
15. A400M Modern Transportation Plane Development Project – TUSAŞ
16. Full Flight Simulator design – HAVELSAN
17. Helicopter Simulator Projects – HAVELSAN
18. New Type Fast Patrol Boat Project
19. Coast Guard Search and Rescue Ship – ASELSAN
20. Medium-Range Modern Antitank and Long-Range Antitank Projects – ROKETSAN
21. Missile Projects - ROKETSAN
22. PANTER and FIRTINA Howitzer Projects
23. Procurement of submarines equipped with an independent air propulsion system (HBT)

tional project is realized under the leadership of Turkey and increasing by four-fold Turkey's share within the NATO defense industry.

4. Achieving a more effective institutional structure.

These objectives do not seem very different from the domestic industry incentive plans of many other countries in the world. They are based on the increase of production for export and of research and development expenditures and on capacity building with the aim of designing and producing new technologies. The most important difference from the point of view of the defense industry in Turkey is the fact that it is also perceived as a nationalization operation. This aim can be traced from the names and codenames of projects (National Ship, National Mission Computer, National Software, National Airplane, etc.) to statements such as: "The realization of design and integration on a national basis has enabled the selection of national products and therefore national companies, limited country resources have been used reasonably and correctly, and significant savings have thus been achieved. I believe that through the experience acquired with the national ship project, national companies will soon be able to produce warships, arms systems and equipment on an international basis and I expect this of them."[48]

The total turnover of Turkey's defense industry was YTL 2,938,985,000 in 2007 (around $2 billion). Of this total, private sector companies account for 36%, foundation companies account for 33%, and public companies account for 31%. In other words, by public companies and by companies affiliated with TSKGV constitutes two-thirds of the total defense industry production. An interesting situation arises from this state of affairs. The principles and strategies behind the procurement of arms and equipment are determined by the TSK. The control of whether purchases comply with these principles and strategies is also carried out by the TSK,

48 "Genelkurmay Başkanı İlker Başbuğ'un Heybeliada'nın Denize İndirilme Töreni Konuşmaları – 27 Eylül 2008" (Chief of General Staff İlker Başbuğ's Speech during a Launching Ceremony at Heybeliada, September 27, 2008).

through its members in structures affiliated with the Ministry of National Defense. And it is obvious that through the military personnel within the Ministry of National Defense the TSK plays also a role in execution. The TSK also carries out a major part of the production in defense industry through its own facilities and TSKGV companies. It has also been observed, thanks to the Ergenekon[49] operations, that some retired personnel act as consultants in foreign arms companies, while the intensity of former TSK personnel working in domestic private sector companies is unknown. When we look at this state of affairs, it becomes clear that the TSK is at the center of an extensive military network responsible for the procurement of arms and ammunition, a network in which civilians have a very marginal role.

THREAT PERCEPTIONS

In the Law on The National Security Council (*Milli Güvenlik Kurulu*, MGK), national security policy is defined as "the policy comprising the principles behind domestic and foreign defense policy as specified by the Cabinet of Ministers, on the basis of views established by the MGK with the objective of ensuring national security." National Security Policy is expressed through the National Security Policy Document (*Milli Güvenlik Siyaseti Belgesi*, MGSB), which is renewed at regular intervals and is described as the secret constitution of the state. The responsibility of preparing the document lies with the Prime Minister, but the TSK actually prepares it. Preparatory work for the document is carried out by the Office of the Chief of the General Staff, then the General Secretariat of the MGK prepares a final version, which is submitted to the Supreme Board of the MGK and ratified by the Prime Minister. This is followed by the preparation of the National Strategy Document, which determines the implementation of the MGSB, and the National Military Strategic Concept (*Milli Askeri Stratejik Konsept*, MASK) which contains the assessment of threats and is submitted to the Prime Minister by the Supreme Military Council (*Yüksek Askeri Şura*, YAŞ).[50] MASK is concordant with NATO's Strategic Concept. MGSB and MASK are not revealed to the public on the grounds that they are classified "top secret." However, when the definition of the national security policy document is examined, it becomes clear that both the Document and the Concept allow for the military to influence an extensive area ranging from politics to the economy. In an environment where documents are not open to the public, the identification of the domestic and foreign threat assessments that determine the activities of the TSK is only possible through information leaked to the press and from impressions derived from public statements.

DOMESTIC THREATS

As reported by the press, the summary of the October 31, 1997 MGSB reveals that separatist and reactionary activities, political Islam, Turkish nationalism that verges on racism,[51] far right-nationalist mafia, and extremist left-wing movements constitute domestic threats of top priority. According to a 2001 threat assessment, domestic threats are defined as "activities carried out by separatist, reactionary and destructive elements with the aim of establishing a new order or dividing the country, in line with their view and ideologies, and activities against Turkey by domestic and foreign centers that support the above because of a variety of interests." The assessment went on to say that these separatist, reactionary, and destructive elements are able to use a number of strategies, taking advantage of a suitable environment resulting from economic and social issues and are developing tactics such as infiltrating into public bodies and organizations to carry out their strategies. These elements have been incited by foreign powers "aiming to conquer the castle from within" especially after World War II. The objectives of these elements have been defined as (1) founding a new state on the territory of Turkey, (2) transforming the state into a theocratic order ruled on the basis of Islamic principles and beliefs, and (3) establishing a state under the rule of Marxist-Leninist ideology.

The legal grounds used by the TSK to demonstrate its *de facto* responsibility to respond to these threats are: Articles 5, 117, 118, 120 and 122 of the Constitution, Article 35 of the Law on Internal Services, Article 11/d of the Law on Provinces, the Law on the State of Emergency, the Law on Martial Law, the Law on Mobilization and State of War, the Law on Counter-Terrorism, the Prime

49 Ergenekon is the name of an illegal organization claimed to have ties with many officials especially in the Turkish military. The Ergenekon operation began in 2007 after 27 grenades were found in a house in Istanbul. As the investigation progressed, the case expanded as a result of a number of alleged efforts to carry out a military coup against the government. Today the case continues with hundreds of people on trial, including high ranking military officials, retired generals, ultra-Kemalist opponents, etc. Detailed information about Ergenekon is on p. 67.

50 Ali Bayramoğlu, "Asker ve Siyaset" (The Military and Politics), Ali Bayramoğlu and Ahmet İnsel (ed.), within *Bir Zümre, Bir Parti Türkiye'de Ordu* (The Army in Turkey, A Group, A Party), p. 91.

51 Extreme nationalist elements ceased being considered a threat in the MGSB of 2005 and were lowered to the status of elements to be kept under observation.

Minister's Circular No. 11269, the definition of terrorism in the Vienna Conference on Human Rights, the Convention for the Punishment of Terrorism, and the definition of terrorism according to the Organization for Security and Co-operation in Europe. The activities that the TSK ascribes to itself as part of its responsibility in response to domestic security threats include gathering and assessing information, coordinating intelligence activities, and training TSK personnel on domestic elements posing threat.

According to the official definition, separatism covers "factions that aim to divide and separate a community" and the circles that support them. Although this definition refers primarily to the PKK, everybody who adopts and puts forward views that do not comply with the official view on the Kurdish issue can be included as "supporting circles" within the TSK's concept of domestic threat. Domestic threats can be divided into two groups. The first of these is the expression of demands based on ethnicity, which are perceived as developments that would harm the unitary state. The second consists of separatists threats (democratization reforms, human rights, etc) believed to weaken the unitary structure of the state in other ways.

According to these threat analysis, reactionary movements includes groups that exploit religious values for political purposes and want to restructure the state on a religious basis as well as individuals who advocate the superiority of *sharia* and religious rules, while political Islam includes political movements that aim to restructure the economic, social, and political structure in accordance with religious rules. Here it is once again the TSK that decides what is reactionary and what is progressive and that determines the principles of the secular order aimed by the latter. Reactionary activities therefore do not include only organizations that make use of violence for these purposes; individuals, communities, and political movements assumed to have these intentions are also considered domestic threats. General İlker Başbuğ's recent statement that "Nowadays some congregations are attempting first to become an economic power and then to shape socio-political life and to put forward their social identity as a standardized lifestyle,"[52] reveals that certain prominent religious communities constitute the TSK's primary target within the scope of reactionary threats.

Following the 1980 coup, extremist left-wing groups are known to have lost their importance from the point of view of threat assessments and reactionary and separatist activities have begun to be seen as threats of equal importance. Apart from direct interference in the political system and warnings, as seen in 1997 and in April 2007, the TSK adopts a wide variety of responses to these threats. These include not only the previously mentioned intelligence activities, but also declaring their views regarding activities in the political, social, administrative and economic spheres, informing and educating public opinion about domestic threats, carrying out psychological operations that will provide legitimate grounds for TSK's interference into the political sphere, and steering public opinion through high-level legislative organs, universities, and non-governmental organizations. The TSK takes measures that range from broader strategies, such as influencing press reports with the aim of ensuring domestic security, monitoring non-governmental organizations that operate in Turkey and receive funds from foreign sources, and taking economic measures, to tactics such as the repetition of specific issues in order to steer public opinion "correctly" on the subjects of secularism and Islam, the determination of budgets allocated to public bodies on the basis of their performance, and the study of which laws should be enacted under which conditions. All of this is more appropriate for a government program, not a military strategy document. The TSK sees itself as the sole defender of stability in Turkey and believes that unity and solidarity among the military will help achieve that objective. That is why part of the strategy implemented against domestic threats is based on preventing the TSK from being infiltrated by these tendencies.[53]

As can be understood from the frequently used expression "creating new minorities," the scope of domestic threat regarding separatism has been broadened. The concept of "new minorities" appears to refer to proselytism and to different ethnic groups that – inspired by advances that the Kurds may achieve in expanding their rights – may attempt to do the same. Developments regarding missionary activities are of particular interest. A TSK report on "Missionary Activities in Our Country and the World," which was leaked to the press in 2005, states that "Missionary activities aimed at the Kurds and Alawis are of particular interest. Missionaries wish to

52 "Genelkurmay Başkanı Orgeneral İlker Başbuğ'un 14 Nisan 2009 Tarihinde Harp Akademileri Komutanlığında Yaptığı Yıllık Değerlendirme Konuşması" (Annual Assessment Speech held by General İlker Başbuğ, Chief of General Staff, on April 14, 2009, at the Military Academy Command).

53 Ersel Aydınlı, Nihat Ali Özcan and Doğan Akyaz, "The Turkish Military's March towards Europe" Foreign Affairs, January/February 2006, transl. *Yeni Şafak*, January, 3-4-7 2006.

found churches in the East of Turkey and increase the number of their branches in East and Southeast Anatolia. They aim to convert 10% of the population of Turkey to Christianity by 2020, starting with 50,000 Muslims by the end of 2005. They target students, orphans, children of destitute families, and unemployed or underemployed youths. Missionaries target young people who lack religious knowledge, have fallen into a quandary from a religious point of view, and feel lost because of social and economic problems. People who are considered or consider themselves to be ethnic or cultural minorities, those who live in an environment of conflict and terror, and those who suffer natural disasters such as earthquakes and floods are included within the target group of missionaries." Missionaries carry out activities such as the distribution of Bibles, religious broadcasts, and the foundation of new churches.[54] Groups such as Christian missionaries, Jehovah witnesses, and the Bahais, as well as elements believed to be drawing the Alawis towards Shi'ism, Nusayrism, or atheism are considered in the threat assessment.

In October and November 2006, Sevgi Erenerol, currently on trial for the Ergenekon case, held seminars on missionary activities at the General Staff Headquarters and the Air Force Command. The fact that the first of these took place within the scope of SAREM is an indication of the existence of educational activities by SAREM that are not publicly known. The press has reported on the mind-boggling theories expressed during these seminars, where missionary activities are defined as a method of political activity carried out with the aim of gaining part of the territory of Turkey.[55] It is thought-provoking that an institution that sees itself the guarantor of secularism consider religious conversion and provision of religious information as threats, as neither contains any criminal element and both are options for citizens who enjoy freedom of religion and conscience. In making assessments of this kind, the TSK adopts a point of view and discourse that is very similar to that of some groups and publications that it considers to be part of reactionary activities. Therefore, when it comes to religion, the TSK plays two different roles in a delicate balancing act: 1) A TSK that fights the spread of religions other than Islam and 2) a TSK that fights against Islam prevailing over the system.

In recent years, the groups identified as targets have come to include non-governmental organizations, defined as a post-modern sphere. These include all organizations that carry out projects in cooperation with foreign institutions, receive foreign funding, and organize activities and prepare reports that may be considered destructive and separatist by the TSK. The TSK frequently expresses its discomfort with these types of organizations. A draft memorandum on these organizations was leaked to the press.[56] As with religious organizations, the TSK has a contradictory relationship with civil society: It is in conflict with certain groups but provides assistance to organizations that it considers in line with its own views. Statements such as "the existence of non-governmental organizations that safeguard the interests of their country, rather than their own interests, is an indispensable element of democracy"[57] and "as long as non-governmental organizations and the media provide support to this fight and are tightly knit and as long as this situation is seen as above politics, Turkey will be rid of terrorism sooner than expected," are an indication of the TSK's different attitude towards non-governmental organizations that "carry out activities in line with national objectives."[58]

The economy is another issue that has emerged recently as part of domestic threat perceptions. The TSK now frequently addresses subjects such as the quality and quantity of public services, the distribution of resources, the prevention of the unfair distribution of income, the elimination of regional differences, the increase of private sector investments in underdeveloped regions, and the fight against unemployment.

FOREIGN THREATS

Turkey's agenda and the TSK's influence on domestic policy frequently result in the neglect of its role in Turkish foreign policy. According to Uzgel, the reason for this lies in the fact that those who concern themselves with the army do not concentrate on the foreign policy dimension of the issue and that foreign policy experts who adhere to a realist view of international relations accept the army's role in foreign policy as a given and refrain from questioning it. However, the TSK has a great deal of autonomy in foreign policy and has been exploiting foreign policy threats to strengthen its own

54 "Misyonerlik suç değil ama nedense 'tehdit'" (Missionary activities are not a crime, but for some reason they are a 'threat'), *Radikal*, December 22, 2007.

55 "TSK'ya akla zarar konferans" (Shocking conference at the TSK), *Radikal*, May 21, 2009.

56 See Radikal, April 4, 2008.

57 "Orgeneral İlker Başbuğ'un Genelkurmay Başkanlığı Devir-Teslim Töreni Konuşması – 28 Ağustos 2008" ().

58 "Genelkurmay Başkanlığında 16-17 Eylül 2008 Tarihlerinde Yapılan İletişim Toplantısı Görüşmelerinin Özeti" (Summary of the Briefing held at the Office of the Chief of General Staff on September 16-17, 2008).

role in domestic policy.[59] The military's approach to foreign policy is based on *realpolitik*: The army sees foreign policy as a "survival issue," that is to say, as a national security issue and consequently demands a broad definition of national security. The definition of national security is not only broad but also technical. Military and technical jargons are used in many texts containing these definitions and military measures are given priority.[60] The TSK's importance in foreign policy ensures on the one hand that Turkey's foreign policy issues are based on a discourse of *realpolitik*, thereby establishing a black-and-white point of view that enables the public to consider the world as either friend or foe, and on the other hand it causes the militarization of foreign policy issues of all kinds. The military structure that became permanent in Cyprus after the intervention of 1974 and the attitude against the solution of the Cyprus issue constitute a very clear example of this state of affairs.

The foreign policy threat perception applies to all of Turkey's neighbors, starting with Greece. The belief that Turkey's neighbors wish to destroy Turkey from within via their agents in Turkey and implement once and for all the Treaty of Sevres is an indispensable part of this discourse. The Armenian issue is also a very important element of this threat perception. In the TSK's view, it is responsible for protecting and safeguarding Turkey against almost the whole world, which has its sights set on Turkey. That is why the army sees itself as the primary institution responsible for establishing foreign policy threats and strategies. The TSK frequently refers to symmetrical and asymmetrical threats resulting from globalization and sees itself as an indispensable player in global operations against threats of this kind. Within this context it has also recently been argued that the EU needs the Turkish army for its security. It would be difficult to examine here all the dimensions of the perception of foreign threats, which is why we will concentrate on the most striking elements.

Following the US occupation of Iraq, instability in Northern Iraq and the possibility that a Kurdish state could be founded were the most important foreign threats in the TSK's view. Indeed, after 2003 the TSK's focus moved to the Middle East. Although the TSK is concerned about instability in the region, it also positions itself as a player in Middle East politics. Oil exploration in the Mediterranean, the energy issue, and tensions in Caucasia are other frequently emphasized foreign threats.

The definition of "Turkishness" is a central element in the assessment of domestic and foreign threats. While the army advocates that the Constitution's definition of Turkishness should be recognized as the highest identity above ethnical identities, when it comes to foreign policy it makes statements along the line of "the Turcoman and Azeris, people of our kin." In this case, based on the assumption that all citizens in Turkey are equal, the people of kin of a citizen of Kurdish origin, who by Constitution has adopted the Turkish higher identity, are not the Kurds, but the Turcomans in Iraq.

Before bringing to a close the issue of domestic and foreign threats, it is necessary to talk about the TSK's new Unconventional Warfare Plan (*Gayri Nizami Harp Planı*, GNH), whose existence has not been confirmed nor denied by the Office of the Chief of the General Staff. The press reported that the statement "in the event of physical, economic, psychological, political etc. occupation and/or occupation attempt, to determine the occupation, to implement counter measures, [and] in the event that there are GNH attempts against our country, to take the necessary counter measures" has been added to the domestic part of the definition of Unconventional Warfare, and the statement "to create the infrastructure for GNH plans at times of peace and when orders are received, [and] to plan and implement GNH operations in order to support military operations" has been added to the foreign implementation of GNH and that it has been decided to increase the number of departments dealing with GNH from 12 to 24 by 2010.[61] This plan, which contains references difficult to understand, such as economic occupation and psychological occupation, is evidence of how the TSK cites its threat assessments as necessary grounds in order to broaden as much as possible the its sphere of influence.

SECRECY AND TRANSPARENCY

Secrecy classifications in Turkey are broadly based on ambiguous concepts such as national security, interests, and prestige.[62] According to these definitions, the level

59 İlhan Uzgel, "Ordu Dış Politikanın Neresinde?" (What is the Army's Stance in Foreign Politics?), Ali Bayramoğlu and Ahmet İnsel (ed.), within *Bir Zümre, Bir Parti Türkiye'de Ordu* (The Army in Turkey, A Group, A Party), pp. 311-313.

60 Sezgin Kaya, "Soğuk Savaş Sonrası Dönemde Türkiye'nin Değişen Ulusal Güvenlik Algılaması ve Politikaları" (The Changing Perception of National Securities and Security Policies in Turkey after the Cold War), *Avrasya Dosyası* (Eurasia File), Volume 11, Issue 2, p. 221.

61 "TSK'nın Yeni Gayri Nizami Harp Plânı" (TSK's New Unconventional Warfare Plan), *Vatan*, June 2, 2008.

62 In fact there still is no law on State Secrets in Turkey, reason why the legal grounds of current levels of confidentiality are questionable.

of secrecy of any information or document depends on the national security perception of the determining institution. As the principal proponent of the concept of national security, the army is the main institution determining what is considered secret in Turkey. Putting aside the major impact that this classification system, as practiced by public bodies and institutions, has on access to information, even when considered solely from a military point of view, the current practice violates the OSCE's Rules of Procedure, which allow only for very limited secrecy. Turkey's secrecy classifications make it impossible for the public to access core documents such as the MGSB and MASK. The total amount of information classified as secret probably much higher than estimated. For example, officers' records are classified as confidential. When examples of this kind are examined, it becomes clear that almost all documents and procedures related to military and defense issues are considered state secrets, similarly to intelligence activities.

Documents classified as secret are also bound by a variety of laws, regulations, and protocols. As they are not published in any Official Gazette, we are only able to identify them when we learn of their existence through other means. When some information cannot be accessed, it may be because of this secrecy rating.

There is a great lack of information on many subjects regarding the TSK, including personnel matters such as numbers and salaries. It is difficult to estimate how much information related to the TSK is classified and under which secrecy rating. However, in a tradition such as Turkey's where what are considered state secrets is very broad, authorities are unlikely to share even information and documents that are not classified secret. The difficulty in accessing even the most basic information related to the army, combined with the insufficiency and discontinuity of accessible information, make it impossible to carry out a thorough institutional analysis.

Another reason for the lack of information on the TSK is the fact that the Ministry of National Defense has not published the White Paper[63] since 2000. In other words, since AKP came to power in 2002, no new White Book on defense has been published. The reaseon behind tihs is unclear; however, the lack of updated information forces researchers to resort to conjecture.

Oversight requires much more than an ex-post financial account; civilian governance in the real sense of the word requires the ex-ante analysis and debate of the army's future plans and projects.[64] Neither kind of oversight exists in Turkey.

If we consider that information on security policy cannot be accessed either, anybody who wishes to work on any subject related to the army must depend on speculation and media reports. Any analysis of the army is bound to become a journalistic performance based primarily on media research.

This cover of secrecy under which the army lives also triggers tensions arising from certain news reports. The media's desire to obtain information at times results in the publication of documents of dubious content. This occurred frequently in 2007 and 2008, when the majority of press statements from the Office of the Chief of the General Staff were disclaimers of press reports. However, the eventual realization of the authenticity of some of the documents detracts from the disclaimers' plausibility.

The weekly briefings initiated by the Office of the Chief of Staff in 2008 constitute one of the most promising recent developments. These meetings could serve to help the press follow issues concerning the army. Unfortunately that is not currently the case. The briefings generally consist of nothing more than the provision of information that can easily be accessed on the internet and a list of domestic security operations and search and rescue activities that took place during the previous week. Part of the fault lies with the press, which sees these briefings as an opportunity to get the army to comment on current affairs. In fact, most of the questions asked during these briefings – except for questions submitted in writing, whose content we do not know – are about current affairs; members of the media are rarely interested in technical issues. Because of all these reasons, the briefings generally are nothing more than a vehicle for the TSK to convey its view on political issues that stand out that particular week.

The objective of the oversight of security is not to direct biased criticism at security institutions. It has a function more important than criticism: it can provide a comprehensive analysis of fundamental information that enables public debate of security policies, the

63 White Papers on Defense are studies prepared by the Ministry of Defense; they include information and prospects on the organization and finances of the related administrative defense institutions and bodies and should be published on a regular basis.

64 David Greenwood (ed.), within "Türk Sivil- Asker İlişkileri ve Avrupa Birliği: Süregelen Buluşmaya Hazırlık" (Turkish Civil-Military Relations and the European Union: Preparation for the Ongoing Meeting), CESS Occasional, p. 17.

development of constructive proposals, and a venue for dialogue between opposing views. However, the factors described above undermine this kind of oversight. More effective oversight of Turkish security institutions, including the TSK, requires further academic study and more non-governmental organizations specialized in these matters. The politicization of security matters generally results in the neglect of the technical dimension of security policies and their interaction with the political dimension.

TABLE 1: BUDGET FIGURES IN 2009 CENTRAL ADMINISTRATION BUDGET ACT (TL)

Description	General Public Services	Defense Services	Public Order and Security Services	Economic Affairs and Services	Environmental Protection Services	Settling and Public Welfare Services
General Budgeted Institutions	107,662,022,161	14,597,892,817	14,855,467,630	25,809,605,110	234,240,000	3,326,778,290
Special Budgeted Institutions	2,348,997,302	28,965,840	893,961,180	1,659,886,381	24,029,300	51,164,500
Regulatory and Supervisory Institutions	276,743,624	993,435	27,335,000	1,584,321,049	0	0

TABLE 1: BUDGET FIGURES IN 2009 CENTRAL ADMINISTRATION BUDGET ACT (TL) (CONTINUED)

Description	Health Services	Recreational, Cultural and Religious Services	Education Services	Social Security and Social Protection Services	Total
General Budgeted Institutions	12,791,994,420	3,172,647,690	25,620,307,140	49,671,188,230	257,742,143,488
Special Budgeted Institutions	954,667,151	1,015,270,167	9,324,614,773	121,449,284	16,423,005,878
Regulatory and Supervisory Institutions	0	34,218,000	0	0	1,923,611,108

Source: Ministry of Finance, General Directorate of Budget and Fiscal Control

TABLE 2: PROPOSED BUDGETS OF GENERAL BUDGETED PUBLIC ADMINISTRATIONS FOR 2010-2011 (TL)

INSTITUTIONS	2010 BUDGET PROPOSAL	2011 BUDGET PROPOSAL
PRESIDENCY	72,500,000	76,400,000
TURKISH GRAND NATIONAL ASSEMBLY	504,160,000	490,289,000
CONSTITUTIONAL COURT	22,112,000	25,338,000
COURT OF APPEAL	61,368,000	68,072,000
COUNCIL OF STATE	76,770,000	85,971,000
COURT OF ACCOUNTS	108,626,107	124,780,664
PRIME MINISTRY	2,059,488,950	2,635,835,000
NATIONAL INTELLIGENCE ORGANIZATION	509,145,000	566,608,000
GENERAL SECRETARIAT OF THE NATIONAL SECURITY COUNCIL	13,424,000	14,872,000
GENERAL DIRECTORATE OF PRESS AND INFORMATION	71,530,000	82,934,000
STATE PERSONNEL PRESIDENCY	12,110,000	13,389,000
PRIME MINISTRY SUPREME AUDIT BOARD	12,084,000	13,406,000
UNDERSECRETARIAT OF STATE PLANNING ORGANISATION	716,009,000	842,839,000

TABLE 2: PROPOSED BUDGETS OF GENERAL BUDGETED PUBLIC ADMINISTRATIONS FOR 2010-2011 (TL) (CONTINUED)

INSTITUTIONS	2010 BUDGET PROPOSAL	2011 BUDGET PROPOSAL
UNDERSECRETARIAT OF TREASURY	66,074,744,000	69,921,511,000
UNDERSECRETARIAT OF FOR FOREIGN TRADE	127,009,000	143,555,000
UNDERSECRETARIAT OF CUSTOMS	266,627,000	297,646,000
TURKISH STATISTICAL INSTITUTE	113,186,000	125,004,000
DIRECTORATE OF RELIGIOUS AFFAIRS	2,683,421,680	2,942,290,000
DIRECTORATE OF HANDICAPPED AFFAIRS	6,348,000	7,197,000
GENERAL DIRECTORATE OF FAMILY AND SOCIAL STUDIES	6,229,000	7,073,000
GENERAL DIRECTORATE ON THE STATUS OF WOMEN	4,775,000	5,435,000
GENERAL DIRECTORATE OF SOCIAL ASSISTANCE AND SOLIDARITY	14,032,000	16,187,000
GENERAL DIRECTORATE OF SOCIAL SERVICES AND CHILD PROTECTION AGENCY	1,913,754,000	2,322,193,000
MINISTRY OF JUSTICE	3,677,018,323	4,093,866,427
MINISTRY OF DEFENSE	15,937,710,000	17,744,452,827
MINISTRY OF INTERNAL AFFAIRS	2,156,452,000	2,847,792,000
GENERAL COMMAND OF GENDARMERIE	4,046,834,000	4,449,319,000
GENERAL DIRECTORATE OF SECURITY	8,694,068,000	9,533,164,000
COAST GUARD COMMAND	293,745,000	335,406,000
MINISTRY OF FOREIGN AFFAIRS	871,879,000	969,731,000
GENERAL SECRETARIAT FOR EU AFFAIRS	12,259,000	14,016,000
MINISTRY OF FINANCE	64,698,794,396	71,735,723,007
CHAIR OF REVENUES	1,666,264,000	1,849,358,000
MINISTRY OF EDUCATION	30,639,051,257	33,988,561,967
MINISTRY OF PUBLIC WORKS AND SETTLEMENT	780,037,000	864,176,000
GENERAL DIRECTORATE OF LAND REGISTRY AND CADASTRE	507,739,000	567,353,000
MINISTRY OF HEALTH	13,967,429,000	15,504,366,000
MINISTRY OF TRANSPORTATION (COMMUNICATION)	1,395,209,534	1,567,593,874
UNDERSECRETARIAT OF MARITIME AFFAIRS	80,312,000	90,816,000
GENERAL DIRECTORATE OF HIGHWAYS	5,056,333,000	5,878,666,000
MINISTRY OF AGRICULTURE AND RURAL AFFAIRS	8,059,281,300	8,650,240,639
GENERAL DIRECTORATE OF AGRARIAN REFORM	228,612,000	247,211,000
MINISTRY OF LABOR AND SOCIAL SECURITY	28,630,157,000	33,949,347,000
MINISTRY OF INDUSTRY AND TRADE	632,856,000	678,784,000
MINISTRY OF ENERGY AND NATURAL RESOURCES	526,071,000	539,560,000
GENERAL DIRECTORATE OF PETROLEUM AFFAIRS	6,369,000	7,121,000
MINISTRY OF CULTURE AND TOURISM	1,144,486,000	1,283,837,000
MINISTRY OF ENVIRONMENT AND FORESTRY	1,362,905,000	1,521,820,000
GENERAL DIRECTORATE OF STATE METEOROLOGY AFFAIRS	126,477,000	140,708,000
GENERAL DIRECTORATE OF STATE HYDRAULIC WORKS	7,071,483,000	8,246,820,000
TOTAL	277,719,284,547	308,128,634,405

Source: Ministry of Finance, General Directorate of Budget and Fiscal Control

TABLE 3: STAFF AND POST NUMBERS OF GENERAL BUDGETED PUBLIC ADMINISTRATIONS (30.06.2008)

Institutions	Total
PRESIDENCY	1,216
TURKISH GRAND NATIONAL ASSEMBLY	4,768
CONSTITUIONAL COURT	206
COURT OF APPEAL	1,314
COUNCIL OF STATE	947
COURT OF ACCOUNTS	1,763
PRIME MINISTRY	2,842
GENERAL SECRETARIAT OF THE NATIONAL SECURITY COUNCIL	519
GENERAL DIRECTORATE OF PRESS AND INFORMATION	694
STATE PERSONNEL PRESIDENCY	702
PRIME MINISTRY SUPREME AUDIT BOARD	384
STATE PLANNING ORGANIZATION	1,645
UNDERSECRETARIAT OF TREASURY	3,411
UNDERSECRETARIAT OF FOR FOREIGN TRADE	3,654
UNDERSECRETARIAT OF CUSTOMS	10,550
TURKISH STATISTICAL INSTITUTE	5,334
DIRECTORATE OF RELIGIOUS AFFAIRS	101,834
DIRECTORATE OF HANDICAPPED AFFAIRS	166
GENERAL DIRECTORATE OF FAMILY AND SOCIAL STUDIES	133
GENERAL DIRECTORATE ON THE STATUS OF WOMEN	131
GENERAL DIRECTORATE OF SOCIAL ASSISTANCE AND SOLIDARITY	190
GENERAL DIRECTORATE OF SOCIAL SERVICES AND CHILD PROTECTION AGENCY	15,956
GENERAL SECRETARIAT FOR EU AFFAIRS	132
MINISTRY OF JUSTICE	94,651
MINISTRY OF DEFENSE	66,073
MINISTRY OF INTERNAL AFFAIRS	34,530
GENERAL COMMAND OF GENDARMERIE	6,133
GENERAL DIRECTORATE OF SECURITY	214,381
COAST GUARD COMMAND	1,451
MINISTRY OF FOREIGN AFFAIRS	6,259
MINISTRY OF FINANCE	44,810
CHAIR OF REVENUES	60,080
MINISRTY OF EDUCATION	852,052
MINISTRY OF PUBLIC WORKS AND SETTLEMENT	16,859
GENERAL DIRECTORATE OF LAND REGISTRY AND CADASTRE	23,444
GENERAL DIRECTORATE OF HIGHWAYS	28,394
MINISTRY OF HEALTH	379,972
MINISTRY OF TRANSPORTATION (COMMUNICATION)	3,953
UNDERSECRETARIAT OF MARITIME AFFAIRS	2,352
MINISTRY OF AGRICULTURE AND RURAL AFFAIRS	64,622

TABLE 3: STAFF AND POST NUMBERS OF GENERAL BUDGETED PUBLIC ADMINISTRATIONS (30.06.2008) (CONTINUED)

Institutions	Total
GENERAL DIRECTORATE OF AGRARIAN REFORM	1,380
MINISTRY OF LABOR AND SOCIAL SECURITY	4,186
DIRECTORATE OF SOCIAL SECURITY ORGANIZATION	64
MINISTRY OF INDUSTRY AND TRADE	5,498
MINISTRY OF ENERGY AND NATURAL RESOURCES	1,081
GENERAL DIRECTORATE OF STATE HYDRAULIC WORKS	35,335
GENERAL DIRECTORATE OF PETROLEUM AFFAIRS	276
MINISTRY OF CULTURE AND TOURISM	15,350
MINISTRY OF ENVIRONMENT AND FORESTRY	14,706
GENERAL DIRECTORATE OF STATE METEOROLOGY AFFAIRS	4,650
DIRECTORATE OF FORENSIC MEDICINE INSTITUTION	2,971
DIRECTORATE OFLABOUR AND SOCIAL SECURITY EDUCATION AND RESERACH CENTER	88
GENERAL DIRECTORATE OF MINT AND STAMP PRINT HOUSE	555
REFIK SAYDAM HYGIENE CENTER PRESIDENCY	2,608
DIRECTORATE OF SUPREME ELECTION BOARD	3,062
TOTAL	2,150,317

Source: 2009 Budget Justification

TABLE 4: LODGING AND RECREATIONAL FACILITY NUMBERS OF GENERAL BUDGETED PUBLIC ADMINISTRATIONS (30.06.2008)

Institutions	Lodging	Recreational Facility	Total
PRESIDENCY	340	0	340
TURKISH GRAND NATIONAL ASSEMBLY	466	8	474
CONSTITUIONAL COURT	49	0	49
COURT OF APPEAL	176	1	177
COUNCIL OF STATE	107	1	108
COURT OF ACCOUNTS	561	3	564
PRIME MINISTRY	641	1	642
NATIONAL INTELLIGENCE ORGANIZATION	0	0	0
GENERAL SECRETARIAT OF THE NATIONAL SECURITY COUNCIL	23	0	23
GENERAL DIRECTORATE OF PRESS AND INFORMATION	3	0	3
STATE PERSONNEL PRESIDENCY	8	0	8
PRIME MINISTRY SUPREME AUDIT BOARD	159	1	160
STATE PLANNING ORGANIZATION	215	1	216
UNDERSECRETARIAT OF TREASURY	200	0	200
UNDERSECRETARIAT OF FOR FOREIGN TRADE	165	1	166
UNDERSECRETARIAT OF CUSTOMS	1,191	15	1,206
TURKISH STATISTICAL INSTITUTE	28	0	28
DIRECTORATE OF RELIGIOUS AFFAIRS	275	0	275
DIRECTORATE OF HANDICAPPED AFFAIRS	0	0	0

TABLE 4: LODGING AND RECREATIONAL FACILITY NUMBERS OF GENERAL BUDGETED PUBLIC ADMINISTRATIONS (30.06.2008) (CONTINUED)

Institutions	Lodging	Recreational Facility	Total
GENERAL DIRECTORATE OF FAMILY AND SOCIAL STUDIES	0	0	0
GENERAL DIRECTORATE ON THE STATUS OF WOMEN	0	0	0
GENERAL DIRECTORATE OF SOCIAL ASSISTANCE AND SOLIDARITY	0	0	0
GENERAL DIRECTORATE OF SOCIAL SERVICES AND CHILD PROTECTION AGENCY	471	0	471
MINISTRY OF JUSTICE	13,114	6	13,120
MINISTRY OF DEFENSE	41,701	327	42,028
MINISTRY OF INTERNAL AFFAIRS	867	163	1,030
GENERAL COMMAND OF GENDARMERIE	15,209	75	15,284
GENERAL DIRECTORATE OF SECURITY	46,085	157	46,242
COAST GUARD COMMAND	310	0	310
MINISTRY OF FOREIGN AFFAIRS	377	1	378
GENERAL SECRETARIAT FOR EU AFFAIRS	0	0	0
MINISTRY OF FINANCE	4,576	122	4,698
CHAIR OF REVENUES	166	0	166
MINISTRY OF EDUCATION	44,096	843	44,939
MINISTRY OF PUBLIC WORKS AND SETTLEMENT	1,835	67	1,902
GENERAL DIRECTORATE OF LAND REGISTRY AND CADASTRE	523	0	523
MINISTRY OF HEALTH	20,153	4	20,157
MINISTRY OF TRANSPORTATION (COMMUNICATION)	286	4	290
UNDERSECRETARIAT OF MARITIME AFFAIRS	97	0	97
GENERAL DIRECTORATE OF HIGHWAYS	2,476	68	2,544
MINISTRY OF AGRICULTURE AND RURAL AFFAIRS	5,025	95	5,120
GENERAL DIRECTORATE OF AGRARIAN REFORM	120	5	125
MINISTRY OF LABOR AND SOCIAL SECURITY	35	3	38
MINISTRY OF INDUSTRY AND TRADE	93	0	93
MINISTRY OF ENERGY AND NATURAL RESOURCES	31	0	31
GENERAL DIRECTORATE OF PETROLEUM AFFAIRS	10	0	10
MINISTRY OF CULTURE AND TOURISM	519	2	521
MINISTRY OF ENVIRONMENT AND FORESTRY	0	0	0
GENERAL DIRECTORATE OF STATE METEOROLOGY AFFAIRS	811	15	826
GENERAL DIRECTORATE OF STATE HYDRAULIC WORKS	3,971	110	4,081
TOTAL	207,564	2,099	209,663

Source: 2009 Budget Justification

TABLE 5: SALARY INFORMATION OF PERSONNEL SUBJECT TO LAW NO. 429

Title	Rank	Monthly Indicator (TL)	Additional Indicator (TL)	Special Service Compensation (%)	Executive + Representation Compensation (TL)
Chief of General Staff	1/4	1500	9,000	455	60,000
Force Commander	1/4	1500	8,400	400	40,000
Full General/Full Admiral	1/4	1500	8,000	380	35,000
Lieutenant General/ Vice Admiral	1/4	1500	7,600	335	29,000
Major General/Rear Admiral	1/4	1500	7,000	310	26,000
Brigadier General/Rear Admiral Lower Half	1/4	1500	6,400	290	24,000
Officers					
Senior Colonel	1/4	1500	5,800	280	16,000
Colonel	1/4	1500	4,800	260	13,000
Lieutenant Colonel	1/1	1320	3,600	220	10,000
Senior Major	2/1	1155	3,000	212	
Major	3/1	1020	2,200	201	
Lieutenant Commander	4/1	915	1,600	188	
Lieutenant	5/1	835	1,300	180	
Senior First Lieutenant	6/1	760	1,150	171	
First Lieutenant	7/1	705	950	160	
Second Lieutenant	8/1	660	850	151	
Third Lieutenant	9/1	620		102	
Non-Commissioned Officers					
I. Senior Chief Master Sergeant	1/1	1320	3,600	201	
II. Senior Chief Master Sergeant	2/1	1155	3,000	201	
Senior Chief Master Sergeant	3/1	1020	2,200	188	
First Sergeant	4/1	915	1,600	177	
Senior Sergeant	5/1	835	1,300	165	
Master Sergeant	6/1	760	1,150	151	
Senior Staff Sergeant	7/1	705	950	140	
Staff Sergeant	8/1	660	850	130	
Senior Non-Commissioned Officer	9/1	620		111	
Non-Commissioned Officer	10/1	590		102	

TABLE 6. TOTAL MILITARY AND DOMESTIC SECURITY SPENDING (TL)

	2006 Realized	2007 Realized	2008 Realized	2009 Legislated
Military Spending				
A. Military Spending of Central Administration Institutions				
Ministry of Defense	11,564,269,000	11,844,535,000	12,738,527,000	14,516,401,000
General Command of Gendarmerie	2,629,821,000	2,771,471,000	3,233,138,000	3,690,760,000
Coast Guard Command	116,534,000	169,885,000	191,172,000	265,417,000
Defense Industry Undersecretariat	16,085,000	21,394,000	21,736,000	26,589,000
Total for Central Aministration	14,326,709,000	14,807,285,000	16,184,573,000	18,499,167,000
B. Expenditures of Support Fund for the Defense Industry	1,540,210,000	1,541,143,000	1,602,777,557	1,810,835,674
C. Budget Transfers to the Mechanical and Chemical Industry Corperation	25,000,000	39,680,000	48,000,000	50,000,000
D. R&D Expenditures of Scientific and Technological Research Institution on Defense	44,656,067	50,264,358	60,193,500	63,605,000
Total Military Spending	**15,936,575,067**	16,438,372,358	17,895,544,057	20,423,607,674
Domestic Security Spending				
A. Domestic Security Spending of Central Administration Institutions				
"Defense" and "Public Order and Security" Expenditures	1,861,915,000	2,446,161,000	2,733,025,000	2,941,184,067
Secretariat of National Intelligence Organization	308,405,000	366,085,000	415,626,000	465,992,000
General Secreteriat of the National Security Council	9,640,000	9,727,000	10,236,000	12,295,000
Ministry of Internal Affairs	1,148,328,000	1,495,278,000	1,649,851,000	1,893,861,000
Wages of Village Guards	312,276,000	369,024,000	331,246,000	
General Directorate of Security	5,161,782,000	6,059,708,000	6,885,824,000	7,948,793,000
Total for Central Aministration	8,490,070,000	10,376,959,000	11,694,562,000	13,262,125,067
B. Special budgeted Domestic Security Spending of Central Administration Institutions	713,728,000	933,107,000	599,498,000	901,683,400
Total Domestic Security Spending	**9,203,798,000**	11,310,066,000	12,294,060,000	14,163,808,467
Total Military and Domestic Security Spending	**25,140,373,067**	27,748,438,358	30,189,604,057	34,587,416,141
GDP	**758,390,785,000**	853,636,000,000	994,315,000,000	1,111,438,000,000
Total for Central Aministration (% of GDP)	1.89	1.73	1.63	1.66
Total Military Spending (% of GDP)	2.10	1.93	1.80	1.84
Total Domestic Security Spending (% of GDP)	1.21	1.32	1.24	1.27
Total Military and Domestic Security Spending (% of GDP)	3.31	3.25	3.04	3.11

Source: Yentürk, Nurhan: "Askeri ve İç Güvenlik Harcamalarını İzleme Kılavuzu 2009-2010-2011", stk.bilgi.edu.tr/stkButce.asp.

TABLE 7: DEFENSE SPENDING OF NATO MEMBER COUNTRIES

Countries	Defense Expenditures Current Prices and Exchange Rates (million $)		Defense Expenditures As a Percentage of Gross Domestic Product	
	2007	2008 Estimated	2007	2008 Estimated
Belgium	5,164	5,469	1.1	1.1
Bulgaria	1,198	1,316	3.0	2.6
Canada	17,926	19,477	1.3	1.3
Czech Republic	2,527	3,173	1.4	1.4
Denmark	4,175	4,418	1.3	1.3
Estonia	387	452	1.8	1.9
France	61,784	66,180	2.4	2.3
Germany	45,552	46,241	1.3	1.3
Greece	8,208	9,989	2.6	2.8
Hungary	1,776	1,850	1.3	1.2
Italy	28,648	30,471	1.4	1.3
Latvia	443	545	1.6	1.7
Lithuania	453	548	1.2	1.1
Luxembourg	286	228	0.6	0.4
Netherlands	11,480	12,093	1.5	1.4
Norway	5,875	5,870	1.5	1.5
Poland	3,309	3,673	1.8	1.9
Portugal	7,833	10,169	1.5	1.5
Romania	2,608	3,017	1.5	1.5
Slovak Republic	1,139	1,458	1.5	1.5
Slovenia	693	821	1.5	1.5
Spain	16,724	18,974	1.2	1.2
Turkey	11,810	13,324	1.8	1.8
United Kingdom	68,903	60,499	2.5	2.2
United States	556,961	574,940	4.0	4.0

Source: Financial and Economic Data Relating to NATO Defence", NATO, 19 February 2009.

TABLE 8: ANNUAL STRENGTH OF THE ARMED FORCES IN NATO MEMBER COUNTRIES

Countries	Military (thousands)		Military and Civilian Personnel as a Percentage of Labor Force	
	2007	2008 Estimated	2007	2008 Estimated
Belgium	39	38	0.9	0.8
Bulgaria	37	29	1.4	1.1
Canada	55	55	0.4	0.5
Czech Republic	25	24	0.7	0.7
Denmark	21	18	0.9	0.8
Estonia	4	5	0.8	0.8
France	354	347	1.6	1.5
Germany	245	252	0.6	0.7
Greece	134	134	2.9	2.9
Hungary	20	19	0.6	0.6
Italy	195	195	0.9	0.9
Latvia	5	5	0.4	0.4
Lithuania	9	10	0.7	0.8
Luxembourg	1.4	0.9	0.7	0.4
Netherlands	48	44	0.8	0.7
Norway	19	20	1.0	1.0
Poland	150	150	1.2	1.2
Portugal	38	38	0.8	0.8
Romania	74	62	0.9	0.8
Slovak Republic	14	14	0.8	0.8
Slovenia	6	7	0.9	0.9
Spain	132	129	0.8	0.7
Turkey	497	496	2.3	2.3
United Kingdom	192	173	0.9	0.8
United States	13,430	1,326	1.3	1.3

Source: Financial and Economic Data Relating to NATO Defence", NATO, 19 February 2009.

TABLE 9: REVENUES AND EXPENDITURES OF SSDF(*) AND ALLOCATIONS TRANSFERRED FROM THE BUDGET TO THE SSDF

	2004	2005	2006	2007	2008	2009
A. Revenues and Expenditures of SSDF (YTL)						
Revenues	1,454,700,000	1,608,100,000	1,474,200,000	1,632,800,000		
Expenditures	1,277,900,000	1,207,700,000	1,357,200,000	1,552,200,000		
Source: SSM 2007 Annual Report						
B. Allocations Transferred from the Budget to the SSDF						
Revenues from the Budget			1,318,317,000	1,684,343,000	1,912,122,000	
Source: Ministry of Finance General Directorate of Public Accounts, General Budget Spending, information in 5.8.6.1 EKON						
C. Expenditures of SSDF						
Expenditures		1,252,879,239	1,540,210,000	1,541,143,000	1,602,777,557	1,810,835,675
Source: Provided from State Planning Organization (*) Support Fund for the Defense Industry						

Source: Nurhan Yentürk, Askeri ve İç Güvenlik Harcamalarını İzleme Kılavuzu 2009-2010-2011, stk.bilgi.edu.tr/stkButce.asp

TABLE 10: TREASURY GUARANTEED FOREIGN DEBT STOCK AND REPAYMENTS OF SUPPORT FUND FOR THE DEFENSE INDUSTRY

Years	Foreign Debt Stock ($)	Repayments of Credits and Loans ($)	
		Assumed by Treasury	Assumed by Support Fund
1991-1996		28,254,000	
1997	741,000,000	0	
1998	672,000,000	0	
1999	593,000,000	0	
2000	546,000,000	0	
2001	525,000,000	0	
2002	621,000,000	0	158,000,000
2003	534,000,000	0	159,000,000
2004	418,000,000	0	149,000,000
2005	318,000,000	0	125,000,000
2006	247,000,000	0	85,000,000
2007	186,000,000	0	67,000,000
2008	154,000,000	0	32,000,000

Source: Nurhan Yentürk, Askeri ve İç Güvenlik Harcamalarını İzleme Kılavuzu 2009-2010-2011, stk.bilgi.edu.tr/stkButce.asp

TABLE 11: DATA ON TURKEY'S DEFENSE INDUSTRY

Years	Turnover (TL)	Exports (TL)	R&D Spending (TL)	Share of Exports (%)	Share of R&D Spending (%)
2000	572,444,544	82,953,024	28,950,432	14.49	5.06
2001	1,228,354,068	193,880,867	35,323,902	15.78	2.88
2002	1,742,295,000	406,272,280	80,215,680	23.32	4.60
2003	1,812,293,458	461,271,055	81,390,552	25.45	4.49
2004	1,794,415,040	263,489,622	85,700,120	14.68	4.78
2005	2,135,340,333	452,821,647	105,362,034	21.21	4.93
2006	2,269,214,195	464,273,291	118,827,391	20.46	5.24
2007	2,631,522,312	488,880,000	139,680,000	18.58	5.31

Source: Defense Industry Manufacturers Association (SaSAD)

TABLE 12: ASSOCIATIONS THAT HAVE RECEIVED AID FROM THE MINISTRY OF DEFENSE BUDGET IN 2008 (TL)

Institution	Total
Retired Military Officers Association of Turkey	618,518
War Veterans Association of Turkey	10,000
War Veterans, Martyr Widows and Orphans Assosiation of Turkey	1,738
Retired Military Non Commissioned Officers Association of Turkey	10,000
Total	640,256

Source: Ministry of Defense

TABLE13: TURKISH ARMED FORCES SUPPORT FOUNDATION'S (TSKGV) SHARES IN COMPANIES (2009)

Company	Share of TSKGV (%)
Isbir Electric Industry Co.	99.76
HAVELSAN	98.9
ASPILSAN Military Cell Industry and Trade Inc.	97.7
ASELSAN Military Electronics Industry and Trade Inc.	84.58
Turkish Aerospace Industries Inc.	54.49
ROKETSAN Missiles Inc.	35.5
Tapasan Precision Mechanic and Electronic Industry and Trade Inc.	25
TURKTIPSAN Health, Tourism, Education and Trade Inc.	20
DİTAŞ	20
Netaş Nortel Networks Netaş Telecommunications Inc.	15
Mercedes-Benz Turk Inc.	5
TEI Tusaş Engine Industry Inc.	3.02
HEAS Airport Management and Aeronautical Industries Inc.	1.19
HTR HAVELSAN Technology Radar Industry and Trade Inc.	0.01

Source: TSKGV

TABLE 14: SECTORAL DISTRIBUTION OF THE DEFENSE INDUSTRY

	Public Companies		Private Companies	Foreign Partnerships
	Military Factories	Kİ/SSM/TSKGV		
Air Vehicles	Eskişehir and Kayseri Air Supply and Maintenance Centers	TAI	BAYKAR MAKİNA BÜYÜKMIHÇI GLOBAL	TUSAŞ MOTOR ALP HAVACILIK
Land Vehicles	Arifiye, Tuzla and Kayseri Base Maintenance Centres	İŞBİR	OTOKAR BMC HEMA NUROL	FNSS MTU-TR
Sea Vehicles	Gölcük, Istanbul, and Izmir Shipyards	Türkiye Gemi San.	RMK SEDEF YONCA ONUK DEARSAN	YILDIZ
Electronic software	Ankara Air Supply Maintenance Center KKK Base Maintenance Center	ASELSAN HAVELSAN STM MİKES EHSİM HTR TÜBİTAK UEKAE TÜBİTAK MAM	GATE MİLSOFT SAVRONİK VESTEL SAVUNMA KOÇ SİSTEM METEKSAN SAVUNMA C-TECH KALETRON YÜKSEK TEKNOLOJİ SDT	AYESAŞ SELEX NETAŞ SIEMENS ESDAŞ YALTES
Rockets-Missiles-Ammunition	KKK Base Maintenance Center Kayseri and Ankara Air Supply Maintenance Centers	MKEK ROKETSAN TAPASAN TÜBİTAK SAGE	BARIŞ KALEKALIP SARSILMAZ GİRSAN TİSAŞ	STOEGER

Source: Performance Program 2009, Undersecretariat of Defense Industry, http://www.ssm.gov.tr/TR/dokumantasyon/Documents/SSM_2009_PP.pdf (access date May 11, 2009).

APPENDIX 1: PROHIBITED MILITARY ZONES

Apart from the land allocated to its use, the TSK also controls a significant portion of Turkey's land, sea, and airspace, through its authority over prohibited military zones and security zones. This authority is regulated within the scope of Law No. 2565 on Prohibited Military Zones and Security Zones. These zones consist of "(a) military facilities and zones of critical importance for the country's defense, and, in order to ensure the security and secrecy of the borders, areas in their vicinity, on their shores, and in the air; prohibited military land, sea, and air zones, (b) zones that play an important role in the country's defense or economy and whose destruction, even if partial, or whose continuous or temporary restriction would result in negative consequences from the point of view of national security or community life; other military facilities and zones and security zones around places and facilities of all kinds that belong to public and private companies." No information is available on the size of prohibited military zones of first and second degree.

Prohibited military zones are established in accordance with requirements of the Office of the Chief of the General Staff and by decision of the Cabinet of Ministers. Security zones may be established and abolished by the Office of the Chief of the General Staff. Special security zones around public and private companies can be established or abolished by the Cabinet of Ministers, in accordance with the requirements of the Office of the Chief of the General Staff, the General Secretariat of the National Security Council, or the Ministry of Internal Affairs and with the approval of the Office of the Chief of the General Staff.

Prohibited military land zones of first degree are established in areas formed by joining points at a distance of a minimum of 100 and a maximum of 400 meters from the surrounding walls, wire fence, or similar obstacle or signs which mark the external boundaries of military facilities and zones of critical importance for the country's defense and along land borders and, when necessary, in areas of 30 to 600 meters' depth along shores. Immovable property in these zones is nationalized and it cannot be accessed or inhabited by anybody other than officials and other employees of Turkish nationality, as permitted by the authorized command; the entry of foreigners is subject to permission by the Office of the Chief of General Staff; and the examination or operation of antiquities and natural resources within these zones by Turkish organizations or by people of Turkish or foreign nationality under the supervision of Turkish organizations is subject to the approval of the Office of the Chief of the General Staff. Activities such as taking pictures, shooting film, drawing maps, pictures and plans, taking notes and mapping activities, and the use of equipment that would hamper, disrupt, or reveal the defense and security measures taken in these areas is forbidden for anybody other than persons who have been appointed or who have been given permission by the Office of the Chief of the General Staff.

Prohibited military land zones of second degree are established around zones of first degree or in other areas as required from a defense point of view. Their boundaries are determined by a line that begins from the boundaries of prohibited military land zones of first degree and joins points at a maximum distance of five kilometers from those boundaries. When necessary, this distance can be increased up to 10 kilometers. The boundaries of zones of second degree, except for those surrounding zones of first degree, are established by the Cabinet of Ministers. Turkish citizens are free to live, travel, and conduct agricultural or professional activities in these zones, but they can be restricted when necessary, by decision of the Cabinet of Ministers. Foreign nationals and legal persons may not acquire immovable property in these zones. Such properties are put up for liquidation in line with conditions established by the Cabinet of Ministers. Furthermore, foreigners may not enter or inhabit these zones, work in them, or rent immovable properties even temporarily, unless they have obtained permission. In these zones it is also forbidden to use binoculars, make drawings or plans, take notes, take pictures, or shoot films and to use specific equipment, unless permitted by the Office of the Chief of the General Staff.

Prohibited military sea zones of first degree are established by joining points that are set at a distance of a minimum of 100 meters and a maximum of one sea mile, from the point where prohibited military land zones of first degree end on the shore towards the sea, and to surround completely facilities at sea. In addition to the prohibitions valid for prohibited military land zones, restrictions are implemented in these zones concerning the sheltering of Turkish and foreign sea vessels. Prohibited military sea zones of second degree cover areas of sea that extend for two miles from the point where prohibited military land zones of second degree end on the shore towards the sea, and from the borders

of prohibited military sea zones of first degree. When necessary, areas outside these zones can also be included within the scope of prohibited zones. Information on these zones can be obtained from the Oceanographic and Hydrology Institute of the Sea Forces Command. Turkish citizens are free to conduct activities such as fishing and sponge fishing and to search for and operate natural resources on the seabed, as long as permanent facilities are not required. The establishment of fixed facilities is subject to permission by the Office of the Chief of the General Staff. Turkish sea vessels can freely enter and leave places such as ports, coves and bays in these zones, but foreign vessels require permission.

Prohibited military air zones of first degree are established above prohibited military land and sea zones of first degree, beginning from their external borders, in a way that covers an area of a minimum of 25 kilometers in all directions, provided that these are not outside the country's borders. Except for Turkish military aircraft, aircraft belonging to Turkish citizens or foreigners may fly over or land in these zones only with permission from the Office of the Chief of the General Staff. Prohibited military air zones of second degree are established over facilities of strategic importance outside prohibited military land and sea zones of first degree and belonging to military, public, or private companies, beginning from their external borders, in a way that covers an airspace of at least 25 kilometers in all directions, provided that these are not outside the country's borders.

Military security zones may be established by the Office of the Chief of the General Staff, by joining points situated at a distance of a maximum of 400 meters from the external boundaries surrounding Armed Forces barracks, battalions, headquarters, institutions, military camps, and facilities and underwater or above-water facilities, fixed and mobile depots, and ammunition depots allocated for the storage of explosives, flammable substances, fuel and classified materials, facilities where the above substances are loaded or unloaded, and shooting ranges, none of which are declared prohibited military land or sea zones of first degree.

Apart from the above, the TSK declares some areas temporary security zones although this is not regulated by a special clause within the law. Twenty temporary military zones were declared in the period 2007-2009 and no grounds were cited. These zones include Mazı Dağı (Mardin, May 1, 2009 – June 30, 2009), Kurşunlu (Diyarbakır, April 1, 2009 – June 15, 2009), and Birecik (Şanlıurfa, March 16 – April 10, 2009). Five temporary security zones have also been declared this year in Tunceli. Since the right to move freely is significantly restricted in temporary security zones, the declaration of these zones is generally perceived as a state of emergency of sorts. The temporary security zone in Tunceli includes various hamlets; a legal suit has been filed for the annulment of this declaration. In addition, governorships in Southeast Turkey have also been declaring temporary security zones.

APPENDIX 2: COAST GUARD COMMAND

Hale Akay

The Coast Guard Command (*Sahil Güvenlik Komutanlığı*, SGK), founded by Law No. 2962 of 1982 as a structure independent from the Naval Force Command (*Deniz Kuvvetleri Komutanlığı*, DKK), operated under the General Command of the Gendarmerie (*Jandarma Genel Komutanlığı*, JGK) for three years and in 1985 began operating under its current status. By law the SGK operates as part of the domestic security services affiliated with the Ministry of Internal Affairs at times of peace and as part of the Naval Force Command at times of war.

The SGK is responsible for Turkey's entire coastline, the Marmara Sea, and the straits of Istanbul and the Dardanelles, which constitute inland waters, for the ports and bays, the territorial waters, the exclusive economic zone, and, in accordance with national and international legal rules, the marine spaces that are under its sovereignty and control. Following a 2003 amendment, the SGK's duties expanded to include in the above areas all smuggling activities, activities contrary to the Law on Antiquities, activities contrary to the Law on Prohibited Military Zones and Security Zones, and outside the boundaries of ports, activities contrary to the Law on Navigation Along Turkey's Coasts and the Execution of Business and Trade in the Ports within its Territorial Waters, the Law on Wireless Communication, the Law on the Protection of Life and Property at Sea, the Law on Public Health, the Law on the Supervision of Animal Health, the Law on Agricultural Pest Control and Agricultural Quarantine, the Law on Aquaculture,

the Law on Passports, the Law on Foreigners' Residence and Travel in Turkey, the Law on Health on Ships, the Law on Incentives for Tourism and provisions on security of navigation, anchorage, mooring, fishing, diving and flag hoisting and contrary to environmental pollution created by sea vessels, aircraft, and facilities at sea. Moreover, the SGK is responsible for disposing explosive substances and suspicious objects that may appear in the sea, maintaining and controlling signs for sea obstacles and wrecks, search and rescue operations at sea, asylum seekers who enter territorial waters, and the pursuit of criminals at sea. The jurisdiction, headquarters and installation of the SGK is established by the Ministry of Internal Affairs, on the recommendation of the Office of the Chief of the General Staff.

SGK personnel are considered part of the TSK and the SGK therefore operates in accordance with Law No. 211 on Military Internal Duties and Law No. 926 on TSK Personnel. Two admiral posts are included among the DKK's cadre. The Coast Guard Command is appointed on the recommendation of the Sea Force Commander, the proposal of the Chief of the General Staff, the approval of the Minister of Internal Affairs, and a joint edict signed by the Prime Minister and ratified by the President of the Republic. His superior of first line is the Chief of the General Staff. The officers and non-commissioned officers of the command are trained in DKK and TSK education institutions and its expenditures are included under the SGK budget. As of early 2009, there were 1451 personnel and 310 lodgings.

The SGK budget is included within the budget of the Ministry of Internal Affairs but illustrated in a separate part. However, the budgetary decision-makers are the SGK itself and the DKK. For example, according to DKK standards, the procurement of arms for the SGK is carried out by these two commands. The Ministry of Internal Affairs is included within this process only as an approving authority. The budget for 2009 has been approved as TL 265,417,000. Exemptions from customs and all taxes, levies, transaction, and storage fees that are granted to the Ministry of National Defense and to the JGK are valid also for the SGK.[65] As with the Ministries of National Defense and Foreign Affairs, the General Secretariat of the National Security Council, the Undersecretariat of the National Intelligence Agency, and the General Command of the Gendarmerie, the Coast Guard Command is not obliged to prepare performance programs.

During the November 10, 2008 session of the National Planning and Budgetary Commission, when the budget of the Ministry of Internal Affairs was debated, only MP Bülent Baratlı brought up the SGK, referring to its aged floating and flying platforms, its lack of personnel, and the fact that "it was still struggling under the umbrella of the DKK." The SGK was not dealt with in the rest of the debate, other than in the form of praise for its success and Minister of Internal Affairs Beşir Atalay's reference to the Coast Observation Radar Project.[66]

Although the SGK is affiliated with the Ministry of Internal Affairs, here too there is a problem of duality as for the JGK. Evidence of the fact that the SGK actually operates under the TSK can be seen in the weekly briefings of the Office of the Chief of the General Staff, where the number of search and rescue activities conducted by the SGK are cited without any reference to the Ministry of Internal Affairs. The SGK's position within the security structure results in a conflict of authority and implementation from the point of view of civilian institutions that carry out similar duties. Although a protocol is in force for the coordination of cooperation between the SGK and the Maritime Police, affiliated with the Ministry of Internal Affairs, overlapping jurisdictions create problems. Commands under the SGK may only be overseen by provincial governors, who are the highest level public administrators; district governors do not have oversight powers.[67]

As with the JGK, the SGK is always discussed in EU Progress Reports. As Lale Sarıibrahimoğlu stated in the previous *Almanac*, the EU continuously emphasizes that in order to solve the problems of multiple, overlapping commands in law and order services and improve service effectiveness, it is necessary for the police force, the gendarmerie, and the coast guard to be combined under a single roof and for the JGK and the SGK to become institutions under civilian authority. No progress has been made in the action plan of the integrated border management project initiated in 2003 by the Ministry of Internal Affairs, concerning the protection of land and

65 Lale Sarıibrahimoğlu, "Sahil Güvenlik Komutanlığı" (Coast Guard Command), Ümit Cizre (ed.), within *Almanak 2005 Güvenlik Sektörü ve Demokratik Gözetim* (Almanac Turkey 2005: Security Sector and Democratic Oversight), p. 116.

66 "2009 Mali Yılı Merkezi Yönetim Bütçe Kanunu Tasarısı ile 2007 mali yılı Merkezi Yönetim Kesin Hesap Kanunu Tasarısının Plan ve Bütçe Komisyonu Görüşme Tutanakları" (Minutes of the Plan and Budgetary Commission Meeting of the Draft Law on the Central Administration Budget for the Financial Year 2009 and of the Draft Bill on the Central Administration's Final Account for the Financial Year 2007), November 10, 2008.

67 Lale Sarıibrahimoğlu, *Ibid*, p. 116.

sea borders. The SGK was referred to as follows in the 2008 Progress Report:

> Border officials have limited knowledge of Turkey's National Integrated Border Management Strategy or on the Action Plan concerning the implementation of this strategy. Regarding the implementation of the National Action Plan for Integrated Border Management, work needs to be systematized and accelerated. The inter-institutional group established to evaluate the implementation of the Action Plan has only convened a few times. Considering that the new executive border authority has still not been established, the further development of cooperation among all units responsible for borders, through the development of common risk analyses, the exchange of information, and cooperation on surveys and training is of critical importance.[68]

As a result, no progress was achieved between 2005 and 2009 regarding the devolution of the SGK to civil administration.

68 Commission of the European Communities, Turkey 2008 Progress Report, 5.11.2008.

Turkey's Defense Expenditures in the 2000s

Gülay Günlük-Şenesen

This article will analyze Turkey's defense and military expenditures over the past decade, on the basis of the allocation of public resources within the budget, but we will not refer to developments in the defense industry. The resources allocated to defense in Turkey are not limited to the budget: the Defense Industry Undersecretariat (Savunma Sanayii Müsteşarlığı, SSM), the Support Fund for the Defense Industry (Savunma Sanayii Destekleme Fonu, SSDF), and the Turkish Armed Forces Support Foundation (*Türk Silahlı Kuvvetlerini Güçlendirme Vakfı*, TSKGV), as well as foreign loans and debts are also included among defense resources. Here we will not deal with the TSKGV, which is important from the point of view of its partnerships with the defense industry. As will be seen from the detailed rationale below, our analysis will be limited to the SSM and SSDF and to foreign monetary resources, all of which constitute important means for procuring domestic and imported arms.

The Ministry of Finance's budgetary data are the fundamental source of information on Turkey's defense expenditures. The classification of budget items in Turkey changed after 2006, in accordance with Law No. 5018 on Public Financial Administration and Control.[1] We have endeavored for this change not to result in any inconsistencies from the point of view of the classifications and data that our assessments are based on. As can be observed in Annex Table 1, Defense Services consist of the following: military defense services, civilian defense services, foreign military aid services, defense research and development services, and other items.[2] The most important difference here from the point of view of our subject is that under the previous consolidated budget, the Ministry of National Defense, the General Command of the Gendarmerie, and the Coast Guard Command were the institutions that provide defense services.[3] However, the new central budget includes not only military institutions, but also non-military public institutions, such as civilian defense services.

Annex Table 2 contains a summary that includes institutions providing defense services in 2008 and forecasted expenditures. Of these institutions, only the Ministry of National Defense and the Defense Industry Undersecretariat are military in nature. Let us say here that the budget of the Defense Industry Undersecretariat concerns its own organization and does not include the Support Fund for the Defense Industry which it manages.

Since the Ministry of National Defense's budget constitutes 99% of the Defense Services item for 2008, the other items, stated above, are negligible. It would therefore not be incorrect to roughly equate the Defense Services line item in the new classification with the expenditures of the Ministry of National Defense.

Another issue we need to pay attention to is that expenditures of the General Command of the Gendarmerie and the Coast Guard Command are no longer included under Defense Services, but are instead under Public Order and Security Services. (The Ministry of National Defense remains under Defense Services as it was before.) Annex Table 1 contains the breakdown of this item. This new location of Gendarmerie and Coast Guard expenditures may result in the underestimation of military spending by about 20% compared to previous years. For example when the 2008 allocations of the Ministry of National Defense, the Gendarmerie and the Coast Guard are calculated together, conforming to the former classification, their share of the total budget are seen to be 79.8%, 18.8% and 1.4%, respectively. To state it more clearly, the latter two items would

1 Ministry of Finance, General Directorate of Budgets and Finance Control, 2008 Budget Justification, p. 21 (http://www.bumko.gov.tr).

2 Ministry of Finance, General Directorate of Budgets and Finance Control (http://www.bumko.gov.tr/bütçe/analitik bütçe sınıflandırması).

3 For an example see Ministry of Finance, 2008 Budget Justification, Ankara, 1999. p. 47.

TABLE 1. TURKEY'S DEFENSE BUDGET (FORMER CLASSIFICATION) 1998-2008

	DEFENSE EXPENDITURES				PERCENTAGE OF DEFENSE	
	TL 1,000 current prices	TL 1,000 1998 prices	USD millions current prices		consolidated budget	non-interest budget
1998	1.617.889	1.617.889,0	5.883,0	1998	10,4	17,1
1999	2.841.694	1.842.862,5	7.326,6	1999	10,1	16,4
2000	4.421.343	1.921.768,2	6.690,0	2000	9,5	16,8
2001	6.404.565	1.820.660,4	5.241,1	2001	7,9	16,2
2002	9.337.170	1.931.825,3	6.200,0	2002	8,1	14,6
2003	10.768.367	1.806.921,8	7.212,6	2003	7,7	13,2
2004	11.602.695	1.732.136,3	8.159,4	2004	8,2	13,7
2005	12.674.733	1.766.739,6	9.451,7	2005	8,7	12,6
2006	14.321.657	1.826.446,0	10.008,1	2006	8,0	10,8
2007	14.772.925	1.742.827,3	12.620,8	2007	7,3	9,5
2008	16.634.402	1.779.178,6	13.515,6	2008	7,5	10,0

Note: The data for 2008 consists of initial allocations for budgets. Data in current prices are taken from the Budget Justification for 2008, General Directorate of Budgets and Financial Control, Ministry of Finances and from http://www.bumko.gov.tr. The GDP deflator for 1998 is calculated on the basis of www.hazine.gov.tr, and the yearly average exchange rate data is taken from http://www.bumko.gov.tr.

CHART 1. DEFENSE EXPENDITURES 1998-2008 (FORMER CLASSIFICATION) 1998 PRICES. YTL 1,000

not be accounted within defense spending in the new classification.

There is no doubt that this irregularity will disappear if the EU harmonization process continues and the military status of the General Command of the Gendarmerie changes. In any case, according to Article 20e of Law No. 5018, in the event of situations such as mobilization or war, the budgets of these three institutions are to be combined. We see similar grounds in Law No. 5459, dated February 22, 2006 (Article 2) and in Law No. 5668, dated May 24, 2007 (Article 2a), where the Turkish Armed Forces is defined as including the Land, Naval, and Air Forces, the General Command of the Gendarmerie, and the Coast Guard Command. Under current circumstances, in spite of the new budget classification, when assessing defense expenditures in the 2000s, we need to take into consideration the expenditures not only of the Ministry of National Defense, but also of the General Command of the Gendarmerie and the Coast Guard Command.

Table 1 contains data concerning Turkey's defense budget in the period 1998-2008.[4]

According to Chart 1, drawn on the basis of Table 1, defense spending began gaining momentum in 1999 in constant prices, surpassed the average of YTL 1.8 billion until 2002, and after 2002 dropped below it. This downward trend was reflected also in the defense expenditures' share in the budget, and the share in the budget, (including interest payments), decreased from 10% to around 8%. Similarly, while up to 2001 the share of

4 For Turkey's defense expenditures prior to 2002, see Günlük-Şenesen (2002) and Günlük-Şenesen (2004a).

CHART 2. DEFENSE EXPENDITURES 1998-2008 (FORMER CLASSIFICATION) USD MILLIONS

defense spending in the budget net of interest payments did not vary much, as of 2002 it decreased from 15% to around 10-11%. According to this classification, contrary to a widespread view among public opinion, the share of defense has not dropped below the share of education for the first time in recent years. Since 1988, spending on education had always been higher than spending on defense (Günlük-Şenesen, 2002).

Sticking to the coverage in Table 1, while the ratio of defense expenditures to the gross national product (GDP) was 2.3% in 1998, in the period 1999-2002 it was around 2.7% and from then until 2007 it was on a downward trend and reached 1.7%.

On the other hand, after 1998, in USD terms, defense expenditures have displayed a conspicuous upward trend, also because of the appreciation of the YTL.[5] According to Chart 2, based on Table 1, following the crisis of 2001, defense expenditures in terms of purchasing power in USD increased continuously and almost doubled its 2003 level.

For comparison, when we look at the data produced by the Stockholm International Peace Research Institute (SIPRI), a major international database, we see that Turkey's defense expenditures decreased continuously in the period 2000-2005 and that by 2005 they dropped to 63% of their 1999 level. Following a 7.6% increase in 2006, the 2007 level was almost identical to that of 2006 (SIPRI 2008:224).[6] According to the same source, the ratio of Turkey's military expenditures to the GNP was around 5% in 1999-2001 but in the following years it decreased and by 2006 it had dropped to 2.9% (SIPRI 2008: 231). A similar downward trend can also be observed in NATO's calculations.[7] Here too we can assume that the General Command of the Gendarmerie has not been included in these assessments.

In an interview on January 22, 2003 with *Jane's Defense Weekly* (page 32), then-Chief of the General Staff General Hilmi Özkök stated that Turkey's defense expenditures had decreased on the whole and it was estimated that within the Ten Year Procurement Plan for 2003-2012 the ratio of defense spending to the gross national product would be around 3%. However, it is not easy to identify the causes behind this general downward trend and accordingly the existence of a possible re-structuring.

THE COMPONENTS OF THE DEFENSE BUDGET

We have not been able to obtain a breakdown of data regarding personnel and non-personnel expenditures within the defense budget during the 2000s. We are therefore unable to make use of the budget data to follow the course of military equipment expenditures, which is a sub-component of the latter item in this budget. However, the budget breakdown obtained for 2008 is shown in Table 2.[8] The equipment and service procurement in this budget includes military equipment/arms expenditures. The Ministry of Defense's determinative role in both personnel and equipment-service expenditures can also be observed in that table.

5 There are drawbacks to the use of USD instead of domestic currency in the assessment of expenditures taking place within Turkey. However, since USD is referred to widely by public opinion and it is determinant from the point of view of arms import capacity, it is referred to here too.

6 SIPRI's military spending estimates are different from the budget. According to SIPRI's definition, military expenditures include the ministry of defense, paramilitary forces trained to participate in military operations, and military space activities. This covers all personnel expenditures including pension payments, operation and maintenance expenditures, arms purchases, military research and development expenditures and military aid. SIPRI (2008: 243). However, the SIPRI data on Turkey (2008: 224) does not include expenditures of paramilitary forces.

7 www.nato.int/issues/defense_expenditures, Access date: August 28, 2008.

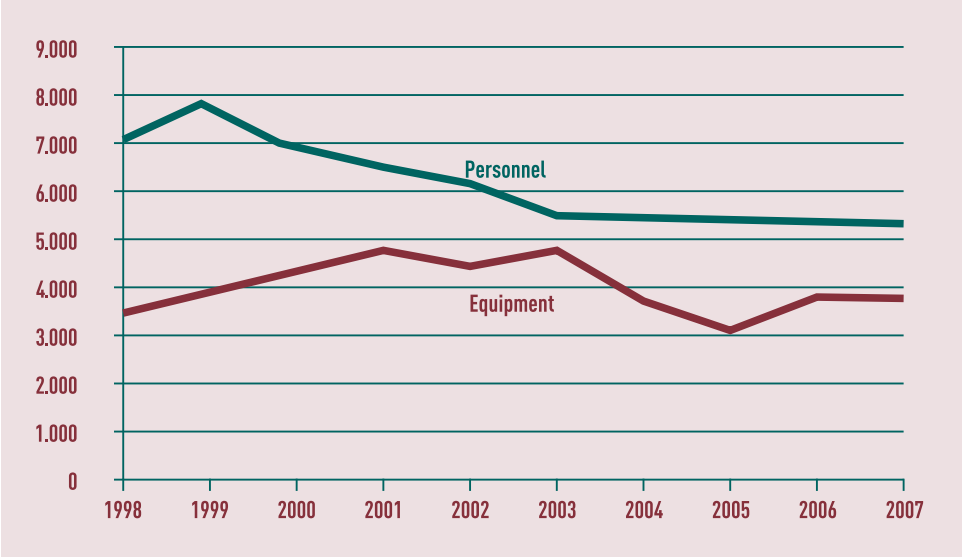
8 The components of the item "Other Expenditures," which constitutes 7.6% of Total Expenditures in Table 2, are as follows: Social Security State Premium, Interests, Current Transfers, Capital, Capital Transfers, Loans, Reserve Allocations.

TABLE 2. COMPONENTS OF THE DEFENSE BUDGET, 2008, YTL MILLIONS

	PERSONNEL EXPENDITURES	EQUIPMENT AND SERVICE PURCHASE	OTHER	TOTAL
Ministry of National Defense	5.384,3	6.969,8	918,6	13.272,7
General Command of Gendarmerie	1.711,8	1.109,1	307,5	3.218,4
Coast Guard Command	75,2	112,9	45,2	233,3
TOTAL	7.171,3	8.191,8	1.271,3	16.634,4

Source: "Summary of the Law on Central Administration Budget, Chart number (I) – General Budget Administration (Economic Classification) BÜMKO/e-budget

CHART 3. COMPONENTS OF TURKEY'S MILITARY SPENDING, 2005 PRICES, USD MILLIONS (NATO-SIPRI 2008: 239)



On the other hand, it may be helpful to check these figures against the NATO database. As seen in Chart 3, the decrease of personnel expenditures within a general downward trend may be crucial (SIPRI 2008: 239). The reduction in personnel expenditures from 2000 on continued regularly until 2007. The level reached in 2007 was about 70% of 1999's high. The reason for this drop is the significant decline in the number of military personnel towards the late 1990s. According to NATO data, the Turkish Armed Forces consisted of 793,000 personnel in 2000 and this figure fell to around 500,000 in 2006 and 2007. Here we must take into consideration the fact that the General Command of the Gendarmerie may have been excluded from the total number.

While the years 1998-2003 saw an almost continuous increase and a peak in military equipment expenditures, after a short decline in the years 2004-2005, there is a smaller increase, yet remained lower. The 2007 level is about 81% of the 2003 level. According to these data, personnel expenditures constitute 60% and equipment expenditures constitute 40% of total military expenditures with respect to NATO's coverage.

REVENUES AND EXPENDITURES OF THE SUPPORT FUND FOR THE DEFENSE INDUSTRY

Based on data supplied by the Defense Industry Undersecretariat, Chart 4 contains the total revenues and expenditures in the 2000s of the the Defense Industry Support Fund (*Savunma Sanayii Destekleme Fonu*, SSDF), an important source of Turkey's defense spending. These data do not include the item "Other Expenditure." We will refer to this below, while examining the 2007 budget breakdown. Following a fall (probably due to the devaluation that took place during the 2001 crisis), we can see that revenues rose significantly and then, in spite of the TL's appreciation over the USD, they began to drop. As for spending, following a decrease in 2001, the level in the 2000s was higher than in the previous period and that it rose after 2005. The sub-items of both revenues and expenditures were determinant in these trends.

Since the SSDF's resources are of public nature but excluded from the budget, the detailed components of the revenues and expenditures should be taken into

CHART 4. SSDF'S REVENUES AND EXPENDITURES, USD MILLIONS, 1998-2007

consideration in order to evaluate its position within the total resources allocated to defense. Breakdowns along these lines for 2007 are presented in Table 3 and 4. The source of the data for 2007 is the *2007 Annual Report* of the Defense Industry Undersecretariat. It has not been possible to obtain similar figures for the years 2002-2006.[9] For evaluations of the period before 2002, see Günlük Şenesen (2002). As can be seen from Table 3, project payments constitute the main part of SSDF's expenditures which could be associated with the domestic arms industry.

TABLE 3. SSDF EXPENDITURES, 2007, USD MILLIONS

Project Payments	1.016
Research and Development Project Payments	31
Loan repayment	73
Loans Given	34
Other Payments	40
TOTAL SSDF EXPENDITURES	1.194
Project Payments Deriving from Other Institutions' Budgets	333
Project Payments Deriving from TSF	55
OVERALL TOTAL	1.582

Source: Defense Industry Undersecretariat, 2007 Annual Report, p. 41 http://www.ssm.gov.tr/TR/dokumantasyon/Documents/2007%20Faaliyet%20Raporu.pdf

Table 4 is interesting because it shows the components of public resources allocated to defense. Part of lottery taxes (national lottery, pari-mutual betting) and of income and corporate taxes is allocated to the SSDF. Moreover, there are also resources within the scope of Special Consumption Tax (*Özel Tüketim Vergisi*, ÖTV)

TABLE 4. SSDF REVENUES, 2007, USD MILLIONS

SSDF REVENUES	
Transfers from the TSK Support Foundation (TSKGV)	0
National Lottery Share	186
Pari-mutual Betting Share	30
Share from Income-Corporate Taxes	814
Transfer from MSB's Budget (Decision No. 2000/16)	0
Transfer from MSB's Budget (Share of ÖTV/232)	127
REVENUES FROM FUND ASSETS	
Deposit/REPO interests	2
DT-HB interests	70
Partnership revenues	3
Loan interests	1
Repayment of loans given	12
Revenues from Payment in Lieu of Compulsory Military Service	0
Aid and Donations	0
Revenues from Light Weapons Sales (MKEK)	5
Other Income	7
TOTAL SSDF REVENUES	1.257
OTHER CASH INFLOW	
Transferred from MSB Budget for projects	1.059
Transferred from other institutions' budgets for projects	89
Transferred from TSF	55
TOTAL CASH INFLOW	1.203
GRAND TOTAL	**2.460**

Source: Defense Industry Undersecretariat, 2007 Annual Report, p. 40 http://www.ssm.gov.tr/TR/dokumantasyon/Documents/2007%20Faaliyet%20Raporu.pdf

9 **Our request for information from the SSDF was turned down on the grounds that, "information cannot be supplied because the chart of SSDF's revenues and expenditures you requested for the period 2002-2006 requires a separate study."**

and projects that are transferred from the budget of the Ministry of National Defense (*Milli Savunma Bakanlığı*, MSB). Because of these types of transfers, it would not be correct to obtain total resources allocated to defense by adding together MSB and SSDF revenues and a problem of double counting would emerge. On the other hand, it is of interest that the SSDF obtains revenues from the capital markets, from government bonds (*devlet tahvili*, DT), and from treasury bonds (*hazine bonosu*, HB).

GENERAL EVALUATION

When we evaluate the resources allocated to defense by Turkey over the course of the 2000s on the basis of data obtained from domestic and foreign sources, we can observe a general downward trend. There was not a reduction in arms purchases, probably due to the currency appreciation at that time.

The (im)possibility of obtaining data has a major impact on this evaluation. Access to data has become easier with the new budget classifications, but data provision on the basis of the ministries' own organizational structures creates great difficulties for users. For example, some data are taken from the General Directorate of Budgets and Financial Controls of the Ministry of Finance, while some are taken from the General Directorate of Accounting. The absence of a full series on a particular item for the recent past makes it very difficult to conduct a comprehensive assessment of the entire decade of the 2000s.

In contrast to the consistency of data classification among institutions, there are inconsistencies regarding access to this data. For example, financial information on the last term (2007-2008) of the Ministry of National Defense can be accessed on the ministry's website (www.msb.gov.tr). However, similar breakdowns do not exist on the website of the Ministry of Internal Affairs (www.icisleri.gov.tr) and financial information on the General Command of the Gendarmerie is not accessible at all. The Ministry of Finance, on the other hand, presents its data within Central Administration Budgets. Budget components on the basis of personnel and economic classifications cannot be obtained, except for the very last year. As said above, the SSDF has published detailed data up to 2002 and for 2007 but not for the years 2002-2006, whereas annual reports are expected to cover information of this kind.

Foreign resources used by Turkey for the purchase of arms (foreign loans) have not been examined here because it is not possible to obtain this data domestically. The total amount of external military debt stock, as estimated by Günlük-Şenesen (2004b) for the years 1987-2000, was around USD 10 billion. It is probable that this amount may have increased in the 2000s.

Relevant public institutions fail to share ~~do not~~ regularly and detailed information that would allow an assessment of Turkey's defense expenditures and their components in the 2000s. It is therefore impossible to argue that the principles of transparency and accountability are implemented and consequently this leads to evaluations not based on objective criteria.

ANNEX TABLE 1. ANALYTICAL BUDGET CLASSIFICATION LEVEL THREE FUNCTIONAL CODES

I	II	III	FUNCTIONAL CLASSIFICATION
02			**DEFENSE SERVICES**
	1		**Military Defense Services**
		0	Military defense services
	2		**Civil Defense Services**
		0	Civil defense services
	3		**External Military Assistance Services**
		0	External military assistance services
	8		**Research & Development on Defense**
		8	Research & development on defense
	9		**Unclassified Defense Services**
		9	Unclassified defense services
3			**PUBLIC ORDER AND SECURITY SERVICES**
	1		**Security Services**
		1	General security services
		2	Judicial security services
		3	Traffic safety services
		4	Institutional security services
		9	Unclassified security services
	2		**Fire Protection Services**
		0	Fire protection services
	3		**Services Provided to Courts**
		1	Higher court services
		2	Judicial court services
		3	Administrative court services
		4	Arbitration commission and ombudsman, etc. services
		9	Other services provided to courts
	4		**Prison and Jail Administration Services**
		0	Prison and jail administration services
	8		**Research & Development on Public Order and Security**
		8	Research & development on public order and security
	9		**Unclassified Public Order and Security Services**
		9	Unclassified public order and security services

Source: http://www.bumko.gov.tr/butce/analitik buce sınıflandırması

ANNEX TABLE 2: INSTITUTIONAL BREAKDOWN OF THE DEFENSE SERVICES BUDGET, 2008

	Institution	1000 YTL			1000 YTL
GENERAL BUDGETED ADMINISTRATIONS	Turkish Grand National Assembly	2	SPECIAL BUDGETED ADMINISTRATIONS	Gen. Dir. of Higher Education Credit and Dormitories Agency	286
	Court of Accounts	45		Gen. Dir. of Youth and Sport	122
	Prime Ministry	23.208		Gen. Dir. of State Theatres	51
	Dir. of General Press and Information	91		Gen. Dir. of State Opera and Ballet	75
	Dir. of State Personnel	42		Gen. Dir. of Forestry	112
	Undersecretariat of State Planning Organization	182		Gen. Dir. of Foundations	361
	Undersecretariat of Treasury	**271**		Gen. Dir. of Health for Borders and Coast	99
	Undersecretariat of Foreign Trade	253		Turkish Patent Institute	53
	Undersecretariat of Customs	302		**Undersecretariat of Defense Industries**	**22.669**
	Turkish Statistical Institute	219		Gen. Dir. of Electric Power Resources Survey and Development	327
	Directorate of Religious Affairs	192		Gen. Dir. of Mineral Research and Exploration	130
	Directorate of Handicapped Affairs	46		Institutions of Higher Education	4.751
	Ministry of Justice	3.292		SUBTOTAL	29.036
	Ministry of National Defense	**13.206.785**			
	Ministry of Interior	86.415	REGULATORY AND SUPERVISORY INSTITUTIONS	Radio and TV High Council	1.098
	General Directorate of Security	260		Energy Market Regulatory Agency	645
	Ministry of Foreign Affairs	134		Public Procurement Agency	133
	Ministry of Finance	875		Competition Agency	577
	Ministry of National Education	500		SUBTOTAL	2.452
	Ministry of Public Works and Settlement	381			
	Gen. Dir. of Land Registry and Cadastre	690		**TOTAL**	13,363,415
	Ministry of Health	296			
	Ministry of Transportation (Commu.)	295			
	General Directorate of Highways	414			
	Undersecretariat of Maritime Affairs	609			
	Ministry of Agricultural and Rural Affairs	494			
	General Dir. of Agricultural Reforms	404			
	Ministry of Labor and Social Security	1.022			
	Ministry of Industry and Commerce	1.472			
	Ministry of Energy and National Resources	372			
	Ministry of Culture and Tourism	1.229			
	Ministry of Environment and Forestry	291			
	Gen. Dir. of State Meteorology Affairs	168			
	Gen. Dir. of State Hydroulic Works	678			
	SUBTOTAL	13,331,928			

Source: Compiled from General Directorate of Budgets and Financial Control, Ministry of Finance, 2008 Budget Justification, p. 103, 107, 109 and (http://www.bumko.gov.tr)

OYAK: WHOSE ECONOMIC SECURITY?[10]

İsmet Akça

The fact that the army in Turkey operates not only in the field of foreign military security, the principal function of modern armies, but also in a wide sphere that extends to political, economic, cultural, and ideological fields, and that these activities are autonomous in law and practice from civilian public authorities has resulted in the sovereignty of a praetorian militarism[11] in Turkey. The economy is one of the fields in which this praetorian militarism exerts its power. Apart from its established military-industrial mechanism in the field of war industry and military spending, the army's activities as a collective capital group through the Armed Forces Pension Fund (*Ordu Yardımlaşma Kurumu*, OYAK) are an important aspect of militarization in Turkey. In harmony with the "national security ideology,"[12] which legitimizes praetorian military practices, OYAK deludes itself with the belief that it holds duties such as "serving the development of the nation," "serving the national economy," and "safeguarding the security of the national economy." But whose economic security is OYAK guaranteeing?

OYAK was founded immediately after the May 27, 1960 *coup*, via Law No. 205, enacted by the National Unity Committee on January 3, 1961. It therefore owes its existence to the legislative activity of an extraordinary period. When contemplating what OYAK is, the first question that comes to mind is whether it is a civilian or a military institution. Recent statements by OYAK management have emphasized its civilian side and understated its links to the army.[13] However, looking at its administrative structure and membership, OYAK is dominated by the military. Officers, military employees, and petty officers from the cadres of the Turkish Armed Forces (*Türk Silahlı Kuvvetleri*, TSK) are OYAK's permanent members. Their membership is obligatory and they form the vast majority of the 214,000 current members. The Board of Representatives consists entirely of military members and only nine out of the 40 members of the General Assembly are civilians. Although the law only requires that three out of the seven members of the Management Board be from the military, in practice the military has always been represented by four members since 1976 and the chairman has always been from the military. At present six of the members of the board are from the military, including two retired officers.

Although from the point of view of its activities OYAK is simultaneously both an additional social security institution and a holding company, its main characteristic lies in its profit-making economic activities. As a social security institution, its retirement, death and disability assistance, and inexpensive and long-term housing credits and loans aim for members of the army to achieve a level of prosperity akin to that of the upper middle class.[14]

OYAK's structure as a capital group was planned from its very foundation and unlike other social security institutions it was not subject to any restrictions on investment activities. The number of companies affiliated with OYAK has increased over the years and is now over fifty. Many of these companies are among Turkey's largest and most profitable corporations. Since its foundation, OYAK has also established a variety of partnerships with many domestic and foreign capital groups, as well as with public economic organizations. Although OYAK's investments are concentrated in the automotive, cement, iron and steel, and energy sectors, they have spread to other fields such as finance, construction, food, internal and external trade, tourism, insurance, agricultural chemistry, transport, technology-informatics, and defense and security.[15]

10 This short article is based on two studies: İsmet Akça, "Kolektif Bir Sermayedar Olarak Türk Silahlı Kuvvetleri" (The Turkish Armed Forces as a Collective Capitalist) Ahmet İnsel ve Ali Bayramoğlu (ed.), *Bir Zümre Bir Parti Türkiye'de Ordu* (The Army in Turkey, A Group, A Party), Birikim Publications, Istanbul, 2004; İsmet Akça, *Militarism, Capitalism and the State: Putting the Military in its Place in Turkey*, Boğaziçi University Publications, İstanbul, Unpublished Ph.D. thesis, 2006.

11 See Uri Ben-Eliezer, "Rethinking the Civil-Military Relations Paradigm. The Inverse Relation Between Militarism and Praetorianism Through the Example of Israel," Comparative Political Studies, 30/3, 1997; Ahmet İnsel, "Cumhuriyet Döneminde Otoritarizmin Sürekliliği" (Continuity of Authoritarianism in the Republican Period) *Birikim*, Issue 125-126, 1999.

12 For example, see Tayfun Akgüner, *1961 Anayasasına Göre Milli Güvenlik Kavramı ve Milli Güvenlik Kurulu* (The Concept of National Security According to the 1961 Constitution and the National Security Council), Istanbul University SBF Publications, Istanbul, 1993; Ali Bayramoğlu, "Asker ve Siyaset" (The Military and Politics), Ahmet İnsel-Ali Bayramoğlu (ed.), *Bir Zümre, Bir Parti. Türkiye'de Ordu* (The Army in Turkey, A Group, A Party), Birikim Yayınları, İstanbul, 2004..

13 For statements of this kind, see *Milliyet*, November 23, 2001 and April 26, 2002; OYAK 2004 Annual Report, p. 10; Oyak 2008 Annual Report, p. 3.

14 For example, when the retirement bonus given by OYAK and by the Government Retirement Fund is compared, one can see that OYAK's bonuses for generals are four times as high, for colonels are three times as high and for senior master sergeants are 1.5 times as high. See Oyak Magazine, 2004, p. 76. In the 2008 Activity Report, the general manager is proud to be able to "permanently offer" all its members the opportunity to have "1 house + 1 car."

15 OYAK's investments and revenues are never used for military expenditures and projects.

Having achieved TL 10,588 million in total assets and a net period profit of TL 1,911 million by the end of 2008,[16] OYAK is among Turkey's three largest holdings. Although OYAK's civilian general manager attributes this "success" to "military principles proven in blood,"[17] it can also be attributed to the privileges arising from its special law, primarily its tax exemptions.[18] Again thanks to its special law, OYAK benefits from the blessings of both special and public legislation. This means that on the one hand it is able to carry out its economic investments comfortably, and on the other its properties, revenues, and assets are considered state property and therefore cannot be confiscated. Moreover, OYAK's relationships with its members are subject to military jurisdiction, which results in protection from their critiques. One last advantage arising from its legal and corporate structure lies in the continuous flow of cash thanks to membership fees.

The fact that OYAK, like all other large capital groups, has been both a leader and a follower of dominant accumulation strategies is the determining factor behind OYAK's growth. From 1960 to 1980, when it showed significant growth, OYAK benefited from protectionist import substitution strategies that enabled high profits. After 1980, on the other hand, OYAK continued to grow thanks to neoliberal privatization (cement, banking, iron and steel) and financial investment strategies.[19] From 1989 onwards the economy began to be suppressed by capital accumulation and while the working population -- workers and civil servants, the urban poor, and small tradespeople – were affected the most by the ever-deepening crises of 1994, 1999, 2001 and 2008,[20] not only was OYAK able to take advantage of these policies as an institution and to reach its highest growth figures, but as a "privileged group," military personnel was relatively protected from the social and economic damage of neoliberal policies.

Within the context of the question "for whose economic security does OYAK exist?", two events may help reveal how the army's particular economic interests are hidden under national interests and national security discourses. The first example is the crisis of 2001, which was the worst economic crisis in Turkey's history because of the economic and social damage it caused. At the time of the crisis, the general manager of OYAK stated: "If there is a crisis, there are opportunities. If, as an organization with expected profits approaching 600 billion, we do not take advantage of opportunities, we would be wronging ourselves."[21] Indeed, as a follower of the capital accumulation strategy that creates crises, OYAK's net assets and profit made a major leap in 2001; the profit arising from 4.5 months of activity by Sümerbank, which "it had bought at a symbolic figure" as part of the privatization process, exceeded the total profit of all the other OYAK companies. The second example was the purchase of the steel producer Erdemir at the end of 2005. During this process, Erdemir's strategic importance from a national security point of view was continuously emphasized by the OYAK management as well as in public opinion and it was claimed that even if it was privatized it should belong to national capital; in short, Erdemir's purchase by OYAK was received with great enthusiasm by a variety of organizations from the Union of Chambers and Commodity Exchanges of Turkey (*Türkiye Odalar ve Borsalar Birliği*, TOBB) to the Metal Workers' Union (Maden-İş), as well as by the media.[22] Nationalist rhetoric was thus put into the service of neoliberal capital accumulation and Turkey's third most profitable company, whose profit for 2003 was equal to the total profit of OYAK's 40 companies at that time,[23] was transferred from the public sphere to OYAK.[24] In the "OYAK Business Partners' Meeting" held in Antalya in October 2005, OYAK personnel wore white and red t-shirts to create a nationalist mobilization based on its thesis of not selling companies of national strategic importance to foreigners; but then the company began to

16 OYAK 2008 Annual Report.

17 "Sonuçta iş hayatı da bir savaştır. Binlerce yıl kanla sınanan askeri prensipler iş hayatına uygulanırsa, hata olasılığı sıfırdır." (Business life is a war after all. If military principles proven for years in blood are applied to business life, the probability of errors is zero.) (*Sabah*, November 23, 2001).

18 Companies affiliated with OYAK are subject to takes, but OYAK itself is exempt from all kinds of taxes (income, corporate, inheritance and succession taxes, revenue stamps).

19 This situation complies with the statement in the National Security Policy Document dated 1997 that "economic efforts aiming for the integration of Turkey with the world, including privatization, should be increased." For this text, see Serdar Şen, *Geçmişten Geleceğe Ordu* (The Army from Past to Future), Alan Publications, Istanbul, 2000, pp. 154-155.

20 For an analysis of the neoliberal economic structure, see Erinç Yeldan, *Küreselleşme Sürecinde Türkiye Ekonomisi: Bölüşüm, Birikim ve Büyüme* (Turkey's Economy within the Globalization Process: Distribution, Accumulation and Growth), İletişim Publications, Istanbul, 2001.

21 *Hürriyet*, November 23, 2001.

22 For example, see "Oyak İş Ortakları Toplantısı, 7.9.2005, Antalya" (OYAK Business Partners' Meeting, September 7, 2005, Antalya) , http://www.oyak.com.tr; *Radikal, Sabah, Milliyet*, October 5, 2005; Radikal, Hürriyet, October 6, 2005.

23 *Sabah*, October 5-6, 2005

24 This situation is best summarized via two quotations. Mayor of Ereğli: We were expecting Erdemir to be sold at a higher price. It was sold at a bargain price. Our only consolation is that Oyak won the bid." (*Radikal, Sabah, Milliyet*, October 5, 2005); Coşkun Ulusoy, General Manager of OYAK: "We would not endeavor to save Turkey with the money of our pensioners. The interest of our members coincides with that of Turkey." The General Manager of OYAK added that, "they would not of course buy a company making a loss... that they would take part in bids that they considered profitable and that only national concerns would cause them to force their limits." *Hürriyet*, September 8, 2005.

discuss partnership with Arcelor in iron and steel and in the banking field it did not worry too much about "total non-nationalization" when it sold Oyakbank, which it had enlarged after having bought Sümerbank at a very low price, to the Dutch ING group for USD 2.7 billion (the highest ever amount paid in the sale of bank).[25] Such non-nationalist behavior on the part of OYAK, which followed capital accumulation strategies in line with the global neoliberal capitalist creed, created great disappointment among a broad public of nationalist views, including retired generals.[26]

Through militarization practices that spread to a variety of spheres, the army is able to strengthen its institutional power, as well as to be further included within a wider network of socio-political and socio-economic power relations. An example of this can be seen in the Turkish army's presence in the field of the economy via OYAK. On the one hand, the "Neoliberal Security Policy and State," which defines all political, social, economic, and cultural issues as matters of public order and blocks democratic legal claims in the socio-political and socio-economic spheres, while on the other hand, socio-economic security is isolated from general social prosperity and is considered only from the perspective of the economic security of dominant social groups and classes, including the army itself. OYAK constitutes one of the contexts where this process can be observed. This state of affairs is undemocratic from the point of view not only of democracy's minimum institutional and legislative regulations, but also of social and political subjects' participation in the decision-making process.

THE DEFENSE INDUSTRY

Lale Sarıibrahimoğlu

Critical years in Turkey's defense industry...

Turkey's defense industry not only fails to achieve its intended level of production of high military technology, but, in spite of a series of positive steps taken by the current government, it also has an uncertain future because it occasionally repeats past mistakes. The root of this uncertainty is the lack of civilian democratic oversight over the defense industry and the fact that arms purchases are therefore based on threat perceptions established primarily by the military bureaucracy.

Economic resources, already scarce, are therefore allocated to wasteful arms purchases based on the military's perception of certain situations as threats. For example, arms intended to eliminate asymmetrical threats arising from unconventional wars – intelligence, reconnaissance and surveillance systems such as assault helicopters and unmanned aircraft – either do not exist or are limited in number in Turkey's inventory.

The Defense Industry Undersecretariat (*Savunma Sanayii Müsteşarlığı*, SSM) was founded in 1985 within the Ministry of National Defense (*Milli Savunma Bakanlığı*, MSB), with the aim of creating a defense industry infrastructure in Turkey. Ensuring that arms purchases are conducted by civilian experts under the oversight of political authorities, as is the case in democracies, was another reason for the SSM's foundation. There are many drawbacks to the armed forces being both an arms user and buyer. The participation of the armed forces in arms procurement, without civilian democratic oversight and not subject to the principles of transparency and accountability, results in the violation of the principle of democracy and leads to claims of corruption in the military.

In the SSM's first 19 years (1985-2004), a strong defense industry infrastructure has not been created, nor have civilians come to occupy a prominent role in arms purchases.

However, in 2004, an important step was taken in the consolidation of the Turkish defense industry's infrastructure by planning to reduce its dependency on foreign arms technologies from 80-85% to around 50% by 2010. It was decided that a procurement model based on joint production, which gives Turkey neither a technological advantage nor opportunity for export, would be abandoned – albeit late – and priority would be given to domestic arms production.

Joint production projects for assault helicopters, unmanned aircraft (UAV), and tanks were cancelled and a system was adopted whereby all three would be produced in Turkey, on the basis of a newly applied domestic technological production model. The aim of this procurement model is to provide domestic companies with arms design and development skills and to encourage international partnerships in arms production.

SSM Undersecretary Murat Bayar pointed out that Turkey spent around USD 3-3.5 billion a year in arms

25 *Radikal*, June 20, 2007.

26 For a wider scope of debates arising from the divergence between OYAK's nationalist rhetoric and its neoliberal capitalist practices, see İsmet Akça, *Militarism, Capitalism and the State*, pp.356-359, 377-378.

purchases. Expressing the situation of Turkey's domestic defense industry, he said, "Domestic companies benefit from only 25% of this amount. By 2010 the Turkish Armed Forces should meet at least 50% of its arms needs domestically."[27]

In another statement made on the same date, Bayar said that Turkey occupied fourth place in the world in arms imports and 28th place in arms exports, adding, "This is not an acceptable condition for a country of Turkey's size. We need to be able to design and produce our own systems."[28]

SSM Undersecretary Bayar also said, "Because of foreign dependency on military technologies of critical importance, Turkey is politically under foreign control."

Increase in domestic production

According to the SSM Activity Report, published for the first time in 2007, the fruits of policies initiated in 2004 are beginning to be reaped. The domestic production of arms technologies has reached 42% (see also the Strategic Plan for 2007-2011, http://www.ssm.gov.tr) and the rate of foreign dependency has been reduced to around 60%.

However, the information that domestic arms production has reached 40% exists on paper only, because the concrete realization of projects worth more than USD 3 billion, such as the production of assault helicopters and tank prototypes, to be carried out jointly by domestic and foreign companies, will not happen before 2013.

In fact, while the MSB's share within the 2008 budget was debated by the Turkish Grand National Assembly's Planning and Budgetary Commission in November 2007, MHP MP Mehmet Günal asked Minister of National Defense Vecdi Gönül whether the rate of 41% included high technology or assembly work.

Within the new policy established in 2005, which enabled both the 15 large military companies affiliated with the Turkish Armed Forces Support Foundation (*Türk Silahlı Kuvvetleri Güçlendirme Vakfı*, TSKGV) as well as private domestic companies to produce projects based on design, without rejecting the possibility of establishing partnerships with foreign companies, the SSM entered into arms procurement contracts worth USD 1 billion. The number of these companies was over 100.

On the other hand, the project which envisioned gathering all defense industry companies under the same umbrella in order to contribute to the economy rather than burden it, as part of the restructuring of the defense industry, could not be realized because of the conflict of power between military and civilian institutions.

In addition to the policy of developing arms technologies domestically, Turkey also diversified its foreign partners, beginning joint projects for the production of main battle tanks and core training aircraft with countries such as South Korea. Turkey also began to look into opportunities to take part in multi-national projects involving a variety of European countries, like the production of A-400M heavy transport planes.

The restrictions that the US, Turkey's traditional arms procurer, placed on its companies in terms of technology transfer initially affected the arms trade with the US. American companies were not able to participate in Turkey's billion-dollar tenders for assault helicopters, unmanned aircraft, and military satellite development. However, after a series of meetings between the US and Turkey, American companies gradually began to participate in military tenders organized by the SSM.

In addition to the F-16 in the TSK's inventory, Turkey is yet to receive another 30 F-16 aircraft worth USD 1.8 billion. Turkey is also participating in the Joint Strike Fighter (JSF) project led by American companies and involving eight countries, with an order of 100 aircraft worth USD 10 billion. Although under the new system American arms are not purchased automatically, American arms suppliers still play an important role in the Turkish market. Therefore, while the US is still first place in Turkey's arms market, Israel is in second place.

Turkey conducts intensive lobbying activities with the aim of finding buyers in world markets for the arms systems produced domestically. While Aselsan is producing Pedestal Mounted Stinger missiles for the Netherlands' Royal Army, the Gulf countries constitute another region where Turkey is looking for opportunities to sell arms.

Democratic reforms' reflection in the defense industry

Democratic reforms carried out in military and civilian spheres in Turkey in the years 2003-2004 brought some transparency to a system generally under military control in which the boundaries between users and buyers are therefore blurred.

SSM Undersecretary Bayar said, "There needs to be a separation of powers in the procurement of arms. While the military, as the users of arms, establish

27 Lale Sarıbrahimoğlu , "Turkish Defense Industry: Banking on Change," *Jane's Defense Weekly* (JDW), May 31, 2006.

28 *Ibid.*.

their operational needs, the SSM, as the procurement organization, is responsible for purchases."[29]

Bayar also stated that the SSM carried out 80% of the arms purchases and that this rate would reach 100% in the next few years.[30]

Nowadays, while the SSM, a primarily civilian procurement organization, carries out arms purchases, another Undersecretariat, which is affiliated with the Ministry of National Defense and consists of military members, carries out direct arms purchases without bids, although less than before, including the modernization of 213 F-16 warplanes in the inventory, produced by the American company Lockheed Martin.

Military attachés in Turkey's foreign embassies state that arms purchases worth around USD 1 billion are made from the MSB budget.

Arms Spending

Within the scope of the Law on Public Financial Administration and Controls, which came into force in 2003, the SSM began as of 2007 to disclose to the public the administrative budget allocated to personnel and the fund revenues spent on Turkey's arm purchases in a Performance Report published in its website. The report provides information on fund revenues and expenditures for 2007 and prior years.

According to this report, the revenue obtained from the SSM fund was USD 1,256 billion, while expenditures were USD 1,194 billion.

A certain percentage of income and corporate taxes, games of chance, horse racing, the import of light firearms, fuel consumption tax, and revenues obtained from the sales of alcohol and tobacco are transferred through the Support Fund for the Defense Industry (*Savunma Sanayii Destekleme Fonu*, SSDF), founded in 1986 with the aim of providing resources for arms purchases. Around USD 1 billion is also transferred every year from the MSB budget. If the National Lottery Administration is privatized, a percentage of revenues obtained from games of chance will still be transferred to the fund.

Although SSDF resources are declared by the SSM, there is no parliamentary oversight of the SSM revenues, which constitute one of the non-budget resources for defense.

The influence of the Turkish defense industry on economy

The total turnover of the more than 100 domestic arms suppliers, was USD 800,000 (http://www.ssm.gov.tr, Annual Report). This figure increased by 2.5 and reached USD 2 billion in 2007.[31]

Compared to Turkey's publicly known annual expenditure of USD 4 or 5 billion for arms purchases, the defense industry companies' 2007 turnover of USD 2 billion is obviously quite low.

On the other hand, USD 200 million has been set aside for Research and Development (R&D) projects in the defense sector.[32]

However, Undersecretary Bayar has stated that they have allocated a financial resource separate from the R&D Projects for development projects such as National Ship (*Milli Gemi*, Mil Gem) and that, for example, thanks to this project, 80% of the money spent will remain within the country.

On the other hand Bayar said that the global crisis that has deeply affected Turkey has not had a negative impact on the defense industry, claiming that it has actually resulted in a positive outcome for the industry. Bayar added that the sector was not affected because its resources were already established and the majority consisted of planned resources and long-term projects.[33]

SSM Undersecretary Bayar stated that the financial resources allocated for arms production were spent for the development of the national industry and that this contributed to employment and to overcoming the financial crisis.[34]

The export of Turkish defense industry products was worth USD 352 million in 2006 and it reached USD 420 million in 2008; by 2011 the total export in this field is expected to reach USD 1 billion.[35]

Critical years

The initial production of 50 assault helicopters by Turkish Aerospace Industries (*Türk Havacılık ve Uzay Sanayii*, TAI) with the technological support of Agusta Westland is one of the projects that Turkey began under the domestic production model. The project is worth USD 2.7 billion, and the first helicopter is expected to be delivered to the TSK in 2013.

29 Lale Sarıibrahimoğlu, "Turkey to develop domestically Strategic Arms Systems," *JDW*, March 30, 2005.

30 Lale Sarıibrahimoğlu, "Turkish procurement head rejects criticism," *JDW*, August 3, 2005.

31 Interview held by the author with SSM Undersecretary Murad Bayar.

32 http://www.ssm.gov.tr, Performance Report.

33 *Taraf*, February 23.

34 Interview held by the author with Murad Bayar.

35 http://www.ssm.gov.tr, Performance Report.

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In accordance with a contract signed between SSM and the Turkish Otokar company in August 2008, four prototypes of domestic tanks, called Altay, will be produced. The South Korean Hyundai Rotem company will transfer technology for the production of the tanks. The plan is for the prototypes to be completed by 2014.

In the meantime, military sources interviewed by the author believe that Turkey's project for domestic tank production is unnecessary and that those resources should be allocated for arms suitable to future threat perceptions.

Whether major military projects initiated with the maximum use of domestic means will be completed as planned by 2013 or in the following years is therefore of great importance. A Turkish defense industry expert, who believes that projects to produce assault helicopters, tanks, and some other arms on the basis of R&D and development are overly ambitious, points out that if the development processes are not followed closely, there is a risk that the needs of the TSK may not be met in the coming years.

In fact, since the camera system developed by the Turkish company Aselsan has not matured sufficiently from an operational point of view, delays have been caused by problems in the installment of Heron UAV systems brought from Israel. Because of these delays, Turkey has purchased ready-to-use UAV systems from Israel and has applied to the USA to buy Predator UAV systems. Unmanned aircraft play an important role in gathering intelligence.

Similarly, while large amounts of resources are allocated for defense expenditures and neither the MSB budget nor non-budget military spending are subject to parliamentary oversight, intense debate on the draft bill that stipulates the clearing and agricultural use of mine fields on the border between Turkey and Syria has shown that Turkey does not possess mine clearance technology.

In a May 22 2009 briefing, in response to a question on the clearance of mines along the border with Syria, Brigadier General Metin Gürak, Head of General Staff Communications, said that the TSK did not have sufficient equipment and personnel in this area and that it could only meet military needs in combat zones.[36]

While there is not a single company in Turkey to clear the mines, of which there are over 2.5 million (including some anti-tank mines), it is known that 14 foreign companies, from countries such as Sweden, Russia, Croatia and Israel, wish to participate in Turkey's tender for their clearance.[37]

However, Turkey is about to complete the purchase of six minesweeping ships from the German company Abeking&Rasmussen and the French Lürssen Werft consortium, which won a tender in October 2003. The minesweeping ships are intended for use in secure navigation activities against probable mine traps on the straits.

Yet Turkey still does not possess the domestic technology needed to destroy the land mines it lays.

36 NTVMSNBC, May 22.
37 *Today's Zaman*, May 17.

Military Interference in Politics and the Politicization of the Army

Ferda Balancar, Esra Elmas

This article will deal with the interference of the Turkish Armed Forces (*Türk Silahlı Kuvvetleri*, TSK) in the political sphere and with the political debates and conflicts taking place within the army itself during the period from 2006 to 2008.[1] These have been shaped by political developments that have gained momentum since 2000, two of which are particularly significant.

The first is that in the 2000s, Turkish political dynamics have been shaped mainly around the EU question. Turkey applied for full membership in 1997, its candidacy was officially accepted in 1999, and during the period from 1999 to 2005, through an onslaught of reforms, the country aimed for full membership negotiations, which began in 2006. This period, which covered reforms focusing on the civilianization of the state structure, the expansion of fundamental rights and freedoms, respect for human rights, and the protection of minorities, naturally exerted a major influence on Turkey's political sphere and political actors. Criteria such as democracy, law, and the rule of law were of particular interest for the TSK, which played a determinant role in Turkey's political life. Mandatory steps towards the civilianization of the state structure and the demilitarization of political decision-making processes transformed the TSK into both the object and the subject of the reform process. The TSK was forced to change, but it also became an actor obliged to carry out the transformation process. This meant that the cornerstone of Turkey's political regime, based on military tutelage, shifted, resulting in two major changes from the army's point of view. On the one hand, diverging views emerged within the army regarding the EU and the reforms and serious political fractions, leading to internal conflicts. On the other hand, the TSK's ties to politics took on an undulating aspect, as the military sought ways to intervene in politics and in the reform process but was also forced to adopt reforms of which it did not approve.

The second is the rise to power in November 2002 of the Justice and Development Party (*Adalet ve Kalkınma Partisi*, AKP), which was born from Turkey's Islamic tradition. The fact that the EU accession process was experienced under AKP rule increased the tensions and conflict in civil-military relations. Reform programs were frequently perceived by the political opposition, including many from the military, as "covert Islamic projects," exacerbating tensions within the regime and arising from the transformation process. These tensions reached their peak during 2006-2008. This was the most fervent period also from the point of view of the army's political interference, internal tension, and political role.

Before examining the tensions of 2006-2008, it is necessary to remember the period from 2003 to 2005 and its critical events and developments.

THE PERIOD OF 2003–2005

THE MGK REFORM

The first and most important event from the point of view of civil-military relations was the ratification by the Turkish Grand National Assembly (*Türkiye Büyük Millet Meclisi*, TBMM) of the Seventh Harmonization Package prepared in 2003, the very first year of AKP rule. Within this framework, the Law on the National Security Council (*Milli Güvenlik Kurulu*, MGK) and its General Secretariat was amended and the Council's duties were redefined.[2] The MGK's jurisdiction was narrowed and it was reduced to an "advisory board," similar to its counterparts in Western democracies. In December 2003, the secret regulation concerning the duties and working principles of the MGK General Secretariat was abolished

1 Political movements and interference attempts that took place before 2006 but that were revealed in the period 2006-2008 will also be dealt with in this article, together with both their original dimensions and their influences on the above period.

2 See the article on the MGK, *Almanac 2006-2008*.

and replaced with a new and transparent regulation. The abolition of the secret regulation that granted the General Secretariat exceptional powers and enabled it to act like an autonomous executive organ went down in Turkey's political history as one of the most significant steps towards a more transparent political regime. This transition period, which was marked by the reduction and re-organization of the council by law and by regulation, was completed under General Şükrü Sarıışık, the last military general secretary, whose term of office ended on August 30, 2004. The number of personnel was reduced from 950 to 250. Documents belonging to other institutions were returned and plans and blacklists produced by the MGK were destroyed.[3] The remaining personnel contained only 12 military members, two of which were adjutants (non-commissioned officers). The majority of the remaining military personnel worked on mobilization.[4]

THE COUNTER-ATTACK THROUGH A CIVILIAN TIB

It would be difficult to say that the civilianization process has proceeded linearly. In fact, following the above developments, it was revealed that a decision had been made for the Social Relations Department (*Toplumla İlişkiler Başkanlığı*, TIB), which was part of the previous structure of the MGK General Secretariat, "to be affiliated with the Ministry of Internal Affairs on the advice of the MGK and to be established in all provinces through a secret regulation sent on May 22, 2003 to the governors' offices of 81 provinces, under the name of Social Relations Bureaus."[5] The civilian TIB would ensure coordination among the General Directorate of Security, the National Intelligence Agency (*Milli İstihbarat Teşkilatı*, MIT) and the Office of the Chief of Staff on matters related to counter-terrorism and psychological operations. The need for these bureaus and their implementation was explained as follows:

> In matters related to our country's interests, national policy should be supported through psychological operations. Our ministry holds very important responsibilities in psychological operation programs and it is therefore necessary to strengthen the support provided. That is why it has been decided for activities previously conducted by the Public Relations Department, which was the executive unit of psychological operations within our ministry, to be carried out from now on by the "Social Relations Department" and for this department to establish Social Relations Bureaus in 81 provinces.[6]

It therefore became clear that the 2003 reforms made as part of the Seventh EU Harmonization Package to reduce the jurisdiction of the MGK's General Secretariat and the military's influence on politics actually pointed to a security concept that would be carried out by the Ministry of Internal Affairs upon the advice of the MGK. This situation was interpreted as the army's attempt to re-establish its range of action, which had been narrowed by EU criteria, through civilian policy means.

A CRITICAL TURNING POINT: CYPRUS

The Annan Peace Process on Cyprus in 2004 was the most critical stage for civil-military relations and divisions within the army, for two main reasons:

1. For the first time, politicians turned their interest to the Cyprus issue, which up until then had been monopolized by state institutions and the army. This was interpreted by state actors as an attempt to curb the state's jurisdiction.

2. Pressure from the EU on official state policy regarding issues like Cyprus heightened the conflict of authority within the state. The Cyprus issue acquired a symbolic significance because it led to questions concerning not only the island's status but also the direction that the transformation process in Turkey was taking and who would be making political decisions. In fact the emergence of divisions within the army and its politicization is tied to the transformation process as much as to the Cyprus issue.

The most striking development within this framework was the headline news story entitled "Young Officers are Concerned," published on May 23, 2003 in *Cumhuriyet* newspaper, at a critical stage in the debate on the Annan Plan and the reaction to it. According to this report, during a meeting on May 20, 2003 between Prime Minister Erdoğan and Chief of the General Staff Hilmi Özkök, Özkök told Erdoğan that young officers in the army were concerned about developments regarding Cyprus and the EU harmonization process. In a press conference organized three days later, Özkök denied the report: "I did not say 'young officers are concerned' during my meeting with the Prime Minister, may those who invented this rumor be damned." At that time it was

3 'Yeni MGK'dan ilk icraat: Fişler imha' (First achievement by the New MGK: destruction of tags), Radikal, November 18, 2004.

4 Ibid.

5 'Sivil TİB, MGK Tavsiyesi' (Civilian TIB on the MGK's advice), *Radikal*, October 24, 2003.

6 'Her İl'e psikolojik harekat merkezi' (Psychological operation centers for all provinces), *Özgür Politika*, October 24, 2003.

rumored that then-Land Forces Commander General Aytaç Yalman was behind the story. The difference in opinion between the Chief of the General Staff and the force commanders was so politicized in those days that it reflected in the army. In May 2003 and in following months, Özkök was criticized in an unprecedented manner by journalists such as Emin Çölaşan and Mustafa Balbay for treating the government softly and conducting a policy that complied with the government on matters related to the EU and to Cyprus.[7]

Five years later, regarding this criticism and the news report on the "young officers," then-Chief of General Staff Büyükanıt said: "That report was a conspiracy aiming to get the Office of the Chief of General Staff to intervene in politics."[8]

Indeed, the backstory was revealed when the diaries of retired Naval Forces Commander Özden Örnek were published in *Nokta* magazine (see below) in 2007, four years after the initial news report, and when the diaries of Mustafa Balbay, the Ankara representative of *Cumhuriyet*, were revealed in 2009. It emerged from both documents that the last stage of preparations for a *coup* were reached at that time. The caption "Young Officers are Concerned" was used to make Özkök submit to the attempted *coup* in which Şener Eruygur, Aytaç Yalman, Özden Örnek, and İbrahim Fırtına, all force commanders at the time, had been involved. The broad social support for the AKP administration that was implementing reformist policies and the Özkök factor prevented the heightening of inward-oriented voices within the army. An important elimination process occurred in August 2004, especially in the Gendarmerie Headquarters. As he was retiring, Şener Eruygur, then-Commander of the Gendarmerie, made a comment on August 26, 2004 that elucidates the tension within the army: "Concerning domestic and foreign collaborators who challenge our national unity, lack of action, insensitivity and reactions that are formal only encourage opponents of the Republic."

THE "RED BOOK"/MGSB DEBATE

The debate on the National Security Policy Document (*Milli Güvenlik Siyaset Belgesi*, MGSB),[9] the most important element of the mentality that surrounds the political regime with national security mechanisms, marks a significant stage of the civilianization tendency towards complying with the EU. The first draft was prepared when the government decided to intervene in the changes to be brought to the MGSB, known as the Secret Constitution. The new MGSB was approved during an October 2005 MGK meeting and took into consideration the armed forces' objection to the EU's stance on the PKK, the Cyprus issue, and Aegean territorial waters. The first draft of the MGSB contained the statement that "in line with the harmonization process with EU member countries, the Office of the Chief of the General Staff would be affiliated with the Ministry of National Defense." However, as a result of amendments made following the June MGK meeting, it was decided that "taking into consideration Turkey's special circumstances, it was necessary for the current arrangement to continue."[10] This was seen by the public as the MGK's coming to the foreground once again after having been demoted to an advisory status and as the legitimization of the army's interference in politics.[11]

THE ŞEMDİNLİ INCIDENT

The most important development in 2005 was the bombing that took place in November known as the Şemdinli incident. Among the documents found in the trunk of the car belonging to the military perpetrators of

7 For an example, see Emin Çölaşan, *Hürriyet*, September 1, 2005, "Milletin sofrası, Milletin resepsiyonu" (The People's Table, the People's Reception).

8 The dialogue between General Büyükanıt and journalists on the 32 Gün (32nd Day) program broadcast on CNN Türk on May 9, 2009, was as follows:

Rıdvan Akar: In 2003 there was the famous statement that "young officers are concerned." Do young officers convey their concerns to their superiors?

Büyükanıt: The news that "young officers are concerned" was invented, it was planted by someone.

Rıdvan Akar: By someone within the TSK?

B: No… all I can say is that it was planted.

Birand: Why?

B: It was invented with the thought that it may exert pressure on the Office of the Chief of the General Staff; if I can say this so openly you should trust me that this is true. There is no question of young or old officers. Even then-Chief of the General Staff Özkök responded harshly, and in a manner that exceeds his usual graceful style.

Rıdvan: Could we say that this statement was invented in order to force the TSK to intervene in politics, and to ensure that a military coup be carried out??

Y.B: Let us not say a coup, but pressure, what they call full thrust.

http://www.qtahya.com/forum/102729p1/buyukanit-ilkkez-32-gun-habere-konustu-neler-dedi.html

9 See the article "TSK's institutional and military dimension."

10 'MGSB: Askerin konumu yine değişmedi' (MGSB: The army's stance has not changed), *Akşam*, October 27, 2005.

11 In the MGSB approved in the October meeting of the MGK and known by public opinion as the "Secret Constitution," the Al Qaeda was referred to implicitly and the "extreme right wing" was taken out of the list of threats. Furthermore, the definition of reactionaryizm, separatist terror and extreme left-wing as domestic threats of equal level for Turkey was preserved. A new heading entitled "minorities" was created in the MGSB and it was stated that Turkey's interests needed to be protected in this respect.

the incident, there were four 300-page files containing three lists with 105 people's names, plans, maps, identity cards, and leave permits. Besides the lists, entitled "suspects," "militia," and "state supporters," there was another document containing the photographs of 18 candidates from the Democratic Society Party (*Demokratik Toplum Partisi*, DTP), the Party representing the Kurdish movement.[12] The most interesting declaration during this period was made by then-Land Force Commander Yaşar Büyükanıt, who said of Petty Officer Ali Kaya, one of the perpetrators of the incident,"I know him from the operation in Northern Iraq, he is a good boy."[13] This declaration was interpreted as the army's interference in the judicial process. In the criminal charge, Ferhat Sarıkaya, Prosecutor of the Republic for Van, claimed that Büyükanıt, along with Lieutenant General Selahattin Uğurlu, Public Order Corps Commander for Van, and Brigadier General Erdal Öztürk, Alpine and Commando Brigade Commander for Hakkâri, "had formed a gang with the intent to commit a crime while Büyükanıt was Seventh Corps Commander in Diyarbakır and that this gang murdered Gaffar Okkan, Chief of the Police of Diyarbakır."[14] These important developments continued into 2006; they represented military interference in both politics and the judiciary and of the clash of authority between the military and elected officials, as will be seen later.

NOVEMBER 2005 EU PROGRESS REPORT

The November 2005 EU Progress Report highlighted the broad scope of the definition of national security in Turkey. The EU Report pointed out that[15] "the definition of national security in Turkey is subject to interpretation, the military plays too important a role in it, and this situation threatens the freedom of expression and crimes by security forces are not punished."[16]

12 'Ölüm listesi de varmış' (There is even a death list), *Radikal*, November 13, 2005.

13 'Şemdinli'de karar: İki askere 39'ar yıl' (Sentence on Şemdinli; 39 years each for two members of the military), *Radikal*, June 20, 2006.

14 *Ibid*.

15 "AB: 'Milli güvenlik tanımını daraltın!'" (EU: 'Narrow the definition of national security!'), *Milliyet*, November 7, 2005.

16 See "EU: Security and civil-military relations" in the *Almanac*.

17 Murat Yetkin, 'Danıştay, ''gizli anayasa''yı inceleyecek!' (The Council of State will examine the "secret constitution!"), *Radikal*, June 21, 2006

18 İnan Gedik, 'MGSB; her yerde var Danıştay'da yok' (The MGSB is everywhere except the Council of State), *birgun.net*, July 27, 2006

19 'Gizli anayasa (MGSB) tavsiyeymiş' (The secret constitution (MGSB) seems to be lieu of advice), *Radikal*, August 30, 2006

2006: CHANGE IN BALANCES

The to-ing and fro-ing between the TSK's attempts to preserve its political role and elected officials attempts to civilianize the state according to EU criteria form the general picture of 2006. Events that were of decisive importance in 2006 were the Şemdinli indictment, the gang operations touching upon the TSK, debates on military pressure, the change in style of military headquarters, and the conflict prior to the presidential elections to take place in 2007.

TMY: THE ARMY'S ROLE

The Draft Bill on Counter-Terrorism (*Terörle Mücadele Yasa Taslağı*, TMY), which formed the agenda of the first MGK meeting in 2006, was first debated in July 2005. Some demands by the military were met with comments that they "evoked a state of emergency" and the draft bill was kept pending by order of Prime Minister Erdoğan. The subject was brought up again in the December 29, 2005 MGK meeting, and on January 4, 2006, a Summit on Terrorism was held at the Office of the Prime Minister, with the participation of Chief of the General Staff, General Hilmi Özkök, as well as force commanders and related ministers. In accordance with a decision made during this summit, the draft bill was forwarded to the Ministry of Justice. The army sent military lawyers via the Ministry of National Defense to join the work carried out by the Ministry of Justice and thus came to play an effective and determinant role in the outcome, just as it does with the MGSB.

JUDICIARY VS. SECURITY

The petition presented by the Human Rights Association (*İnsan Hakları Derneği*, IHD) and the Human Right Foundation of Turkey (*Türkiye İnsan Hakları Vakfı*, TIHV) to the Council of State on April 25, 2006 for the annulment of the MGSB marked another first in 2006. The Council of State "requested the examination of the MGSB, which was enacted without being published because of its high degree of secrecy, from the point of view of its conflict with the Constitution and with international conventions."[17] However, on the grounds that it was "very secret and very important for the state,"[18] the Red Book was not sent to the Council of State. The Council of State rejected the request for the stay of execution of the MGSB on the grounds that "the document was of advisory nature."[19] The request for the stay of execution of the decision by the Cabinet of Ministers, which approved the document, was postponed to a later meeting. Therefore, in response to one step forward towards civilianization

and more transparency in Turkish politics, Turkey took two steps back. But the event constituted an important development from the point of view of initiating a lasting debate on subjects such as the civilianization of Turkish politics and the autonomy of the judiciary.

THE ŞEMDİNLİ PROCESS AND A NEW ERA

The inclusion of Land Forces Commander Büyükanıt and a number of other generals in the Şemdinli indictment, as well as the accusations against some structures within the army and its covert operations, met with reactions on the part of the military and resulted in the opening of an interesting parenthesis in civil-military relations.

The Şemdinli indictment was accepted on March 7, 2006. On March 20 the Office of the Chief of the General Staff made a harsh statement, where the following expressions stood out:

> The conclusion has been reached that said parts of the indictment exceed their purpose, that their content is political rather than legal, that it aims to erode the Turkish Armed Forces by [attacking] some of its members and to weaken its resolve and will to fight terrorism.... Those who hold constitutional responsibility should take a stand against these unfair and intentional accusations against the Turkish Armed Forces, they should expose all aspects of this attack, publicly announce the distorted mentality behind it, regardless of their title or status, and take the necessary legal actions against them. Within this framework, we have requested that the relevant authorities take necessary action against the Prosecutor of the Republic who prepared the indictment. The Turkish Armed Forces are completely aware of these initiatives against them and will pursue them through legal actions until the very end...[20]

Four days later, on March 24, 2006, a meeting was held between Prime Minister Erdoğan and Land Forces Commander Büyükanıt. Following this meeting, the decree for the appointment of Büyükanıt as Chief of the General Staff was submitted for approval ahead of time to the Cabinet of Ministers. The start of the official process of Büyükanıt's appointment as Chief of the General Staff indicated that an agreement had been reached between Erdoğan and Büyükanıt. In fact, less than a month later, Van Prosecutor Ferhat Sarıkaya was dismissed by the Supreme Council of Judges and Prosecutors, on the grounds that "he acted in a way that would ruin the pride and honor of the profession and the authority and prestige of the civil servant status." This was interpreted as the result of pressure exerted by the military and of an alliance between the government and the army. Moreover, the fact that the defendants in the Şemdinli incident, who had carried out an act of terrorism and had been sentenced by civil courts, were released by a military court pending trial on the grounds that they had worked "in the service to the country," pointed to the asymmetrical and hierarchical aspect of civil-military relations.[21]

KHAKI GANGS

As the Şemdinli incident was unfolding, another important development in 2006 was the discovery of a number of criminal organizations whose members included retired and active-duty members of the army. The Şemdinli attack was followed by the discovery of the *Sauna*, *Bursa*, *Danıştay* (Council of State), and *Atabeyler* gangs. In February 2006 it was revealed that members of the *Sauna* Gang had gathered intelligence on ministers and had prepared CDs with which to blackmail politicians.[22] Captain Nuri Bozkır, from the Special Forces Command, was arrested in the course of operations directed at the *Sauna* Gang.[23] Eight people, including former Assistant Chief of Police Ertuğrul Çakır, were arrested on February 18, 2006 during the scope of the *Küre* (Globe) Operation.[24] Thirty-two people were taken into custody during the *Çağrı* (Call) Operation, organized by the Bursa General Directorate of Security on March 9, 12 of which were arrested, among them Colonel Aydın Yeşil, Gendarmerie Squadron Commander for Bursa, and Specialist Sergeant Taşkın Akyün.[25] On June 4, an operation was carried out against the Atabeyler Gang, which included a number of active and retired officers. Besides numerous secret documents and plans, an armory full of arms and ammunition were also found during this operation. Captain Murat Eren, non-commissioned officers Yasin Yaman and Erkut Taş, Lieutenant Yakup Yayla, and businessman Yunus Akkaya were arrested for "founding an organization aiming to disrupt the country's unity

20 http://www.tsk.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_Basin_Aciklamalari/2006/BA_07.html

21 The 3rd High Criminal Court of Van, which reached the conclusion that the bombing in Şemdinli was perpetrated by a "gang" consisting of two soldiers and a repentant PKK member, sentenced "the defendants, Petty Officers Ali Kaya and Özcan İldeniz to one year, 11 months and 10 days each, primarily for forming a gang.

22 "2006'da Zaman'ın not defteri" (Zaman's Notebook for 2006), *Zaman*, December 30, 2006.

23 Captain Nuri Gökhan Bozkır, tried in the Military Court of General Staff, was sentenced on July 6, 2006 to six years for "revealing secret military information."

24 "2006'da Zaman'ın not defteri" (Zaman's Notebook for 2006), *Zaman*, December 30, 2006.

25 *Ibid*.

and for possessing explosives."[26] And on May 17 an armed attack was carried out against the Second Office of the Council of State. Council member Yücel Özbilgin was killed and Alparslan Arslan, a lawyer registered at the Istanbul Bar Association, was apprehended before he left the building. Arslan said, "The decision they have made does not befit the justice of God. I wanted to punish them,"[27] thereby admitting that he had carried out this attack because of the Constitutional Court's that bans wearing Islamic headscarves in universities. Immediately after the attack, there were attempts to establish a connection between Alparslan Arslan and religious sects, but it was soon revealed that people with whom Alparslan Arslan had collaborated had also bombed the *Cumhuriyet* Newspaper. Telephone records led to retired Captain Muzaffer Tekin. Photographs were uncovered featuring Tekin with İbrahim Şahin and Brigadier General Veli Küçük, both sentenced for the Susurluk case.[28]

EVENTS FROM THE PAST AND MILITARY SOVEREIGNTY

In 2006, important news reports appeared in the press regarding past actions carried out by the MGK General Secretariat. The first was a statement by Salih Şarman, Governor of Batman, who said, "A special force was formed in 1994 to fight terror and an air bridge was created with Bulgaria to bring arms."[29] Şarman said that military aircraft were used by order of then-Chief of General Staff Doğan Güneş and that this special unit was formed within the state mechanism.

In March 2006 Retired Staff Colonel Tahir Kumkale, one of the architects of the Social Relation Department formed in 1983 within the MGK General Secretariat, said that this structure was enacted upon an order of then-Chief of General Staff Nurettin Ersin, and that it acted in cooperation with many state institutions and "aimed to unite the state and the citizens and to raise people who were Kemalists, truthful, honest, devout, and full of respect to their country and their state."[30]

In April 2006, revelations made by another retired soldier provided important clues about the status of civil-military relations. Retired Brigadier General Adnan Tanrıverdi, who worked in the Special Warfare Department, claimed that governments were forced to approve the National Security Policy Document through provocations. According to the retired general, all provocations that took place between the end of 2005 and the beginning of 2006, starting with the Diyarbakır events, were closely connected to the approval processes for the MGSB and the Law on Counter-Terrorism (*Terörle Mücadele Kanunu*, TMK).[31] Tanrıverdi described the approval process: "There have been attempts to bring the National Security Policy Document into force since 2005. Following the flag provocation that happened in Mersin in the Newrouz of 2005, the document was submitted to the MGK but it was put on hold. A series of bombings subsequently took place in the Hakkâri area. On October 24, 2005, the document was approved and sent to the Cabinet of Ministers. Then the Şemdinli incident happened. The government had put the document on hold. But with the Şemdinli indictment on, the government was forced to ratify the MGSB."[32]

CHANGE IN MILITARY HEADQUARTERS' POLICY

The end of General Özkök's term marked an important development in this period. Ali Bayramoğlu commented,

> Between 2002 and 2006, when Hilmi Özkök was Chief of General Staff, Turkey passed the EU test with success; showed examples of flexibility and transition, from the Cyprus issue to Middle East policy; and the state structure, including the Turkish Armed Forces' role within the system, was civilianized and revised. This was also a period of turmoil for the world and the region in particular, with the September 11 attacks, emerging tension between East and West, and conflicts between the USA and Turkey and between the Pentagon and the Turkish General Staff. Each and every change affected the Turkish Armed Forces' position, policy, and internal structure. Each and every change was met with reaction by the Turkish Armed Forces or by a group of officers. Each and every change was possible with the contribution and support of the Turkish Armed Forces and even through its adaptation to this transformation. These three aspects were experienced simultaneously and it was Hilmi Özkök who adjusted internal balances. Özkök and his headquarters on the whole supported the transformation based on the EU and Copenhagen criteria; he accepted and implemented the relative withdrawal of the army from the military sphere.[33]

26 *Ibid.*

27 "Saldırgan: Cezalandırmak istedim" (The attacker: I wanted to punish them), *Ntvmsnbc*, May 19, 2006.

28 *Ibid.* The Susurluk case was about an illegal organization related to the "state-within" which came to surface after a scandalous traffic accident in late 1990s.

29 "Devletin gizli ve özel ordusu" (The state's secret and special army), *Zaman*, February 22, 2006.

30 "TRT, çizgi film alırken Psikolojik Harekât Dairesi'ne danışmış" (The TRT consulted the Psychological Operations Office on the purchase of a cartoon), *Zaman*, March 22, 2006.

31 "MGSB provokasyonlarla onaylatıldı" (The MGSB was approved via provocations), *Zaman*, April 27, 2006.

32 *Ibid.*

33 Ali Bayramoğlu, "Orgeneral Hilmi Özkök'e dair" (About Heneral Hilmi Özkök), *Yeni Şafak*, August 17, 2006

Özkök himself highlighted the importance of this critical period in his farewell speech on August 28, 2006:

> In the four years since I came to office we have witnessed important developments in the world, especially in the vicinity of our country. Since the majority of these developments were closely related to our country's security, these four years will be recorded in history as a period of thorny crises and transformations that were difficult to manage. During this period my fellow commanders, headquarters staff, and I worked together to fulfill the TSK's duties and the adaptations required by this age with reason and efforts.[34]

In the state of tension between political rule and the military, Özkök adopted a political attitude and style that allowed debates to remain within the system and be solved there. General Yaşar Büyükanıt, who started his term of office in August 2006, on the other hand, conducted a period of "open and controlled tension policy" against political rule. The reasons for this included expectations that Büyükanıt, unlike Özkök, would carry out interventions and the upcoming 2007 presidential elections.

The newly appointed Chief of the General Staff made his first austere speech at the Military Academy on October 2, one month after taking office. He said, "The threat of reactionary movements is in question,"[35] thereby intervening in the debate on the relationship between religion and politics, which escalated with the probability that an AKP MP whose wife wore a headscarf might be elected President. He divided his speech into three sections: reactionary movements, separatist terrorism, and investigations concerning the TSK. Under the first heading, referring to an April 13 speech on secularism by Bülent Arınç, President of the TBMM, he said,

> Our force commanders have clearly expressed the TSK's views in their speeches. I completely agree with them... Aren't there those who say that "we should redefine secularism," [and] aren't these people in the top levels of the state? Aren't the fundamental characteristics of the Republic under heavy attack? Who is taking every opportunity to attack the TSK? Are we able to say that such things do not exist in Turkey? If we can't, then it means that there are reactionary movements in Turkey and we have to take all necessary precautions against it.[36]

He then accused the TESEV 2005 Security Almanac, a civil society information-gathering activity, as part of the campaign to weaken the TSK:

> Expressions such as "the aim to replace the culture of obedience with a culture of objection," found in the preface of the report, which deals primarily with the functions of the Turkish Armed Forces, clearly reveal the report's true aim. At the book launch on September 22, 2006, some of the Turkish and foreign speakers made statements that exceeded all precedents and boundaries of courtesy and tolerance. They characterized the fact that the Turkish Armed Forces embrace the duties indisputably assigned them in the constitution and by law as "disrespect for the country's legal and corporate structure;" they cited some isolated incidents that have been submitted to the judiciary as comprehensive, planned practices controlled by a single center; and, ignoring the fact that the allocation and expenditure of all the TSK's financial resources and that oversight, down to every penny, is carried out by the relevant state institutions, they claimed that "it is far from being transparent and is immune from accountability," thereby showing disrespect not only for the Turkish Armed Forces, but also for our noble nation that has embraced it as the most trusted institution.[37]

In this same speech Büyükanıt referred also to public and political debates about politics in the lowlands,[38] amnesty, and ceasefire, stating that "for a while now there has been a disturbing mention of a ceasefire, as if this were a conflict between two countries,"[39] and said that there were limits to the Kurdish issue:

> The so-called "ceasefire" process has been initiated as if there were two countries in conflict. This was brought up by a number of people, organizations, and groups within the country and then there were similar calls by some members of the European Parliament and by some governments. Last week, the state of Iraq announced that it had convinced the terrorist organization to declare a ceasefire. And yesterday the terrorist organization allegedly declared a ceasefire.[40]

In this speech, made before staff officers and high-level army personnel and broadcast live, Büyükanıt expressed military headquarters' opinion on the government and highlighted its role as custodian.

34 http://www.tsk.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri / 10_1_7_Konusmalar/2006/orghilmiozkokdvrtslkonusmasi_28082006.html

35 2006-2007 Academic Year Opening Speech held by Chief of General Staff General Yaşar Büyükanıt at the Military Academy. (October 2, 2006) http://www.tsk.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_7_Konusmalar/Konusmalar_Arsiv_2006.html

36 *Ibid.*

37 *Ibid.*

38 With lowlands, Büyükanıt refers by opposition to the PKK fighters on the mountains.

39 *Ibid.*

40 *Ibid.*

AN IMPORTANT DATE

The year 2006 witnessed events that happened for the first time in Turkish history and had a strong symbolic meaning from the perspective of civil-military relations. The most important of these in terms of setting precedent was the February 7 conviction of Admiral İlhami Erdil, former Naval Forces Commander, by the General Staff Military court to two years and six months for "unjust acquisition of property." Erdil was dismissed from the army and his rank and sword were revoked.[41]

2007: OUTRIGHT WAR

2007 began with a debate on the presidential elections, in which almost all public bodies took part, from the YÖK to the Court of Appeals, from the Inter-University Committee to the Office of the Chief of the General Staff.

HARD-CORE

On January 10, CHP leader Deniz Baykal claimed that Prime Minister Erdoğan intended to run for the presidential election. Referring to Erdoğan, he said: "He does not believe in the Constitution, he has had a row with the YÖK. He can't be the President of the Republic in this way. Can the Commander-in-Chief have rows with the army?" Thus began a polarized debate involving many societal factions that encompassed reactionary movements, headscarves, and the AKP's intentions and that came to occupy a central role in Turkey's political agenda.

In a press conference held on April 12, 2007, Büyükanıt clearly stated the TSK's position when he said: "Both as citizens and as members of the TSK, we hope that the next president will be loyal to the core values of the Republic in deeds, rather than in words only."[42]

On the same day, in a speech at the Military Academy, President Ahmet Necdet Sezer declared that he was siding with the Office of the Chief of the General Staff:

> Activities targeting Turkey's secular order and the contemporary achievements of the Republic, as well as attempts to introduce religion into politics, are increasing social tensions. Since the foundation of the Republic, Turkey's political regime has never faced such dangers as it does today. The core values of the secular Republic are being openly debated for the very first time.[43]

REPUBLICAN DEMONSTRATIONS

On April 14, a day after President Sezer's speech, a "Republican Demonstration" was held in Tandoğan, Ankara, under the leadership of the Kemalist Ideology Association, chaired by retired General Şener Eruygur, and with the participation of a number of non-governmental organizations. These demonstrations, which began during the presidential election process and continued until the July 22 general elections, took place throughout Turkey, including Istanbul, Izmir, Samsun, Manisa, Çanakkale, and Mersin. The organizers' aims, which were based on the headscarf issue and the link between the Presidency and the headscarf, were revealed by *Nokta* magazine as bringing forth "allied non-governmental organizations" to put the government in a difficult position, rather than conducting an outright military *coup*.

E-MEMORANDUM

On April 24, as opposition to Prime Minister Erdoğan's candidacy for the presidency continued amidst calls against candidates from AKP members or Parliament, Abdullah Gül threw his hat into the ring. Gül received 357 votes, of 361 MPs present, in the first round of voting on April 27 at the TBMM. The CHP claimed that the vote did not reach the quorum of 367 and filed a suit with the Constitutional Court, requesting that the round be annulled and a stay of execution be imposed.

Immediately after the vote, before the Constitutional Court could make a decision, a midnight memorandum was issued by the Office of the Chief of Staff. Subsequently dubbed the "e-memorandum," it stated that "the problem that has stood out recently in the presidential election is based on the debate of secularism"[44] and went on:

> The Turkish Armed Forces views this situation with concern. It must not be forgotten that the Turkish Armed Forces is a part of this debate and is the absolute defender of secularism... Anyone who objects to our great leader Atatürk's belief that "Happy is he who says, "I am a Turk!" (*Ne mutlu Türküm diyene!*) is

41 '2006'da Zaman'ın not defteri' (Zaman's Notebook for 2006), *Zaman*, December 30, 2006.

42 'Büyükanıt cumhurbaşkanı adayını tarif etti' (Büyükanıt described the candidate for presidency), *Radikal*, April 13, 2007. http://www.radikal.com.tr/haber.php?haberno=218257

43 'Sezer: Rejim tehdit altında Gül: Halk bunlara inanmıyor' (Sezer: the regime is under threat, Gül: The people do not believe in this), *Radikal*, April 14, 2007. http://www.radikal.com.tr/haber.php?haberno=218334

44 'Genelkurmay'dan çok sert açıklama' (Very harsh statement by the General Staff), *Hürriyet*, April 29, 2007, http://www.hurriyet.com.tr/gundem/6420961.asp?gid=180

> and will always be an enemy of the Republic of Turkey. The Turkish Armed Forces maintains its steadfast determination to fulfill the duty conferred to it by law for the protection of [secularism], to which it has complete allegiance and trust.[45]

This statement, which directly targeted the presidential election process, indicated the TSK's interference in civilian politics as well as the judiciary. Unlike past governments, however, the AKP government responded harshly to this interference by the military. The statement by Cemil Çiçek, Speaker for the Government, expressed the following views:

> [The e-memorandum] has been perceived as an attitude against the government. There is no doubt that even the thought of this would be strange within a democratic order. First of all we would like to say that it is out of the question for the Office of the Chief of Staff, an institution affiliated with the Prime Minister, to speak against the government in a democratic state of law. The Office of the Chief of Staff is under the command of the government and its duties are established by the Constitution and relevant laws. According to our Constitution, from the point of view of his duties and powers, the Chief of the General Staff is accountable to the Prime Minister.[46]

On May 1, contrary to expectations and rumors, the Constitutional Court determined that "in the first rounds the Assembly should convene with 367 members," thus annulling the vote.[47]

After this development, the government decided to hold early elections on July 22. On May 6 Abdullah Gül withdrew his candidacy. The parliamentary election campaign was based on the presidential elections and the "367 crisis," turning into a referendum between civilian politics and military custody.

On July 22, the AKP regained power with 47% of the vote, a high percentage under the circumstances. On July 25, Abdullah Gül stated that half of the population had voted for the AKP and that this was clear message that he should run for presidency. Gül declared his candidacy for presidency, saying, "I cannot possibly ignore the message given to me by the public, by the will of the people."[48] On August 28 Abdullah Gül was elected the 11th President of the Republic of Turkey and the very next day he approved the 60th Government. From this point of view the July 22 elections fulfilled the function of social response to military interferences.

The TSK was clearly uneasy with the outcome of the elections. Not only had the army's attempt to interfere backfired, but the army's political function, once perceived as legitimate, was dealt a significant blow that endures today.

However, tensions continued and the military authority did not cease its distant and antagonistic attitude. A highly strung period of relations began which was based on behavior laden with symbolism between the army and the political classes, such as low-level army representation at presidential receptions, the use of the expression "Mr. President" (*Sayın Cumhurbaşkanı*) rather than "*My* Mr. President" (*Sayın Cumhurbaşkanım*) during August 30 ceremonies, handovers, and military school openings.

CIVIL CONSTITUTION

After the July 22 elections, the debate on a civilian constitution became the main item on the national agenda, intensifying both the debate on the regime and civil-military tensions.

On September 3, Dengir Mir Mehmet Fırat, AKP Deputy Chairman, announced that the party's commission on amending the constitution had completed its preliminary work. At this point, some factions that were in favor of amending the 1982 Constitution because it was the product of a military *coup* began to worry that a new constitution would be monopolized by the AKP; for their part, strict AKP opponents insisted that the constitution not be amended. On October 1, during the opening ceremony of the Military Academy's new academic year, Chief of General Staff Yaşar Büyükanıt referred to the work on the draft constitution, saying, "There are elements to which we belong and that we cannot abandon. These are the unitary state structure of the Republic of Turkey, ... the secular state structure based on the former structure and the established order of the armed forces, which should not be disrupted for political, sentimental, and prejudiced approaches."[49] A prejudice based on the idea that the new constitution would result in anti-secularism was thus combined

45 *Ibid.*

46 http://arsiv.ntvmsnbc.com/news/406662.asp (access: 5.6.2009).

47 'Anayasa Mahkemesi 367 şart dedi' (The Constitutional Court said 367 is necessary), *HürriyetUSA*, January 5, 2007 http://www.hurriyetusa.com/haber/haber_detay.asp?id=11639

48 http://www.netbul.com/superstar/ozeldosyalar/siyaset/almanak2007/ocak.asp

49 'Yaşar Büyükanıt: Konuşmak için taslağı bekliyoruz' (Yaşar Büyükanıt: we are waiting to see the draft bill before we speak), *Radikal*, October 2, 2007. http://www.radikal.com.tr/haber.php?haberno=234555

with the military approach. Faced with such resistance, debates on the civilian constitution were put on hold. On the other hand, as a result of a joint AKP-MHP initiative, a constitutional amendment that would allow students with headscarves to attend university was approved by the TBMM in February 2008. This amendment caused intense debate. While the amendment was perceived as an anti-secular initiative, it was also criticized because it was not a comprehensive constitutional reform, but only made changes affecting one part of the society. Upon the CHP's petition, the amendment was annulled by the Constitutional Court in June 2008. This debate contributed to the heightening tensions. From this point on, constitutional amendments were put on hold.

In spite of the serious blow they received during the elections, military authorities continued to resist; far from giving up their efforts to maintain a crisis environment, they were successful at it.

THE DAĞLICA AND KANDİL OPERATIONS

The heightening of terrorist incidents as of April was another important post-electoral development. Twelve soldiers were killed, 16 were injured, and communication was lost with eight soldiers in a PKK attack against the Dağlıca, Hakkâri battalion on October 21.[50]

The Dağlıca raid resulted for the first time in a debate on the weakness of military actions. However, it also resulted in close civil-military collaboration. On October 26, Chief of the General Staff Büyükanıt said, "To carry out a cross-border operation we are going to wait for the outcome of Prime Minister Tayyip Erdoğan's visit to the USA in the first week of November."[51] Prime Minister Erdoğan's meetings in the USA resulted in cooperation between the two countries in matters related to strategic intelligence. On November 30, Prime Minister Erdoğan announced, "The Turkish Armed Forces have been authorized to carry out cross-border operations as of November 28."[52] The first such operation to neutralize the PKK in Northern Iraq was carried out on December 1. In a December 16 statement on the operation, Büyükanıt said, "The PKK should watch its step. It should not forget that the PKK's camps and movements over there are watched constantly, as in the Big Brother House for us, as long as we are given the opportunity to hit them. We now know that area like the palm of our hand."[53]

THE TSK MEMORANDUM AND COUP ALLEGATIONS

News reports on a memorandum, *coup* allegations, and past *coup* attempts, revealed in 2007, were the third major threshold from the point of view of civil-military relations and the army's image and legitimacy.

Three news reports published in March and April in *Nokta* magazine contained documentary proof of the army's attempt to intervene in politics. The first document, published on March 4, 2007, was a memorandum on the media. The existence of this document, which classified press members as accredited and non-accredited, would be accepted later on by the Chief of the General Staff but would be referred to as a "draft text."[54]

In its March 29, 2007 issue, *Nokta* published the alleged diaries of retired Naval Forces Commander Admiral Özden Örnek. The diaries revealed that preparations had begun for a *coup* entitled "Sarıkız" (Blonde Girl) under the leadership of General Şener Eruygur, then-General Commander of the Gendarmerie, with the support of Air Forces Commander General İbrahim Fırtına, Land Forces Commander General Aytaç Yalman, and Naval Forces Commander Admiral Özden Örnek. This attempt was not carried out because of Yalman's and Örnek's indecision and the antagonism of Büyükanıt (then Commander of the First Army) and Başbuğ (then Second Chief of Staff). The diaries contained both plans for a *coup* and action plans aiming "to mobilize the media and academic circles with the objective of creating the social and civil disorder required for a *coup*."

Another document published on April 5 and entitled "How civil are civil actions nowadays?" revealed that in 2004 the General Staff had cooperated with non-governmental organizations. The Kemalist Ideology Association (*Atatürkçü Düşünce Derneği*, ADD), chaired by Şener Eruygur, former General Commander of the Gendarmerie, was one of the leading NGOs that the TSK regarded as a probable collaborator to influence public opinion.

50 '12 askeri şehit eden PKK'lıların 32'si öldürüldü Irak'ta sıcak takip' (32 of the PKK members who martyred 12 soldiers have been killed, hot pursuit in Iraq), *Radikal*, October 22, 2007. http://www.radikal.com.tr/index.php?tarih=22/10/2007

51 http://www.sabah.com.tr/ozel/onemliolay4221/dosya_4222.html

52 'Erdoğan: Sınırötesi yetkisi artık TSK'da' (Erdoğan: the power to conduct cross border operations lies with the TSK), *NTVMSNBC*, December 1, 2007, http://www.ntvmsnbc.com/news/428136.asp

53 'Büyükanıt: PKK kampları BBG evi gibi' (Büyükanıt: the PKK camps are like Big Brother houses), *NTVMSNBC*, December 18, 2007 http://www.ntvmsnbc.com/news/429810.asp

54 'Büyükanıt'ın konuşmasının tam metni' (Full text of Büyükanıt's speech), *Hürriyet*, April 12, 2007. http://www.hurriyet.com.tr/gundem/6321761.asp?gid=0&srid=0&oid=0&l=1

The Chief of the General Staff responded with a statement on April 12. Büyükanıt accepted the existence of the "draft" memorandum and the plan to collaborate with NGOs, saying, "our archives contain no information on diaries."[55] Following these developments, *Nokta*'s headquarters were raided on April 13, 2007, by order of a military court and its computers were seized. The three documents published by *Nokta* openly revealed the TSK's past interference in civil politics, and the outcome affected the current political balance. The diaries revealed that some civil society groups were organized by the TSK. Although Özden Örnek did not admit that the diaries belonged to him, statements made by top authorities suggested they were indeed his. In a statement to *Milliyet* following the report in *Nokta*, then-Minister of Foreign Affairs Abdullah Gül said: "We knew about these attempts."[56] On the other hand, then-Chief of the General Staff Özkök did not deny the contents of the diaries. In response to press questions, Özkök said, "The retired Admiral says he didn't do it. That is what we should respect. But since the magazine is making these claims, then they should be respected too. This situation needs to be proven by someone. The judiciary has taken the matter in its hands, so we should wait and see,"[57] thereby implying the authenticity of the diaries.

Reports on these matters had already been previously published by the media. For example, Aslı Aydıntaşbaş, Ankara correspondent for *Sabah* newspaper, said in her column that when she had asked some generals about the diaries, rather than replying "it's nonsense," they had retreated into deep silence; Enis Berberoğlu related in his column that a minister had accepted the presence of this diary. Upon these reports, Özden Örnek filed a lawsuit against Alper Görmüş, *Nokta* editor-in-chief, for slander and defamation. Görmüş was acquitted. During his trial, a technical police report confirmed that the diaries had originated from Özden Örnek's computer. The diaries also contained the names of many people who would be taken into custody within the scope of the Ergenekon Operation, a major event of 2008.

The outcome of 2007 from the point of view of civil-military relations and military authorities can be summarized as follows: Ten years after February 28, 1997, the Armed Forces attempted to interfere with the system and with politics via the April 28 memorandum. However, this attempt could not succeed as a result of social and political pressure. What society did in 2007 was not only to object to the statist, inward-oriented status quo; it also stood behind the recently adopted transitional policy, supported the EU project and the expansion and legitimization of the political sphere, and approved the reforms of the AKP government. This also meant a reduction in the military's field of movement. A concrete indication of this was seen in the AKP's receiving 47% of votes in the July 22 elections and in Abdullah Gül's election as President of the Republic.

DEVELOPMENTS IN 2008

The closure case against the AKP and the trial of the Ergenekon terrorist organization constituted two other events of major importance in 2008. The fact that a party that had been elected to power with 47% of votes avoided closure "by a hair's breadth" showed once again the fragility of the political system. The trial of the Ergenekon terrorist organization, on the other hand, was unprecedented for Turkey, as many members of the army were accused of *coup* attempts and attempting to change the constitutional regime by force. These two events were like counterweights to one another. The closure case indicted the governing party, while the Ergenekon trial indicted the Armed Forces.

THE CLOSURE CASE

On March 14, the Chief Prosecutor of the Republic for the Court of Appeals filed a suit at the Constitutional Court for the closure of the AKP, accusing it of becoming "the center of anti-secularist activities." Haşim Kılıç, President of the Constitutional Court, stated that the indictment for the closure of the AKP contained a request for political ban on 71 persons, including President Gül and Prime Minister Erdoğan.[58]

This case, a response to the July 22 elections, showed that the struggle for rule that took place in 2007 was ongoing. Indeed, once the case was filed, the country became once again intensely polarized, and while the closure case was harshly criticized by the government and by some civil society factions, on May 21 the Governing Board of the Court of Appeals stated that "some experienced difficulties in accepting the autonomy of

55 *Ibid.*

56 'Darbe tanıkları Gül ve Org. Özkök' (Gül and General Özkök witnesses of the coup), *Haber* 7, July 5, 2008 http://www.haber7.com/haber/20080705/Darbe-taniklari-Gul-ve-Org-Ozkok.php

57 'Özkök Paşa, darbe günlüğünü yalanlamadı' (General Özkök has not denied the coup diaries), *Zaman*, April 12, 2007 http://www.zaman.com.tr/haber.do?haberno=526623

58 "Yargıtay Başsavcısı AKP'nin kapatılmasını istedi Yok artık, daha neler" (The Chief Prosecutor of the Court of Appeals has requested AKP's closure. What next?), *Radikal*, March 15, 2008 <http://www.radikal.com.tr/index.php?tarih=15/03/2008>

the judicial power and that, under the guise of achieving neutrality, there were attempts to form a judiciary that acted in parallel to the executive power, that protected and safeguarded it and was overseen by it." On June 5, the military was once again on stage. In a symposium on the Middle East, Chief of Staff Büyükanıt said, "with its secular and democratic structure, Turkey constitutes an element of stability and balance; over the last few years we have been observing with concern the emergence of certain centers that endeavor to disrupt this structure. There have been those who have attempted to add new attributes to the Republic of Turkey, but Turkey's legal organs will never permit this."[59]

On July 30 the Constitutional Court concluded the AKP closure case. While six members of the Constitution Court voted for closure, five members voted against it, and therefore the seven votes required for a qualified majority were not met. However the High Court decided that the AKP would be deprived of one-half of the Treasury aid it received for 2008. As a consequence, political rule was dealt a serious blow.

THE ERGENEKON TRIAL

The Ergenekon trial, in which the accused members of the military were charged with carrying out a *coup*, attempting to change the constitutional order by force, forming a criminal organization, and creating chaos through events such as the attack on the Council of State and *Cumhuriyet* newspaper, is still ongoing.

Retired Brigadier General Veli Küçük and retired Staff Colonel Mehmet Fikri Karadağ were arrested on January 26.[60] Retired Generals Şener Eruygur and Hurşit Tolon were arrested on July 6. On August 14 three persons, including a retired colonel, were taken into custody. On September 3 the Office of the Chief of the General Staff announced that Lieutenant Galip Mendi, Garrison Commander for Kocaeli, had paid a visit to generals Eruygur and Tolon at the Kandıra Prison, saying that "the visit ...paid to two retired commanders who had served the TSK for a long time, was done on behalf of the TSK."[61] On September 18 operations were carried out in five provinces; 19 people, among them five lieutenants and a military student, were taken into custody. Of the eight people referred to court on September 21, six were arrested, among them four lieutenants and a military student.[62] On December 16, the Ninth Criminal Chamber

59 "Geçmişte katırlarla silah taşıyan PKK şimdi kamyonları kullanıyor" (The PKK used mules to carry arms in the past, now it uses trucks), *Sabah*, June 5, 2008 <http://arsiv.sabah.com.tr/2008/06/05/haber,FCB32E3B875C4633B344E86449BF9019.html>

60 "Ergenekon adliyede yattı" (Ergenekon spent the night at the court), *Radikal*, 27 Ocak 2008 <http://www.radikal.com.tr/haber.php?haberno=245600>

61 "Askerden paşalara ihsas-ı rey gibi ziyaret" (A telling visit from the army to the generals) *Yeni Şafak*, September 4, 2008 http://www.yenisafak.com.tr/Gundem/?t=04.09.2008&i=137925

62 "Genç subaylar Ergenekon zanlısı" (Young Officers are suspects in the Ergenekon trial), *Taraf*, September 19, 2008 http://www.tumgazeteler.com/?a=4129980

Ergenekon Case - Trial and Investigations

Numerical Breakdown

The numerical breakdown of military members who are tried/investigated need to be divided in two groups: those on trial, both in and out of custody, for crimes related to the Ergenekon case, and those on trial, both in and out of custody, for other crimes, such as smuggling.

Active-duty and retired military personnel charged with crimes related to the Ergenekon Case

Two indictments related to the Ergenekon case have led to the prosecutions of active-duty and retired military personnel :

1st Indictment:

Number of Retired Military Personnel on Trial in custody 10
Number of Retired Military Personnel on Trial not in custody 2
2nd Indictment
Number of Retired Military Personnel on Trial in custody 5
Number of Retired Military Personnel on Trial not in custody 4
Number of Active-Duty Military Personnel on Trial in custody 1
Number of Active-Duty Military Personnel on Trial not in custody 5

The breakdown of active-duty and retired military personnel who have been arrested or interrogated during Ergenekon operations:

Number of Retired Military Personnel on Trial in custody 2
Number of Retired Military Personnel on Trial not in custody 7
Number of Active-Duty Military Personnel on Trial in custody 8
Number of Active-Duty Military Personnel on Trial not in custody 1

of the Court of Appeals reversed the judgment given by the 11th Criminal Court in Ankara on eight defendants, including Alparslan Aslan, concerning the attack on the Council of State and the bombing of *Cumhuriyet* newspaper. The sentence stated, "It had been claimed that there were legal and actual links between the Ergenekon case and this trial and it was necessary for the two cases to be combined."[63]

Four active-duty military personnel were arrested following the Karargâh Evleri (Headquarters Houses) Operation conducted by the Office of the Chief of Staff in connection with the Ergenekon Case.

These figures indicate military personnel presently on trial. They do not include military personnel taken into custody but later released by the prosecutor without being charged. The list includes arrests made in connection with the ammunition found in property belonging to the ISTEK Foundation in Poyrazköy.

Military Personnel on trial as a result of other operations

In 2006, authorities arrested and charged of embezzlement of military equipment one active-duty military personnel following the Sauna Operation and four active-duty military personnel following the Atabeyler Operation. They were released from custody but are being prosecuted.

The arrests made for the "Çağrı" (Call) operation in Bursa included two active-duty military members, who were arrested for "intentionally and willingly aiding a crime organization." They were released but their trial continues.

Once rescued, the eight soldiers taken hostage by the PKK during the 2007 Dağlıca raid were arrested for not complying with the requirements of the civil servants, strong suspicion of crime, excessive disruption of military discipline, persistent disobedience, desertion, and escape abroad. Later released, the soldiers are on trial.

In 2008, five military personnel, including one specialist sergeant, were arrested in Nusaybin, Mardin for conspiring to smuggle. They were released, but their trial continues.

One non-commissioned officer and three specialist sergeants were arrested during the corruption operation entitled "Falling Leaves" (*Yaprak Dökümü 16*), carried out in March 2008 in Bursa. The military personnel were released but their trial continues.

When examined from the point of view of civil-military relations and the position of military authority, the Ergenekon trial highlights two issues. The first is the existence of illegitimate structures within the state and especially within the army. The second is the tradition of military *coup*s. The Ergenekon trial is clamping down on both these issues. When viewed from this point of view, the trial may be said to fulfill four important functions:

1. It forces the Turkish Armed Forces to look inward, refresh its image and prestige, and close the barrack doors: 2. It turns the Armed Forces into both the object and the subject of a cleansing and a settling of accounts; 3. It enables, for the first time in Turkish political history, a comprehensive trial of a *coup* attempt; 4. It enables, though its influence and its triggering effect, the opening of files that had been archived regarding attacks, missing persons, and unsolved murders attributed to JITEM in the Southeast.

THE IRAQ OPERATION AND DAĞLICA

One of the subjects of most importance for the army in 2008 was the debate about the weakness of military intelligence and military actions. After the Dağlıca raid, expectations rose for an operation into Northern Iraq. Following the Bush-Erdoğan meeting on May 5, 2007 and the agreement reached on strategic intelligence, the Northern Iraq Operation was carried out between February 21 and 29. Opposition parties, who expected a long-term operation, questioned the fact that the operation lasted only a week and was ceased abruptly. During a press conference on March 1, Chief of the General Staff Büyükanıt responded to such criticism: "We at the TSK observe with dismay the negative attitude displayed by people who describe themselves as patriots but who, out of their own dissatisfaction, attribute different meanings to the army's operations."[64] This statement was followed by an unprecedented debate between opposition parties and the TSK. The first response came from the MHP. In a March 3 speech at the TBMM, addressing the TSK, MHP leader Devlet Bahçeli said, "It is clear that you do not have a comprehensive plan for the destruction of the PKK," adding, "There are signs that the land operations were only held to the extent that was permitted by the USA, some of the expressions in the statement by the TSK confers prestige to the PKK."[65] The following day, CHP

63 "Danıştay davası Ergenekon'la birleştiriliyor" (The Council of State trial will be combined with the Ergenekon trial), *Zaman*, December 17, 2008 http://www.zaman.com.tr/haber.do?haberno=771082

64 Baykal ve Bahçeli'ye muhtıra" (Memorandum addressed to Baykal and Bahçeli), http://www.aktifhaber.com/news_detail.php?id=158757

65 "Bahçeli'nin grup konuşması" (Bahçeli's group speech) http://arsiv.sabah.com.tr/2008/03/03

leader Deniz Baykal used similar language when he said, "Why has Turkey decided to cease the operation when it was so successful? This question is on our conscience and in our minds. Everybody would like to hear the answer to this question." He criticized the Chief of the General Staff by saying, "If I had gone there, my duty would have been to complete the job."[66] A harsh response was issued on March 4 by the Office of the Chief of the General Staff, which considered Baykal's and Bahçeli's words "unfair and rude attacks directed at the Turkish Armed Forces" and it was claimed that "such attacks do more damage to the Turkish Armed Forces' determination to fight terrorism than traitors do."[67] The debate on the army's proficiency flared up again with a June 24 news report in *Taraf* newspaper, entitled "*The Dağlıca Raid Was Expected*." The report claimed that Gendarmerie Intelligence notified the General Staff and all relevant units of an impending PKK raid on Dağlıca, Hakkâri, on October 21, 2007 in a secret report sent nine days prior to the attack. The Gendarmerie intelligence report published by *Taraf* explained in detail how, when, and from where the raid would be carried out. This public debate regarding military operations was a first for Turkey.

THE MEMORANDUM

Another important document was published by *Taraf* on April 7. Entitled "Memorandum" and dated March 2006, it was prepared by the Information Support Department of the Office of the Chief of the General Staff and was sent to the Office of the Second Chief of the General Staff and to the General Staff Operations Department. The document contained all non-governmental organizations existing in Turkey and many well-known persons and associations were black-listed. Apart from qualifying as a "black-list," the document also referred to an action plan: "This memorandum has been prepared to provide information on non-governmental organizations steered by the EU in line with its own objectives and to obtain approval on counter-measures to be taken within this scope." The document openly revealed the perspective of the Office of the Second Chief of Staff, which represents the General Staff, on the transition taking place in the country and the EU process.

BAŞBUĞ – PAKSÜT MEETING

On June 13 *Taraf* reported that Osman Paksüt, Deputy President of the Constitutional Court, had secretly met with Land Forces Commander General İlker Başbuğ at a critical moment during the headscarf and party closure trials:

> Paksüt had been personally invited to the Land Forces Command on March 4, 2008, at 17:00, where he arrived with his blue and black Mercedes with license plate 06 LLU 81 and met with General Başbuğ for one hour and fifteen minutes. The meeting also happened to take place seven days after the petition for a stay of execution on the headscarf decision and thirteen days before the filing of a case for the closure of the AKP.[68]

The report on yet another interference by the army in constitutional jurisdiction was thus confirmed, adding a new element to the debate on democracy and military custody.

YAŞ DECISIONS

The Supreme Military Council (*Yüksek Askeri Şura*, YAŞ) convened on August 1 under the presidency of Prime Minister Erdoğan at the Office of the Chief of the General Staff. On August 4 the Council completed its work. Chief of the General Staff Büyükanıt retired on August 30, 2008, due to the age limit, and was succeeded by Land Forces Commander General İlker Başbuğ. General Commander of the Gendarmerie General Işık Koşaner succeeded Başbuğ as Land Forces Commander, and Land Forces Chief of Staff General Avni Atilla Işık succeeded Koşaner as General Commander of the Gendarmerie. A new period began in the Office of the Chief of the General Staff with the handover ceremony on August 28. In his speech, the new Chief drew attention to the importance the military traditionally attributes to civil-military relations and referred to issues that are considered non-political by the army but that are actually part of the political sphere; he drew "the social and political course of the country and the fundamental principles, the red lines to be taken into consideration for the plans and strategies behind this course" almost as if he was declaring a new "national security policy document."[69]

AKTÜTÜN AND UNPRECEDENTED THREATS

On October 14, *Taraf* reported that just as the Office of the Chief of the General Staff had been informed of the Dağlıca raid, it had also been warned of the raid carried

66 "Baykal Büyükanıt ile polemiğe girdi alkışlandı" (Baykal entered into an argument with Büyükanıt and was applauded), *Milliyet*, March 4, 2008 http://www.milliyet.com.tr/Yazdir.aspx?aType=SonDakikaPrint&ArticleID= 501665

67 Genelkurmay hedef yapılıyor" (The General Staff is being targeted), *Sabah*, March 4, 2008 http://arsiv.sabah.com.tr/2008/03/04/haber,844DA58FA7734814A14A360DBE706EFE.html

68 "Karargah'ta 'karartmalı görüşme" ("A meeting under blackout at Military Quarters), *Taraf*, June 13, 2008, http://www.tumgazeteler.com/?a=3006431

69 "Bol mesajlı devir teslim" (A handover with lots of messages), *Yeni Şafak*, August 28, 2008 http://yenisafak.com.tr/Politika/?t=04.08.2008&c=2&i=136914

out on the Aktütün Outpost on October 9, 2008, where 17 soldiers were killed. The report stated that a month before the attack, on September 5, 2008, unmanned aircraft conducting reconnaissance flights in the region, in accordance with the share of real-time intelligence with the USA, had clearly identified the coordinates of a group of 80 PKK members moving from Northern Iraq near the Iranian border towards the Hakkâri-Şemdinli area. It was claimed that in daily reports from monitoring and intelligence units placed in the region, the Electronic Systems Department of the General Staff (*Genelkurmay Elektronik Sistemler*, GES) had continuously warned the General Staff and related commands of the movement in the region. The movements of PKK groups, down to their names and number of arms and mules, had been reported. The military authorities were aware of the PKK members who had crossed the border, the heavy arms brought in, and the meetings where decisions to attack were made.

The army reacted harshly to this report. Following a flag consignment ceremony at the Non-Commissioned Officer Vocational College in Balıkesir, Başbuğ referred to the *Taraf* report, saying, "Those who make PKK actions look as if they were successful share responsibility for the blood that has been spilled and will be spilled. I am calling on everyone to be careful and to stand in their proper place." That same day the Military Court of the Office of the Chief of the General Staff decided to issue a "broadcast ban" concerning "the investigation on the acquisition and leaking to the media by members of the military of top-secret military information and documents, which was the basis of the *Taraf* report and was cited by other media organs and which consisted of distorted and unconfirmed information."[70] The Chief of the General Staff's reaction was seriously criticized by the press.

As a result, while the closure case caused the governing party to put its transformative and reformist aspects on hold, both in terms of policy and discourse, in 2008 the military authority felt more intensely the social legitimacy crisis that had begun on July 22, 2007. For the first time in Turkey's history, two generals were arrested for planning a *coup* and forming a gang with this intention. The AKP closure case can also be considered a first in Republican history because of its form, its timing, and its indictment, which was an attempt to bring down a majority party that formed a government by itself less than a year after it received 47% of votes.

The picture emerging from this article shows that civilianization attempts and conflicts in a variety of areas, from legislation to implementation, from politics to mentalities, were the most important issue for Turkey in the period 2006-2008.

70 "Başbuğ: Herkes doğru yerde dursun" (Başbuğ: Everyone should stand in their proper place), *Radikal*, October 16, 2008 http://www.radikal.com.tr/Default.aspx?aType=HaberYazdir&ArticleID=903640

The Gendarmerie

Murat Aksoy[1]

GENERAL STRUCTURE AND ISSUES

The Gendarmerie is defined by Law No. 2803 on the Organization, Duties, and Authority of the Gendarmerie as an armed, military security and law enforcement force that ensures security and public order and fulfills duties conferred to it by other laws and regulations.

From the point of view of its military duties, and at times of war, the Gendarmerie is affiliated with the Turkish Armed Forces, while from the point of view of other duties and services concerning security and public order, it is affiliated with the Ministry of Internal Affairs.[2] From this perspective, the General Commander of the Gendarmerie is accountable to the Minister of Internal Affairs. But besides its military duties, it is also affiliated with the Office of the Chief of the General Staff in terms of its personnel training and its organization, promotion, and records systems.[3]

1 The information in this article has been compiled by Murat Aksoy.

2 See http://www.msb.gov.tr ; http://www.tsk.mil.tr; http://www.jandarma.tsk.mil.tr; Law No. 2803 on the Organization, Duties, and Authority of the Gendarmerie, approved by the Turkish Grand National Assembly (*Türkiye Büyük Millet Meclisi*, TBMM) on March 10, 1983, Article 4: "The General Command of the Gendarmerie is part of the Turkish Armed Forces; from the point of view of its duties regarding the Armed Forces and its training it is affiliated with the Office of the Chief of the General Staff, and from the point of view of the execution of duties regarding security and public order and other services it is affiliated with the Ministry of Internal Affairs. However, the General Commander of the Gendarmerie is accountable to the Minister."

3 Lale Sarıibrahimoğlu, "Jandarma Genel Komutanlığı" (The General Command of the Gendarmerie), Ümit Cizre (ed.), within *Almanak Türkiye 2005 Güvenlik Sektörü ve Demokratik Gözetim* (Almanac Turkey 2005: Security Sector and Democratic Oversight), p. 96

4 Sarıibrahimoğlu, *ibid*, p. 96; Department of General Planning and Principles, "The Use of Turkey's National Security Forces in Domestic Security," Ministry of National Defense, White Book 2000, Part 4, Section 3; Law No 2803 on the Organization, Duties and Authority of the Gendarmerie, Article 4.

5 Fatih Uğur and Mehmet Baki, "Dipçiksiz Jandarma" (A Gendarmerie without Rifle Butts), *Aksiyon*, issue 728.

6 Law No. 2803 on the Organization, Duties and Authority of the Gendarmerie, Article 10.

7 Sarıibrahimoğlu, *ibid*, p. 97; the area proportion has changed with the formation of new districts in 2006 and 2008. However, since there is an ongoing conflict of authority and the gendarmerie has not handed over many new districts to the police, it has not been possible to calculate exactly the new area proportion.

From the point of view of eliminating all threats directed at "the state order, the democratic and secular structure, and the indivisible unity of the Republic of Turkey, as established by the Constitution," the fight against "domestic threats" is under the responsibility of the Ministry of Internal Affairs, while defense against "foreign threats" is under the responsibility of both the Office of the Chief of the General Staff and the Ministry of Internal Affairs.[4] However, in accordance with a number of laws, regulations, and protocols, as well as documents and circulars such as the domestic threat document, the TSK is also able to intervene in domestic security issues.

Thus the army, through the Gendarmerie, has created an institution that is parallel to the police force, which exists to combat domestic threats. One of the Gendarmerie's main characteristics is that it represents the military side of public order and, as such, is one of the main vehicles for the TSK's political role.

THE GENDARMERIE'S FUNCTION, JURISDICTION AND DUTIES

The number of personnel of the General Command of the Gendarmerie (*Jandarma Genel Komutanlığı*, JGK) increased from 240,000 in 2003 to 280,000 in 2007. These figures include 25,000 specialist gendarmes, 18,000 non-commissioned officers, and 4,500 officers. The organization's remaining need for law enforcement (80%) is met via private soldiers and petty officers fulfilling their obligatory military service.[5]

According to law, the gendarmerie is responsible for areas outside the jurisdiction of the police, in other words, areas outside the boundaries of provinces and districts and places where there is no police force. In these areas the gendarmerie is responsible for ensuring security and public order.[6] In 2005 the area that the JGK was responsible for allegedly constituted 91% of Turkey's surface area.[7]

The JGK's duties are divided into four main groups: public, judicial, military, and other duties.[8]

The JGK's public duties include ensuring security and public order, protection and safeguarding, preventing, monitoring, and investigating cases of smuggling, and taking measures to prevent crime. Its judicial duties consist of exposing and apprehending crimes and criminals and delivering them and criminal evidence to judicial authorities. The JGK's military duties include fulfilling the duties conferred to general law enforcement forces by military law and regulations, as well as the duties conferred to it by the Office of the Chief of the General Staff during a state of emergency, martial law, mobilization, and war-time.[9]

The JGK's other duties include providing support to security and public order forces, surveying by air illegal opium and cannabis fields, and the transfer of the sick and injured. The JGK possesses a Gendarmerie Air Unit for search and rescue purposes, as well as Gendarmerie Air Group Commands in Ankara and Diyarbakır and a Helicopter Fleet Command in Van. As a special mission, 5,000 gendarmerie personnel throughout Turkey are responsible for protecting the vicinity of airports, TV transmitters belonging to the TRT, dams, hydroelectric power plants, oil refineries, oil production fields, and natural gas and oil pipelines.[10]

THE JGK'S FOUNDATION DIAGRAM AND ITS ORGANIZATION

The JGK consists of six types of units:

Military headquarters and affiliated units: These are the highest organs providing support for the administration of gendarmerie units. All public order incidents occurring in the country are monitored from headquarters and major unit assignments are made from here, in response to developments.

Domestic security units: These are a) Gendarmerie units not subject to public administration (Gendarmerie Commando Units and Gendarmerie Aviation Units) and b) Gendarmerie units subject to public administration (Regional Gendarmerie Commands, Provincial Gendarmerie Commands – at the regiment level –, Provincial Centers, District Gendarmerie Commands, and Gendarmerie Outpost Commands). Gendarmerie units subject to public administration consist of Regional Gendarmerie Commands, with which Provincial Gendarmerie Commands are affiliated.

Provincial Gendarmerie Commands are organized in districts and villages in order to carry out the following duties: crime prevention; operation of the 156 Gendarmerie helpline; security and public order in tourist areas; duties assigned by Law No. 2918 on Highway Traffic; control of lakes and dam lakes within its areas of responsibility; protection of economic, industrial, and transport facilities such as dams, oil refineries, oil pipelines, and airports; and the external protection and safeguarding of prisons.

Border units: The Gendarmerie's two border divisions protect the borders and combat smuggling at border crossings.

Training units: Consisting of Gendarmerie Schools and Gendarmerie Training Units under the Schools Command, these institutions offer simulated and applied training of newly recruited personnel, vocational training for different branches, and specialization. Training units are battalions where soldiers and petty officers fulfilling their military service are provided with professional information and skills related to these services. Gendarmerie schools are internal training units for gendarmerie officers, contract officers, and non-commissioned officers seeking to become officers, and prospective petty officers and specialist gendarmes.

Administrative and logistic support units: Sewing workshops within the Gendarmerie Logistics Command meet the need for uniforms and all other types of clothes. Factories meet the need for fifth-level repair and maintenance support and other needs. Purchases made centrally are dispatched to gendarmerie units via this command.

PERSONNEL AND THE HIERARCHY

The JGK's personnel consist of officers, non-commissioned officers, specialist gendarmes, military students, petty officers, private soldiers, and civilian employees. The recruitment, training, promotion, leave, and award procedures of gendarme officers and non-commissioned officers are conducted according to Law No. 926 on the Turkish Armed Forces' Personnel.

The JGK carries out the appointment of its lieutenants, colonels, non-commissioned officers, and specialist gendarmes. The appointment of JGK generals follows a different process, however: Candidates are presented by

8 See http://www.jandarma.tsk.tr/
9 Sarıibrahimoğlu, *ibid*, p. 97.
10 Sarıibrahimoğlu, *ibid*, p. 98.

the JGK, and appointments are based on the proposal of the Chief of the General Staff, the recommendation of the Minister of Internal Affairs, and a joint decree signed by the Prime Minister and ratified by the President of the Republic. The appointment of the General Commander of the Gendarmerie follows the same process.

THE GENDARMERIE'S ADMINISTRATIVE AND POLITICAL POSITION

The domestic security role of the Gendarmerie, as a military structure according to the Council of Europe's European Code of Police Ethics (ECPE),[11] is considered problematic. According to one of ECPE's fundamental provisions, domestic security services are "civilian services" to be conducted under the orders and oversight of "civilian authority."[12] According to another important ECPE principle, the oversight of domestic security services should not be limited to local government representatives but should be open to the participation of civil society.[13]

Although a book entitled *Gendarmerie Ethics*, published in 2001 by the Gendarmerie Schools Command, contains similar provisions, the implementation of all three ECPE principles is problematic in Turkey.[14]

When we look at Turkey's public administration system, the first thing that stands out is the fact that gendarmerie units, subject to public administration, are under the orders and oversight of provincial and district governors. This is true on paper only. In fact, while governors and district governors have authority over the police and all other civil servants, the military has authority over the gendarmerie through the JGK. Governors and district governors have the power to discipline police officers, their authority to discipline members of the gendarmerie is indirect in theory and inexistent in practice, as *de facto* authority lies with military headquarters. Governors have limited power in the appointment and relocation of gendarmes (only for non-commissioned officers and specialist gendarmes).

The reports by the Public Administration Council, which convened in 2002 in Ankara, contain important observations and analyses and reflect the public administration's view of the issue, or rather, the state's view of the state. The reports by the relevant commissions primarily indicate the lack of balance in the authority-responsibility mechanism: "Although they are responsible for taking the necessary precautions for preventing crime and safeguarding public order and security, they are not equipped with authority over the organization that is proportional to their responsibility."[15] The report goes on to say, "Relations between the gendarmerie, which plays a very important role in ensuring security in the provinces, and the public administration should be reorganized, and their authorities and responsibilities should be clearly stated."[16]

The commission makes the following observations and recommendations:

> The abolition of the personnel records department of the public administration superiors of the gendarmerie results in difficulties, both for the administration of the gendarmerie and for achieving cooperation between the police and the gendarmerie.... Problems are even more serious when it comes to districts. District governors are responsible for protecting security and public order, public morality, and constitutional rights and freedoms and for preventing crime and smuggling through the police and the gendarmes. District governors' authority over the gendarmerie is not proportional to these important and difficult duties and responsibilities.

11 İbrahim Cerrah and M. Bedri Eryılmaz (ed.), *Avrupa Polis Etiği Yönetmeliği & Açıklayıcı Notlar* (Europe's Police Ethics Regulation and Explanatory Notes).

12 Article 1: The main purposes of the police (and gendarmerie) in a democratic society governed by the rule of law are... to provide assistance and "service" functions to the public.

Article 12: The police (and gendarmerie) shall be organized with a view to earning public respect as professional upholders of the law and providers of services to the public

Article 13: The police, when performing police duties in civil society, shall be under the responsibility of civilian authorities.

13 Article 18: The police (and gendarmerie) shall be organized in a way that promotes good police/public relations and, where appropriate, effective cooperation with other agencies, local communities, non-governmental organizations and other representatives of the public, including ethnic minority groups.

Articles 59 and 60 of the ECPE refer to the issue of accountability and oversight, which need to exist in the domestic security sector (police and gendarmerie) and point out the importance of the division of oversight between the legislative, executive, and judicial powers.

Article 59: The police (and gendarmerie) shall be accountable to the state, the citizens and their representatives. They shall be subject to efficient external control.

Article 60: State control of the police shall be divided between the legislative, the executive and the judicial powers.

The legislative oversight referred to in Article 59 consists of legal reforms carried out in domestic security services via the national assembly's legislative authority, executive oversight, its use by the government, elected by political will, and by governors and district governors appointed to the center and to the provinces by that government, while judicial oversight consists of the control by the judiciary of whether laws prepared by the national assembly are implemented or not.

14 Aytaç Alman, who was General Commander of the Gendarmerie when said book was published, wrote its preface and had it distributed as a leaflet. İbrahim Cerrah, "Güvenlik Sektörü Yönetişimi: Türkiye ve Avrupa içinde İç Güvenlik Sektöründe Zihinsel Modernizasyon ve Demokratik Gözetim" (Governance of the Security Sector: Intellectual Modernization and Democratic Oversight in the Domestic Security Sector in Turkey and in Europe), p. 84.

15 Republic of Turkey, Ministry of Internal Affairs, Public Administration Council, Specialization Commission Reports, 2002.

16 *Ibid*, p. 112

> This practice is contrary to the principle according to which "those with responsibility in administration should also have authority." Consequently, a paradox arises between the responsibilities and the authority of district governors in areas under the gendarmerie's control. In its own area of responsibility, the police force carries out the same work as the gendarmerie, but in many respects, including personal rights, it is affiliated with the Ministry of Internal Affairs. District governors' authority over the police concerning discipline and records and the issuing of orders, punishments, and awards is not valid for gendarmes.

In fact, according to the Public Administrators Research Report, conducted jointly by the Ministry of Internal Affairs' Strategy Center and the Political Sciences Faculty, 84.1% of public administrators believe that they have insufficient authority over law enforcement forces. Among the authorities needed, "record and disciplinary authority over the gendarmerie" stands out with 89.4%.[17] The report highlights the lack of oversight and the related politicization resulting from the imbalance between authorities and responsibilities.

Another issue concerns the depth of the gendarmerie's military attributes. According to the report,

> Another issue that needs to be highlighted is the fact that officers and generals of the gendarmerie are not appointed as General Commanders of the Gendarmerie. According to the current system, a general who knows nothing about the foundation, function, duties, and responsibilities of the Gendarmerie, and who may never have even been to a provincial outpost, may be appointed as General Commander. The only solution to this issue lies in appointing generals who have worked within the gendarmerie from the very beginning, who have been trained as gendarme officers, and who know the organization well as General Commander of the Gendarmerie.[18]

Regarding this last matter, under the heading of "Recommendations on Domestic Security," the Specialization Committee recommends that Law No. 2803 be amended as required in order to ensure that the General Commander of the Gendarmerie is appointed from within the organization itself.[19]

Two of the recommendations referred to in the Specialization Committee reports' summaries show how much the military authority has become structurally institutionalized through the gendarmerie. The following observations are made under the heading "The Military Centralist Structure and its Drawbacks":

> (6) Because of ministries' tendency to avoid the province system, the exaggerated increase of regional institutions, and the addition of security units affiliated with the Ministry of Internal Affairs, relationships between public administrators and security forces are weakening and civilian authority's influence on the domestic security sector is gradually decreasing. As with other central administrative bodies, the General Directorate of Security and the General Command of the Gendarmerie are executive bodies and are included in provincial administration.
>
> (7) The Ministry of Internal Affairs does not hold any responsibility over the establishment of domestic security strategy. That is why military authorities have begun taking part in domestic security issues to an extraordinary degree and this situation is becoming institutionalized.[20]

Autonomous structures that have oversight power without being overseen themselves are the basis of a custodial structure. The civilian administrators comments on the position of the gendarmerie is evidence of military custody.

THE GENDARMERIE AND EMASYA

In the period following February 28, the TSK re-structured its domestic security doctrine. This structure arose on the one hand from the military's distrust of the Islamic community and on the other hand from an effort to fill the void resulting from the lifting of the state of emergency.[21] The TSK's new domestic security doctrine was built on the Protocol Concerning the Security and Public Order Assistance Squads (*Emniyet, Asayiş ve Yardımlaşma Birlikleri*, EMASYA), which consists of 27 articles concerning the implementation of Article 11/D of Law No. 5442 on Provincial Administration. Signed on July 7, 1997 by the Office of the Chief of the General Staff and the Ministry of Internal Affairs, the protocol regulates the intervention of military forces, when needed, in cases of public disorder and security situations.[22]

The EMASYA Protocol concerns also the gendarmerie and its use. According to the protocol, in domestic security operations and areas, with governors' permission, the Police Force's Special Operations Teams, village guards, gendarmerie domestic security units, and gendarmerie

17 *Ibid*, p. 140
18 *Ibid*, s. 113.
19 *Ibid*, s. 184.
20 *Ibid*, s. 224.
21 See Ali Bayramoğlu , "EMASYA: Üç Anlam, üç işlev" (EMASYA: Three Meanings, Three Functions), within *Almanak 2006-2008* (Almanac 2006-2008).
22 For detailed information on this subject, see "Askerin Kolluk Gücü olarak kullanılması ve Emasya" (The Use of the Military for Law Enforcement and Emasya) in *Almanak 2006-2008* (Almanac 2006-2008).

units are affiliated with the highest Land Forces Command (*Kara Kuvvetleri Komutanlığı*, KKK) unit in the area. The Police Force's Special Operations Teams are put at the disposal of the EMASYA Regional and Secondary Regional Commands, while village guards, under the orders of the relevant Gendarmerie Command, are put at the disposal of EMASYA Commands. In such cases, even from the perspective of public duties, gendarmerie units are affiliated with military authorities rather than the Ministry of Internal Affairs. In short, in cases of domestic security operations, Gendarmerie Public Order Corps Commands become units of the EMASYA Regional Command and carry out their duties within this scope.[23] According to the Chief Prosecutor of Van,

> From this point of view, the chain of command between the JGK units in East and Southeast Anatolia and the General Command of the Gendarmerie varies from that in other regions. For example, the Gendarmerie units in the provinces of Batman, Diyarbakır, Hakkâri, Mardin, Siirt, Şırnak, Şanlıurfa, and Van are under the operational command and control of the Land Forces Command in matters related to the execution of Domestic Security Operations.[24]

Considering that this is a continuous rather than temporary situation, public order in part of the country has become militarized in all respects, armed forces have become an executive power,[25] and the relationship between public and military administrators has been inverted in a way that conflicts with the principles of a state of law.

EXCESS OF AUTHORITY AND AUTONOMY IN MILITARY OPERATIONS

A reflection of the role played by the gendarmerie in the domestic security sphere can be observed in the frequent conflict between military and civilian law enforcement forces in matters related to their fields of duties and the sharing of authority. Certain *de facto* situations and practices, loopholes, and interpretations within this framework have turned the conflict between the gendarmerie and the police force into a continuous subject of discussion. This conflict sheds light on the militaristic nature of the political regime. The fact that the gendarmerie carries out pursuit and intelligence operations that fall under the police's field of duty results in arbitrary situations, a broad implementation of covert state policies, the expansion of the military sphere, and the autonomy of military acts.

ACTUAL SITUATIONS

Unilateral and military-oriented *de facto* situations are frequently encountered. The Şemdinli incidents of November 2005 constitute the best-known example from a public point of view. The question as to why the two non-commissioned officers of the gendarmerie caught during the incident were in a police area has not been answered.[26] The most recent such incident occurred on April 15, 2009: as a precaution against the Ergenekon trial, the Ankara Provincial gendarmerie teams conducted a raid on a house in Keçiören, Ankara, within the police force's field of duty and authority, claiming that "an attempt was made to obtain secret documents" and on the search order issued by the military prosecutor; this event led to serious public debate.[27]

USURPATION OF AUTHORITY

Issues regarding the position of the Gendarmerie and its relationship with security forces are encountered on other levels as well. As stated before, the division of tasks between the police force and the gendarmerie is clearly regulated by Article 10 of the Law on the Organization, Duties, and Authority of the Gendarmerie. In light of

23 "The Gendarmerie Public Order Corps Command serves in the 2nd Army/Malatya Operation Control, by the Office of the Chief of General Staff's Order No. HRK: 7130-58-01/GHD.Pl.Ş. (176) dated May 21, 2001;" Indictment dated March 3, 2006, No 2005/750 (preparatory), 2006/32 (principal) and 2006/31 by the Chief Prosecutor of the Republic for Van, footnote No. 1.

24 Indictment dated March 3, 2006, No 2005/750 (preparatory), 2006/32 (principal) and 2006/31 by the Chief Prosecutor of the Republic for Van, footnote No. 1.

25 "According to the EMASYA Directive issued within this scope: The Hakkâri Provincial Gendarmerie Command operates under the Hakkâri Alpine and Commando Brigade Command (as the Hakkâri EMASYA Secondary Region Command), the Hakkâri Alpine and Commando Brigade Command operates under the Van Gendarmerie Public Order Corps Command (as the EMASYA Regional Command), the Van Gendarmerie Public Order Corps Command operates under the Malatya 2nd Army Command and the Malatya 2nd Army Command operates under the Land Forces Command;" Indictment dated March 3, 2006, No 2005/750 (preparatory), 2006/32 (principal) and 2006/31 by the Chief Prosecutor of the Republic for Van, footnote No. 1, p. 6.

26 According to the indictment prepared by the Prosecutor of the Republic for Van, following the bombing in Şemdinli, the suspects Ali Kaya and Özcan İldeniz had been assigned by the Hakkâri Provincial Gendarmerie Command's Intelligence Department to carry out intelligence activities on Seferi Yılmaz, who had been under technical surveillance for a while, but that this area was within the police force's field of authority and that the assignment of the suspects, non-commissioned officers Ali Kaya and Özcan İldeniz, was against the laws. See indictment dated March 3, 2006, No 2005/750 (preparatory), 2006/32 (principal) and 2006/31 by the Chief Prosecutor of the Republic for Van, footnote No. 1. TBMM parliamentary investigation commission formed with the aim of investigating the incidents that took place in Hakkâri's Central District and Yüksekova and Şemdinli districts, Report No. 10/322, 323 and 324. The report, presented to the National Assembly's Presidency, was not debated and was therefore declared null and void.
(http://www.tbmm.gov.tr/develop/owa/arastirma_onergesi_gd.onerge_bilgileri?kanunlar_sira_no=430)

27 http://www.flasgazetesi.com.tr/haberDetayMiddle.asp?ID=10389

principles stated in this law and taking into consideration the requirements arising from the expansion of urban areas, the Law on Provincial Administration assigns governors and district governors with establishing which areas belong to which law enforcement body. Nevertheless, the JGK acts as a *de facto* authority, particularly in this field, and resists decisions by some public administrators. The fact that the transfer of authority from the gendarmerie to the police force requires a protocol[28] and that the JGK sometimes refuses to accede to such protocols constitutes the material basis of this resistance from the point of view of the military. As can be seen from the EMASYA protocol, the perception that the protocol and regulations are above the law, resulting in their implementation contrary to the law, is a privileged mechanisms of military custody.

An example that re-emerged in 2006 took place in Trabzon. In 1997, the Trabzon Security Council decided that the Gendarmerie would withdraw from Pelitli and Söğütlü towns and Çaykara and Düzköy districts, and authority for those areas would be transferred to the police. In a March 23, 1999 letter, the JGK rejected the decision, saying that "The hand-over to the police is not considered appropriate by the General Command of the Gendarmerie because the places in question are close to the province center, the gendarmerie can respond immediately in the case of incidents and there are no problems from the point of view of security and public order." While the JGK did not let go of Pelitli and Söğütlü towns, it approved the handover of Düzköy and Çaykara districts to the police.[29] A new attempt was made by the Ministry of Internal Affairs in 2006 to hand over Pelitli to the police force. In a letter dated September 27, 2006, the Governorship of Trabzon asked the General Directorate of Security, the Provincial Gendarmerie Regiment Command, and the Municipality to form a commission for the re-definition of the fields of responsibility of the gendarmerie and the police force. However, the commission did not convene because the Provincial Gendarmerie Command did not nominate a representative. Pelitli[30] thus remained under the Gendarmerie's *de facto* responsibility.

Similar issues were experienced elsewhere in 2008, when hand-over issues emerged following the creation of 42 new districts. Pursaklar district in Ankara province, considered by military authorities to be of extreme importance as the center of certain sects, drew the most intense debate. Issues of authority emerged concerning the new police chief who had taken up office in Pursaklar because the Ankara Provincial Gendarmerie Command had not handed the region over to the police. The Governor of Ankara sent written instructions[31] to the Ankara Provincial Gendarmerie Command asking that the protocol for the hand-over of authority be granted as soon as possible, but to no avail -- the gendarmerie remained in the area.[32]

ATTEMPTS TO EXPAND AREAS OF AUTHORITY

Apart from the above issues, practices and assignments contrary to the principle of a state of law have heightened the conflict in question and have emerged as serious examples of the gendarmerie's attempts to expand its area of authority. In fact, in February 2006 it was revealed that in close to 40 provinces, including metropolitan areas such as Ankara, Izmir, and Konya, governors had granted the gendarmerie the authority to conduct searches, raids, and operations in city centers and that, on the basis of this authority, the gendarmerie had raided some primary schools and dormitories to search for bombs and ammunition.

The Governor of Konya confirmed that on January 30, 2006, the Provincial Gendarmerie Command applied to the governorship, requesting that officers in plain clothes be assigned to the province center to "apprehend suspects wanted for a variety of crimes" and that he had granted them operational authority to do so for

28 Regulation No. 5/1409, dated June 28, 1961, on the Execution of Gendarmerie and Security Duties and the Use of Authority in Provinces, Districts and Sub-Districts in Security and Public Order Operations and on Relations between the Gendarmerie and Law Enforcement, as enacted by decision of the Cabinet of Ministers.

29 Bilal Çetin, "Jandarma Pelitli'yi polise bırakmıyor" (The Gendarmerie refuses to leave Pelitli to the police), *Yeni Şafak*, February 2, 2007.

30 The Gendarmerie area of Pelitli is where the plan to murder Hrant Dink was made and where Ogün Samast, who murdered Hrant Dink, plotter Yasin Hayal, and other detainees within the scope of the trial live.

31 Sedat Güneç, "Jandarma yeni ilçeleri bırakmıyor" (The Gendarmerie does not let go of the new districts), *Zaman*, November 11, 2008.

32 Public administrators were assigned to solve this situation, subject to time restriction, via an amendment made to existing regulations in March 2009 and the gendarmerie was deprived of all possible means and excuses. This was a significant civil blow to the existing military fabric. The publication of Regulation No. 2009/14808, dated March 30, 2009, on the Amendment of the Regulation on the Organization, Duties, and Authority of the Gendarmerie and the Regulation No. 2009/14809, dated March 30, 2009, on the Execution of Gendarmerie and Security Duties and the Use of Authority in Provinces, Districts, and Sub-Districts in Security and Public Order Operations and on Relations between the Gendarmerie and Law Enforcement in the Official Gazette No. 27185 resulted in the solution of the conflict to a great degree. The amendment conferred to public administrators the authority to solve the issue by the end of April, without the need for a protocol.

one year. The Governor of Izmir stated that he had granted operational authority to the gendarmerie for only one incident and that the permission ended when the incident ended. The Governor of Denizli said that the gendarmerie had obtained a decision from the relevant court regarding a raid on a primary school dormitory and a girls' dormitory in the Çal district, and that the appropriate civil servants accompanied the gendarmerie during these raids. These situations brought up once again the debate on the relevant legislation. According to Article 10/c of the Law on the Organization, Duties, and Authority of the Gendarmerie, when the police force is insufficient, public administrators may ask for support,[33] but this article does not envisage a long-term, general assignment; on the contrary, such open-ended authority is in conflict with the spirit of the law. It was also stated that this state of affairs was contrary to the circular issued by the Ministry of Internal Affairs on January 13, 2005.[34] In those days, in response to journalists' questions as to whether the gendarmerie will be able to conduct operations in city centers, Minister of Internal Affairs Abdülkadir Aksu said, "Be patient, we are going to do something about this," and this was seen as evidence of this scandal and of the expansion of the field of authority.[35]

A similar development happened in April 2007. In an operation conducted by the Provincial Gendarmerie Command for Samsun, 40 people, including Adnan Bahadır, AKP's Deputy Mayor for the Greater City of Samsun, and Kenan Şara, General Secretary of the Greater City Municipality, were taken into custody.[36] Conflict of authority was present in this event too and questions went unanswered.

THE INTELLIGENCE ISSUE AND JITEM

In Turkey, intelligence is conducted by four different institutions: the Police Intelligence Agency, the National Intelligence Agency, the Gendarmerie Intelligence Department, and the General Staff Intelligence Department. This results in excess of power, arbitrary interceptions and conflict among institutions, and frequently the gendarmerie.[37]

In order to prevent overlaps and conflicts and to ensure that all intelligence information is gathered centrally, on July 3, 2005 the TBMM made a series of amendments to Additional Article 7 of Law No. 2559 on the Duties and Authority of the Police, and Law No. 5397 was accepted.[38] The plan was for information gathered by the JGK, the Police and the National Intelligence Agency (*Milli İstihbarat Teşkilatı*, MIT) via interceptions to be centralized in a new Telecommunications Department, directly affiliated with the Director of the Telecommunications Corporation. However, in reality there was no change in the fragmented situation.

Intelligence emerges as the most important issue in debates on the gendarmerie and its functions. The fragmented situation highlighted above causes serious disruption in the legal order, creates ambiguities, and results in violations. In other words, when we take into consideration that the oversight of the gendarmerie influences the TSK's political role, the intelligence issue acquires even more importance. The issue of the Gendarmerie Intelligence and Counter-Terrorism Department (*Jandarma İstihbarat ve Terörle Mücadele*, JITEM) provides clear evidence of this. The gendarmerie played an important role in counter-terrorism in the Southeast beginning in the mid-1980s, and JITEM has appeared in Turkey's agenda for 22 years as an

33 Ali Sali, 'Vali Bey'in izniyle jandarma şehirde' (The gendarmerie is in cities by permission of Mr. Governor), *Yeni Şafak*, February 22, 2006.

34 The circular contained the following expressions: "In the event that information is accessed by law enforcement forces concerning any crime committed outside their field of responsibility, the information obtained will be conveyed to the chief of law enforcement of that area and the law enforcement force responsible for that area will be enabled to conduct research, investigation and operations."

35 Ali Sali, 'Şehirdeki jandarma genelgeye de aykırı' (The presence of the gendarmerie in the cities is contrary to regulations), *Yeni Şafak*, February 22, 2006

36 Fatih Yalçıner, *Zaman*, April 19, 2007.

37 The activities of Retired Brigadier General Levent Ersöz, former Head of the Gendarmerie's Intelligence Department, are an example of arbitrariness on the part of the gendarmerie. See the Investigation No. 2009/511, Principle No. 2009/268 and Indictment No. 2009/188 by the Chief Prosecutor of the Republic for Istanbul, p. 178 and addenda.

38 According to Article 2 of Law No. 5397, the following Article was added to Law No. 2803 on the Organization, Duties and Authority of the Gendarmerie: Additional Article 5 (No. 5397/2, dated July 3, 2005): "In fulfilling the duties related to paragraph (a) of Article 7 of the law, with the aim of taking preventive and protective measures, the Gendarmerie can carry out the interception of telecommunications, evaluation of signal information and recording of information, by order of the General Commander of the Gendarmerie or of the Head of Intelligence, only within its field of responsibility and in cases where there are drawbacks to a judicial decision or to its delay, for the prevention of crimes specified in paragraphs (a), (b) and (c) of Article 250 of Law No. 5271, dated December 4, 2004, on Criminal Procedure, except for espionage crimes. The written order provided in cases where there is a drawback to delays, is presented for the approval of a competent and authorized judge within twenty-four hours. The judge reaches a decision within a maximum of twenty-four hours. In the event that the said period expires or the judge makes a counter-decision, the order is immediately annulled. In this event, records of the interceptions are destroyed at the latest within ten days, the situation is recorded in minutes and these minutes are preserved, to be presented for inspection when necessary. These procedures are carried out by a center founded in line with the Additional Article 7 of Law No. 2559, dated July 4, 1934, on the Duties and Authority of the Police Force. Interceptions to be carried out in accordance with Article 135 of Law No. 5271 are also made via this center."

ambiguous intelligence agency that carries out covert operations against the PKK.

According to the report prepared by the TBMM Susurluk Investigation Commission,

> We have not been able to establish JITEM's exact duties. Although JITEM's existence is being debated, there is no doubt that its actions are for real. These organizations have come to carry out illegal activities of all kinds (threats, murders, etc.) in order to achieve their objectives.... Concealing as state secrets certain activities conducted by public officers on behalf of the state has played a role in these developments. [39]

Similarly, the inspection report prepared by the Supervisory Board of the Office of the Prime Minister and approved by the Prime Minister emphasized the following points:

> In the past, the Gendarmerie's Intelligence unit was very small and weak; indeed, it existed only at the level of provincial public-order intelligence. JITEM developed during the term of Chief of the General Staff Hulusi Sayın. JITEM therefore followed a course that was dependent on the Southeast issue, which to a great degree was the reason for its existence. However, when repentant terrorists and local people who were recruited by JITEM were later left adrift, they caused a major problem. Not only local people, but also people working within the intelligence unit also found themselves outside the military hierarchy....[40]

We also encounter JITEM in the Şemdinli incident of 2005.

Despite all of this, the TSK and the JGK continue to deny the existence of JITEM. General Teoman Koman, General Commander of the Gendarmerie at the time of the Susurluk incident, denied JITEM's existence in a fax to the media that said, "A unit entitled JITEM has never existed and does not currently exist as a legal or illegal element within the organization of the Gendarmerie."[41] (The same fax had previously been sent to the Parliamentary Investigation Commission on Susurluk.) In spite of certificates of achievement and many other documents given in 1989 by Hulusi Sayın, then-Commander of the Gendarmerie's Public Order Unit, and Lieutenant General Hikmet Köksal to JITEM's Commander,[42] Major Ahmet Cem Ersever, military authorities never stopped denying its existence and stood behind Koman's statement. The fact that JITEM is of an ambiguous legal and legitimate nature and that its existence is denied by the TSK, in spite of all its well-known activities, is a significant example of the ambiguities resulting from the lack of oversight of the gendarmerie.

Because of these circumstances, the judiciary was unable to clamp down on JITEM for a long time, either to oversee its functions or to punish its members who were implicated in crimes.[43] However, as of 2008, important changes began to take place in this field. The investigation and trial known as Ergenekon, which has completely occupied the political agenda, resulted in the re-opening of the JITEM file and a series of judicial processes were initiated concerning JITEM. At present four trials, one of which has reached the Court of Appeals, as well a number of investigation files on JITEM, are ongoing.[44]

IMPORTANT DEVELOPMENTS FROM 2006-2008

THE INTERCEPTION SCANDAL

In June 2008 an event happened that could be defined a scandal. It was revealed that the 11th High Criminal Court of Ankara had decided to obtain from the Telecommunications Directorate (*Telekomünikasyon İletişim Başkanlığı*, TIB) all details of communications made by means of telecommunications throughout Turkey and to deliver them to the General Directorate of Security's Intelligence Department.[45] It became clear that the three-month decision made by the Court for the period April 25 – July 25, 2007, had previously been made for the period January 26 – April 25, 2007,[46] that a similar decision had also been made in November 2007, and that this practice had become a routine that was fully and permanently violating the right to privacy.[47] But there

39 Parliamentary Investigation Commission Formed with the Aim of Bringing to Light Connections between Illegal Organizations and the State, the Susurluk Traffic Incident and the Connections behind it, Report No. 10/89, 110, 124, 125, 126.

40 Çetin Agaşe, Susurluk'tan Ergenekon'a Jitem Gerçeği (The Truth of JITEM, from Susurluk to Ergenekon), pp. 111-116.

41 *Ibid*. p. 118.

42 Sezgin Tanrıkulu, "Devlet kayıtlarında JİTEM-Ergenekon" (JITEM-Ergenekon in state records), *Güncel Hukuk* (Contemporary Law), issue 2009/3.

43 This subject will be dealt with under the heading of the JITEM trial and investigations.

44 Arif Doğan was born in 1945 in Hatay. He began to be trained as an intelligence officer while still a Lieutenant. In 1971 he was appointed to Trabzon on a secret mission, to monitor smuggling activities. He operated in Trabzon until the late 1970s.

45 Kemal Göktaş, "Herkesin haberleşmesi izleniyor" (Everyone's communication is being monitored), Vatan, June 1, 2008; Gökçer Tahincioğlu, "İzleme İtirazı" (Objection to Monitoring), *Milliyet*, June 2, 2008.

46 11th High Criminal Court, printed verdict No. 2007/364, dated January 26, 2007.

47 The decision by the 11th High Criminal Court was as follows: "In order to establish in advance the strategies of terrorist organizations that aim to disrupt the indivisible unity, constitutional order and general security of the state, its law enforcement and public order, the life and property of the people and the democratic process that the country is undergoing, to prevent

was more to the scandal: Sometime later it was revealed that the court had also granted the same permission to MIT and on November 12, 2007, to the General Command of the Gendarmerie.

On November 15, 2007, the Telecommunications Directorate objected to giving permission to the gendarmerie, stating that "taking into consideration that the Gendarmerie's duties do not include the authority to conduct country-wide intelligence activities, we request a stay of execution for this decision."[48] However, the court rejected this request on the following grounds:

> A decision identical to the one in question and subject to this objection has been made regarding the General Directorate of Security's Intelligence Department and the MIT Undersecretariat. TIB does not have a right to object to decisions. It is well-known that organized crimes are taking place all over the country and at times beyond the country's borders. It would not be right to think that organized crimes have begun in the gendarmerie's area and will end in the police area. It would not be correct to interpret the situation to mean that the Gendarmerie's field of duty is very narrow. The grounds for the decision regarding the General Directorate of Security's Intelligence Department are the same as for the Gendarmerie.[49]

After a second objection, the same judicial committee decided that the Gendarmerie could take preventive measures only within its field of responsibility and annulled the permission given to them. However, the Gendarmerie embarked on a long struggle to re-obtain this authorization and obtained it on condition that it be used only within the Gendarmerie's area. Finally, on June 5, 2008, the Ninth Criminal Chamber of the Court of Appeals declared null and void all interception permissions granted by the High Criminal Court of Ankara to the Gendarmerie.[50]

Not only did the interception issue create a very serious scandal, it also demonstrated the gendarmerie's pursuit of this authority and its reflex to expand its field of duty. The decision by the Court of Appeals was in line with legal principles and the gendarmerie's arbitrary expansion of its field was thus prevented.

THE DINK MURDER AND THE GENDARMERIE: BETWEEN NEGLECT AND INTENT

On January 19, 2007 Hrant Dink was shot and killed in front of the offices of *Agos* newspaper in Istanbul by Ogün Samast, who came from Pelitli, which was situated in the Gendarmerie's area of responsibility in Trabzon. A while later it was revealed that Coşkun İğci, brother-in-law of the murder's instigator Yasin Hayal, was a gendarmerie informant. Coşkun İğci stated that Hayal was planning to murder Dink, that Hayal had paid him to procure a gun, and that he had notified the gendarmerie's intelligence officers of this situation.

As a result of a preliminary investigation of the personnel in the Trabzon Gendarmerie Command, two gendarmerie members, Okan Şimşek and Veysel Şahin, were brought to trial in the Second Criminal Court of Trabzon for neglect of duty; at the hearing held on March 20, 2008, the two gendarmerie members stated that they notified their superiors after Coşkun İğci told them that Hrant

provocative incidents that may be carried out in connection with the presidential and parliamentary election and decipher the planning and preparatory stages of activities, and especially because GSM phones are used in activating bombs to be used in bombing activities, it has been decided through the letter No. 88854, dated April 25, 2007, in line with Additional Article 7 on Law No. 2559, amended via Law No. 5397, that detailed records for the next three months, including foreign calls, should be obtained on-line from the Telecommunication Directorate and should be electronically examined as soon as possible. It is understood that illegal organizations conducting terrorist activities continuously carry out plans and realize them whenever possible and it is clear that for operations against these organizations to be successful, it is important that technical surveillance, interceptions and detailed recordings be made and that inefficiency in this area will result in these organizations achieving success. As the conclusion has been reached that it is obligatory for all details to be recorded so that they can be used exclusively by intelligence agencies, in a way that will not constitute evidence against individuals, for the surveillance of terrorist organizations, the apprehension of militants and the prevention of action that they may be about to carry out, it has been decided to accept the request for the recording of details (...) It has been decided, in accordance with Law No. 5397, that detailed records of communications over DATA cable and fax information will be obtained on-line from the Telecommunications Directorate for the next three months..." Printed verdict No. 2007/2084, dated April 25, 2007, by the relevant court.

48 "İzleme skandalında çifte standardın belgesi" (The evidence of double standards in the interception scandal), June 3, 2008, http://www.haber3.com/izleme-skandalinda-cifte-standartin-belgesi-378282h.htm.

49 11th High Criminal Court, printed verdict No. 2007/6147, dated November 27, 2007.

50 According to the decision, "When the legal reforms are taken into consideration from the point of view of objective, scope and legislative intention, no institution, regardless of its objectives, can be granted country-wide authority to consider as suspects the people of the Republic of Turkey, which is a democratic state of law; in accordance with the relevant articles of the laws in question, the members of the criminal court founded on the basis of Article 250, Paragraph 1 of the Law on Criminal Procedure and with authority over the places where the law enforcement forces making this request are situated, are required to make decisions regarding their jurisdiction and a decision to intercept communications via the granting of unlimited authority cannot be made, for it is clear that this is the intention of the legislator. A stay of execution in the interest of the law has been stipulated via Articles 309 and 310 of the Law on Criminal Justice as a method of extraordinary oversight procedure, with the objective of eliminating the conflict of decisions and provisions with law in the interest of law from the perspective of society and of individuals and of achieving a standard of country-wide implementation."Printed verdict No. 2008/7160, dated June 4, 2008, by the 9th Criminal Chamber, Court of Appeals.

Dink would be murdered, but that during their meeting their commander Ali Öz had said "we will talk about this later" and dropped the subject completely. Other gendarmerie members who testified during the trial confirmed this account.

Following these statements, the Second Criminal Court of Trabzon forwarded the file to the prosecutor for a criminal complaint to be made against a number of officials, starting with Colonel Ali Öz, Gendarmerie Commander for Trabzon. The Prosecution Office for Trabzon, which combined this criminal complaint with the complaints of intervening attorneys, petitioned the Ministry of Internal Affairs for a preliminary research. As a result of the preliminary research carried out by inspectors appointed by the Ministry, it was decided that gendarmerie officials would be investigated. The Prosecution Office for Trabzon then investigated Ali Öz, Metin Yıldız, Hüseyin Yılmaz, H.Ömer Ünalır, Gazi Günay, Okan Şimşek, Veysel Şahin, and Önder Araz and decided to bring them to trial.

Although certain developments during the trial of Okan Şimşek and Veysel Şahin raised expectations of a positive outcome, there were also signs of a state tradition. On the basis of evidence obtained during the trial, the Second Criminal Court of Trabzon decided the crime committed could not be considered a simple neglect of duty, and forwarded the file to the High Criminal Court because the trial needed to be conducted in accordance with Article 83 of the Turkish Penal Code. However, the Criminal Court of First Jurisdiction responsible for examining this decision overturned the lack of jurisdiction declaration without citing convincing grounds and returned the trial to the Second Criminal Court.

Following the murder, murder suspect Ogün Samast was apprehended in Samsun and taken to police headquarters. Here, instead of being taken to the detention room or somewhere appropriate for the detention of a minor, he was held in the tea shop. He was not alone, for police and gendarmerie staff lined up to have their picture taken with him, handing him a flag and asking to pose with him, alongside a calendar stating "the homeland is sacred, it must not be left to its fate."

Although the officers treated the murder suspect like a hero and could be identified from the photographs they took with him, only two were tried, and they were only charged with not preventing the photographs from being leaked to the press and with holding the suspect in the tea shop. Apart from the two officers brought to trial, the Prosecutor of the Republic for Samsun decided that there was no need to prosecute any other police or gendarmerie official. Intervening attorneys filed an appeal against this decision with the High Criminal Court of Çarşamba, and when their appeal was rejected, since all domestic remedies had been exhausted, they took the matter to the European Court of Human Rights.

The two police members put on trial were acquitted by the Fourth Criminal Court of First Instance, but intervening attorneys filed for an appeal.

The TBMM Human Rights Commission publicized its report on the murder of Hrant Dink found that:

> Although Police and Gendarmerie personnel were notified of the danger faced by Hrant Dink, the outcome of the letter providing information on the danger was not looked into and nothing was done about it, and the information received from Coşkun İğci, even though he was not a registered informant of the Provincial Gendarmerie Command, was not investigated and evaluated sufficiently; therefore the administrative authorities, which were potentially able to be aware of such a danger, did not take the necessary measures to prevent it as a result of the neglect of officials at all levels. The danger materialized and Hrant Dink lost his life.[51]

This report and all other previously conducted investigations clearly documented once again that the murder of Hrant Dink was known in advance by all law enforcement forces, but that no measures were taken.

Two separate ongoing trials of gendarme officials concerning this murder were combined by the Second Criminal Court of Trabzon on May 6, 2009, on the basis of the accusation of abuse of office through neglect.

THE ERGENEKON TRIAL INVESTIGATION AND THE GENDARMERIE

The Ergenekon investigation and trial has left its mark on Turkey over the last two years as a legal process that deals with a pro-*coup* structure connected to the state, especially the military and their civilian extensions, and with the activities it conducted in pursuit of this objective. Within the scope of the Ergenekon investigation, a total of 12 operations were carried out from January 2008 to April 14, 2009. Two indictments[52] were accepted in

51 This section has been taken from the 2nd Year Report on the Assassination of Hrant Dink, by Attorney Fethiye Çetin and Attorney Umre Deniz Tuna, page 183.

52 In the first indictment the crime was defined and named as follows: "Although it can be seen from the documents that the structure called 'Ergenekon' in appearance has an objective that can be summarized as coming to power by re-structuring the state, when we take into consideration the information that in order to achieve its objective the structure "will form fake terrorist groups to steer the world of terrorism," "that

July 2008[53] and March 2009.[54] A number of suspects, including retired and active-duty gendarmerie officers, were arrested during these operations. People with connections to the gendarmerie stood out among the suspects on trial for both indictments.

The significance of the first indictment in terms of the gendarmerie is the fact that some of the most important detainees had previously worked for JITEM in East and Southeast Anatolia, including retired Brigadier General Veli Küçük and Colonel Arif Doğan, the founders of JITEM.

The gendarmerie's role emerged more clearly in the second indictment. People such as retired General Şener Eruygur, former General Commander of the Gendarmerie, Brigadier General Levent Ersöz, former Head of the Gendarmerie's Intelligence Department, and retired Colonel Atilla Uğur, former Head of the Gendarmerie's Intelligence Department-Technical Surveillance Branch, were put on trial for attempting a *coup*, using intelligence means arbitrarily with this aim, and blacklisting people. The second indictment contains the following explanation:

> Information contained in the digital data recovered from suspects has revealed that suspect Şener Eruygur founded within the General Command of the Gendarmerie a group called the "Republican Working Group," consisting of active officers planning to carry out a *coup*, and that this group, acting in accordance with the objectives of the Ergenekon terrorist organization, prepared four separate *coup* plans, with the code names of "Blonde Girl" (SARIKIZ), "Moonlight" (AYIŞIĞI), "Phosphorescence" (YAKAMOZ), and "Glove" (ELDİVEN) that would do pre-*coup* and post-*coup* work.[55]

The indictment therefore pointed at the General Command of the Gendarmerie as the ideological and logistical support center of the *coup* plots. It is necessary to highlight the importance of the widespread structure of the gendarmerie units and of their arbitrary use of intelligence gathering means within the scope of the above-mentioned conflict of authority and responsibility.

The "Republican Working Group" (*Cumhuriyet Çalışma Grubu*, CÇG) is of particular significance from the perspective of our subject matter. Particularly two CÇG activities,[56] which were substantiated by documents discovered by the press:

1. Blacklisting: People, organizations, schools, non-governmental organizations, and business owners, as well as some public bodies and their employees, were blacklisted throughout Turkey. The facilities of the gendarmerie were used for the blacklisting process.
2. Non-Governmental Organizations: A National Unity Movement NGO platform was founded within the JGK Planning Coordination and Security Department, as part of civil society actions and under the leadership of General Şener Eruygur, with the participation of 225 NGOs.[57]

The consequences of an arbitrary, unchecked power and the related expansion of the military sphere are frequently encountered in Turkey. However, these consequences are being pursued in the courts for the very first time.

THE JITEM TRIAL AND INVESTIGATIONS

From 2006-2008, many trials and investigations were centered on JITEM. The defendants consisted largely of gendarmerie intelligence officials, repentant members of terrorist organizations collaborating with them, and

'assassinations may be used to prevent politicians holding ideologies contrary to the country's interests and the principles of the existing regime ," the establishment that "assassinations are the only method to prevent politicians who have entered politics for personal interests and who believe that everything is lawful in order to achieve their objectives," the information that "cooperating with national and international, legal and illegal organizations that operate in line with common and similar ideals is an inevitable necessity," and the belief that "any agent who is engaged or caught by the opposite side's intelligence agencies or who acts against operational objectives may be killed," it is clear that the 'Ergenekon' structure will not employ solely democratic and legal strategies to achieve its objectives and that it plans to achieve its final aim of 'coming to power' via illegal methods. Within this scope, the core aim of the 'Ergenekon' structure can be said to be a political aim that is displayed in the form of exercising pressure on state authority and steering it in line with its own aims via illegal activities. Indictment dated March 14, 2009, No. 2009/511 (preparatory), 2009/268 (principal) and 2009/188 by the Chief Prosecutor of the Republic for Istanbul, p. 34.

53 Indictment dated July 10, 2008, No. 2007/1536 (preparatory), 2008/968 (principal) and 2008/623 by the Chief Prosecutor of the Republic for Istanbul.

54 Indictment dated March 14, 2009, No. 2009/511 (preparatory), 2009/268 (principal) and 2009/188 by the Chief Prosecutor of the Republic for Istanbul.

55 Indictment dated March 14, 2009, No. 2009/511 (preparatory), 2009/268 (principal) and 2009/188 by the Chief Prosecutor of the Republic for Istanbul, s. 236.

56 According to the indictment, the reason for the foundation of the Republican Working Group was thus: "In the presentation entitled the Organization and Activities of the Republican Working Group, the reasons for its foundation are listed as: mobilizing social reflexes against destructive, separatist and reactionary elements and their extensions and the actions and activities they carry out against the Republic of Turkey, fighting disinformation, producing, using and archiving special intelligence information, organizing action and activities that would be objectionable as part of the institution but that need to be done, and carrying out these duties under by order of the 'General Commander of the Gendarmerie' and 'under his control and oversight…' However, as can be inferred from the statement 'organizing action and activities that would be objectionable as part of the institution but that need to be done,' referred to in the reasons for the foundation of the Republican Working Group, it is clear that the organization in question is completely illegal."

57 Mehmet Baransu, "Jandarma'dan rektörlere not" (The Gendarmerie's grade rectors), *Taraf*, June 8, 2008.

a number of village guards and informants. The fact that suspects or defendants are "members of JITEM" is frequently mentioned in documents related to the trials.

The first legal initiative on this matter was taken many years ago, in 1989, by the Prosecutor of the Republic for İdil, who carried out an investigation and charged a number of officers, non-commissioned officers, and public officials with forming an armed gang with the intent to commit crimes and the willful murder of more than one person. A non-competence decision, made exactly 10 years later, contained the following statement regarding a structure within the state:

> It is claimed that a gang consisting of public officials, repentant terrorists, and village guards is committing crimes all over the country..., that this gang was initially founded with the aim of fighting terrorism/terrorists, that it adopted the method of punishing individuals supporting terrorism with extra-legal methods, that it later committed crimes such as murdering and kidnapping people for other motives, collection of checks and bonds, bombing incidents, making threats, etc...[58]

Following the decision of non-competence concerning military suspects, the investigation file was forwarded to the Office of the Chief of the General Staff, authorizing it to permit an investigation. Although some of the suspects referred to in the non-competency decision made ten years ago are not suspects in the present day JITEM trial, they are under arrest and on trial for the Ergenekon Terror Organization."[59]

TRIALS

There are four ongoing trials.

1. "The indictment prepared by the Chief Prosecutor of the Republic for Diyarbakır 13 years after an investigation was initiated against a number of officers, non-commissioned officers and civil servants for having formed an organization with the intent to commit a crime, inflicting torture to obtain the confession of a crime and for willful murder,[60] contained the following statement concerning the creation of structure within the state: "within the structure called 'JITEM,' the suspects have carried out the murder and kidnapping of many people, the robbing of people they believed to be members of the PKK Terrorist Organization via illegal methods 'allegedly on behalf of the state,' they are members of a gang founded with the intent to commit crimes; moreover, the suspect Abdülkerim Kırca is the head of this gang and gives orders for the above actions." In spite of the 17 years that have passed since the preparation of this indictment, a competent jurisdiction has still not been established.[61]
2. According to another indictment prepared by the Chief Prosecutor of the Republic for the State Security Court of Diyarbakır concerning former repentant terrorists working as JITEM members for the Ministry of National Defense,[62] the suspects have been brought to trial in the State Security Court No. 3 of Diyarbakır for working as part of JITEM and for having murdered more than one person. This case file too has been forwarded from institution to institution for the establishment of a competent court and ten years later this was identified by the Court of Jurisdictional Disputes as the High Criminal Court of Diyarbakır.[63] Within this

58 Decision of non-competence dated January 8, 1999, No. 1989/274 (preparatory) and 1999/1 by the Chief Prosecutor of the Republic for İdil.

59 Tanrıkulu, *ibid*.

60 Indictment dated March 29, 2005, No. 1992/999 (preparatory) and 2005/3479 by the Chief Prosecutor of the Republic for Diyarbakır.

61 Because of the non-competency decision made by the 2nd High Criminal Court for Diyarbakır and because the suspects belong to the military, this prosecution file was sent to the 7th Corps Military Court, which, after having recorded under another principle the file concerning members of the military on duty, reached a decision of non-competency and forwarded the file to the Court of Jurisdictional Disputes, for a competent court to be established. The Court of Jurisdictional Disputes on the other hand, decided that the civil lawsuit needed to be conducted in a civil court because the crimes of "forming an organization with the intent to commit crimes, inflicting torture to obtain the confession of a crime and willful murder," that the military members were charged with were not military crimes, were not connected with military crimes and the connection of the suspects with the army, that would require to be tried in a military court, had ended. (Decision dated June 2, 2008, No. 2008/22 (principal) and 2008/22 by the Criminal Department of the Court of Jurisdictional Disputes). Following this decision, the 2nd High Criminal Court for Diyarbakır reached a decision of non-competency and forwarded the prosecution file to a competent High Criminal Court in accordance with Article 250 of Law No. 5271. (Decision dated July 4, 2008, No. 2008/468 (principle) and 2008/360 by the Second High Criminal Court of Diyarbakır) The 6th High Criminal Court that received the file also reached a non-competency decision and forwarded the file to the 5th Criminal Chamber of the Court of Appeals, for the establishment of the competent court. (Decision dated December 12, 2008, No. 2008/462 by the Diyarbakır Sixth High Criminal Court, as authorized by Article 250 of the CMK).

62 Indictment dated June 21, 1999, No. 1999/1234 (preparatory) and 1999/570 (principal) by the Chief Prosecutor of the Diyarbakır Republic for the State Security.

63 After approximately three years, the State Security Court No. 3 of Diyarbakır reached a non-competency decision, citing the amendment made in Law No. 4723 on the Foundation and Criminal Procedure of State Security Courts (Decision of non-competence dated January 15, 2002, No. 1997/187 (principal) and 2002/1 by the Third State Security Court of Diyarbakır), and forwarded the case file to the 3rd High Criminal Court of Diyarbakır, which, approximately four years after it received the case file, also reached a non-competency decision and stating that the suspects were military members of JITEM, decided that the case file should be forwarded to the 7th Corps Command Military Court of Diyarbakır, in accordance with Articles 9 and 10 of Law No. 353 on the Foundation and Criminal Procedure of Military Courts. (Non-competence decision dated February 13, 2006, No. 2002/60 (principal) and 2006/48 by the Third High Criminal Court of Diyarbakır)

period, the Office of the Chief of the General Staff has not given permission for the investigation of active/retired officers/non-commissioned officers members of JITEM.

3. In the trial publicly known as the "Şemdinli case," brought by the Chief Prosecutor of the Republic for Van against officers, non-commissioned officers and public officials, for conducting activities aiming to disrupt the state's unity and indivisibility, carrying out murders and murder attempts and making deals to commit crimes, the 3rd High Criminal Court of Van convicted the suspects[64] but the 9th Criminal Chamber of the Court of Appeals[65] remitted the case file to the High Criminal Court on the grounds that as the suspects were members of the military, they should be tried in military courts. Upon the remittance, the 3rd High Criminal Court for Van reached a decision of non-competency and reversed the judgment.[66] The prosecution file was forwarded to the Public Order Corps Command's Military Court in Van, which declared itself competent and rejecting the decisions of non-competency released the suspects and continued the trial. As a result, whether a civil high criminal court with special competency or a military court was the competent court for crimes of the same kind could not be established for sure."[67]

4. The fourth ongoing trial concerning JITEM is the trial of JITEM member Gültekin Sütçü, who was tried at the 3rd High Criminal Court of Diyarbakır and sentenced to 30 years of prison. Although the court sentenced Sütçü for the death of Mehmet Şerif Avşar, it treated the case as a civil case and JITEM was in no way mentioned in the court's 12 page reasoned decision,

INVESTIGATIONS

1. Statements made by repentant terrorist Abdülkadir Aygan constituted an important development that triggered investigations.[68] The body of a person killed and buried by JITEM was found as a result of Aygan's description. Aygan provided the names 29 people, stating that they had been killed by JITEM.[69] Upon this development, on February 15, 2005, the Diyarbakır Bar Association and the Diyarbakır branch of the Human Rights Association petitioned the Prosecution Office of the Republic for Diyarbakır. The Prosecution Office accepted the criminal complaint and forwarded the file to the 7th Corps Command Military Court in Diyarbakır. The file was forwarded in February 2009 to the Office of the Chief of the General Staff, where it is still pending.[70]

2. In September 2007 the Military Prosecution of the 7th Corps Command initiated an investigation upon the report that human bones had been found in the garden of the corps command. The investigation has not been concluded in spite of the time that has passed.

3. The environment arising from the Ergenekon trial and the fact that it contains investigations on past years has resulted in new steps being taken regarding JITEM and a series of investigations have been initiated in response to the increase in petitions and criminal complaints. In April 2008 the Chief Prose-

The 7th Corps Command Military Court of Diyarbakır also reached a non-competency decision, in accordance with Article 12 of Law No. 353, on the grounds that when the suspects went on trial their connection with the military had ceased and that there were no pending trials regarding the military members for whom there was the probability of being brought to trial together with the suspects, (Decision of non-competence dated February 13, 2006, No. 2002/60 (principal) and 2006/48 by the Third High Criminal Court of Diyarbakır) and forwarded the case file to the Court of Jurisdictional Disputes for the establishment of a competent court.

64 Decision dated June 19, 2006, No. 2006/45 (principal) and 2006/74 by the Third High Criminal Court of Van (as authorized by Article 250 of the CMK).

65 Decision dated May 8, 2007, No. 2007/2839 (principal) and 2007/3924 by the Ninth Criminal Chamber of the Court of Appeals.

66 Decision dated September 14, 2007, No. 2007/189 (principal) and 2007/213 by the Third High Criminal Court of Van.

67 The section on the first three cases has been quoted from M. Sezgin Tanrıkulu's above article.

68 In his first confession, published on March 12, 2004 in the Özgür Gündem newspaper, Aygan said that as a JITEM team they had kidnapped, tortured, and killed a man called Murat Aslan on June 10, 1994 and after having burned his body they had buried it by Bozamir Stream, close to Körtük (Çukurca) hamlet of Silopi. Murat Aslan's father İzzettin Aslan, who read Aygan's confession, went to Körtük Village and conducted a research in the place in question. A grave surrounded with stones was discovered in the place described by Aygan as the locality where JITEM had killed and buried the man. On April 19, 2004, İzzettin Aslan requested the Chief Prosecutor of the Republic of Silopi for the exhumation of the grave. When the grave was opened under the supervision of the prosecutor and of a doctor, it was discovered to contain bones that seemed to have been burned. On June 23, 2004, Specialist Doctor Nizamettin Kurt, Head of the Institute of Forensic Medicine, stated that a bullet entry and exit wound from a firearm with a diameter of 8 cm had been identified in the skull of Murat Aslan. In a report dated September 9, 2004, the Specialization Department of the Institute stated that there was a 99.99% probability that the bones belonged to İzzettin Aslan's son. Burhan Ekinci, February 2, 2005, Ülkede Özgür Gündem, DİHA news report.

69 These people were author Musa Anter, Diyarbakır Provincial Cahirman for HEP Vedat Aydın, Musa Toprak, Mehmet Şen, Talat Akyıldız, Zahit Turan, Necati Aydın, Ramazan Keskin, Mehmet Ay, Murat Aslan, İdris Yıldırım, Servet Aslan, Sıddık Yetmez, Edip Aksoy, Ahmet Ceylan, Şahabettin Latifeci, Abdülkadir Çelikbilek, Mehmet Salih Dönen and his uncle, whose name is not known, İhsan Haran, Fethi Yıldırım, Abdülkerim and Zana Zoğurlu, Melle İzzettin and his driver, whose name is not known, Hakkı Kaya, Harbi Arman, Fikri Özgen and Muhsin Göl. Ekinci, *ibid*.

70 Interview with Sezgin Tanrıkulu, *DİHA*, January 23, 2009

cutor of the Republic for Diyarbakır gathered all the files of unsolved murders and assigned their investigation to a prosecutor with special authorization,[71] which began to carry out excavations. Many pieces of bones, strands of hair and pieces of clothes were found during the excavations conducted in March and April 2009, in Diyarbakır, Hani, Cizre, Silopi and Batman Helkis.[72]

The most important development in this area happened when Colonel Cemal Temizöz, Gendarmerie Squadron Commander for Kayseri, was taken into custody on the instructions of the Chief Prosecutor of the Republic in connection with excavations held in Şırnak and was arrested on March 25, 2009 for "instigating murder and being a member of an armed organization." It was stated that Temizöz had been arrested concerning people who had disappeared during 1993-1996, when he was JITEM Group Commander in the Cizre district of Şırnak.

These investigations have provided significant clues regarding the roles played by the Gendarmerie and JITEM and have formed the basis for the first legal processes against them.

EU INTEGRATION PROJECTS AND STEPS TOWARDS IMPROVEMENT

A number of important and positive steps have been taken within the framework of EU accession. However, as the progress reports emphasize, these steps have fallen short of ensuring the civilianization and efficient oversight of domestic security services. The attempts towards improvement can be summarized as follows.

PROFESSIONALIZATION

The fact that 80% of the Gendarmerie consists of people fulfilling their obligatory military service has inspired a number of EU projects with the Ministry of Internal Affairs . One aims to decrease the Gendarmerie's reliance on people carrying out their compulsory military service, in order to increase the number of professional personnel performing public services and to ensure that these services are transparent and under civilian direction. The JGK began this project in 2004 in cooperation with the UK; in 2005, however, citing the TSK's "Personnel Reform 2014," the JGK withdrew from the project.[73] The JGK stated that it was affiliated with the TSK in matters such as appointments, records, and personnel regime and that its first priority was to comply with the personnel reform to be carried out in 2014. Following the outpost raids in the southeast in 2007 and 2008, the professionalization of personnel assigned to counter-terrorism in particular was brought up once again.[74] (For more on this subject, see "TSK: The Institutional and Military Dimension.) In April 2008 the TSK decided that, as of the end of 2009, reserve officers, private soldiers, and petty officers would not be recruited as commandos, and as of 2010, only professional military members consisting of officers, non-commissioned officers, and specialist sergeants would be assigned as commandos.[75]

CIVILIANIZATION OF BORDER SECURITY

The Schengen Acquis, the roadmap for the EU's policies on justice, freedom, and security, aims for the abolition of internal border control among EU member countries. It is therefore necessary for candidate countries to harmonize national regulations in accordance with these policies, to achieve an integrated, efficient management capacity and to form a professional, reliable and effective police force for border control.[76] A "Twinning Project for the Development of an Education System for Border Police" has been initiated with this purpose in mind. Within this scope, the Gendarmerie and the Land Forces Command must first cease their land border protection duty and the Coast Guard Command must cease its sea border protection duty. The EU does not therefore include a role for the JGK within an eventual Border Police Force. However, up until the time when such a Border Police Force is established, it is necessary to harmonize the services of law enforcement forces (the

71 Among the unsolved murders recorded as "files with permanent search warrants," there are the murder of author Musa Anter on September 20, 1992 in Diyarbakır as a result of an armed attack, the murder of Colonel Rudvan Özden, Gendarmerie Squadron Commander for Mardin and two guards on August 14, 1995, in the countryside of Ormancık, within the Savur district of Mardin, as a result of an armed attack and the murder of Brigadier General Bahtiyar Aydın, Regional Gendarmerie Commander for Diyarbakır, on October 22, 1993, in Lice, where he was conducting an operation. "Prosecutor with Special authorization for unsolved murder cases." *Milliyet*, April 22, 2009

72 *Zaman*, April 3,2009

73 Lale Sarıibrahimoğlu, *ibid*, p. 99.

74 The issue of a professional military service has been frequently brought up following the outpost raids of 2007-2008. Sedat Laçiner, Director of the International Strategic Research Organization (*Uluslararası Stratejik Araştırmalar Kurumu*, USAK), expressed as following the importance of this subject: "Counter-terrorism is the job of professional anti-terrorism teams, of special units. Examples of these can be seen in the UK and in Israel... if necessary, new policies should be implemented where special counter-terrorism units consist of staff officers who live all their life in the region (by way of different internal appointments and promotions) and of specialists." *Aksiyon*, Issue 729, October 13, 2008.

75 May 4, 2008, http://www.internethaber.com/news_detail.php?id=139397.

76 European Commission, "Chapter 24: Justice, Freedom and Security," November 9, 2005.

police and the gendarmerie) fulfilling separate public order services. The JGK is cooperating with France on a training project in this field. The establishment of the Border Police Organization is envisaged for 2012, before Turkey's EU accession. However, the 2006 and 2007 EU Progress Reports highlighted serious inadequacies in this regard. The Ministry of Internal Affairs issued a circular in January 2005 with the aim of ensuring the effective protection of land and sea borders through the cooperation and coordination of the police, gendarmerie, and coast security forces. The 2006 EU Progress Report stated that there was a need for significant improvements in knowledge-sharing among institutions, the restriction of responsibilities, and the development of training and professionalization of border security officials, especially for people fulfilling their military service that are assigned to these posts.[77] The 2007 Progress Report states that no concrete steps had been taken towards the establishment of a new border security organization.[78]

COMPLAINTS COMMISSION

Following the evaluation of three recommendations made by EU member countries, it was decided that the twinning project on the "Establishment of an Independent Complaints Commission and Complaints System for the General Directorate of Security and the Gendarmerie," which is part of the 2005 Turkey-EU Pre-Accession Financial Cooperation, would be conducted in cooperation with the UK. Implementation began in 2006. The Ministry of Internal Affairs described the project objective as ensuring the more effective and rapid functioning of existing mechanisms for the examination, monitoring, and settlement of complaints against law enforcement officers and preventing that law enforcement forces remain under suspicion by ensuring transparency regarding complaints.[79]

Briefings on this subject were held in seven provinces between 2006 and 2008. The project design was completed and began to be implemented in 2009, following meetings to be held in Erzurum and Ankara.

77 European Commission, "Chapter 24: Justice, Freedom and Security," November 8, 2006.

78 European Commission, "Chapter 24: Justice, Freedom and Security," November 6, 2007.

79 Ministry of Internal Affairs' Annual Report for 2007.

80 "The Cabinet of Ministers' decision No. 2208/14481, dated December 31, 2008, on Turkey's National Program on the Implementation of the European Union's Acquis and on the Implementation, Coordination and Monitoring of Turkey's National Program on the Implementation of the European Union's Acquis," 5th Reissued Official Gazette No 27097.

81 "Jandarmadan gizli muhtıra" (Secret memorandum from the Gendarmerie), *Taraf*, October 26, 2008.

THREE CRITICAL STEPS TOWARDS CIVILIANIZATION

A concrete step toward the civilianization of domestic security services was made with the Third National Program accepted on December 4, 2008. It contains the following pledge:

> Domestic security services will be carried out by professional and specialized law enforcement units, in accordance with policies to be established by civilian administration, under its oversight and control and on the basis of the rule of law and human rights and freedoms. Within this scope, legislation and practices that prevent the coordination of domestic security management and the effective fulfillment of civilian administrations' duties, authorities, and responsibilities regarding domestic security will be amended.[80]

The JGK is troubled by these statements, which comply with the principles of a state of law, and openly expresses its discomfort. On September 26, 2008, the JGK informed the Ministry of Internal Affairs that it considered the pledge in the government's draft program "malevolent". In a letter, Lieutenant General Mustafa Bıyık wrote,

> The statement in question, included in the Draft National Program without having consulted the General Command of the Gendarmerie, which has been providing domestic security services in a significant part of the country for 169 years, is quite ambiguous and open-ended. Furthermore, it is well-known that National Programs are prepared in order to fulfill requests contained within the EU's Accession Partnership. It is interesting that the statement in question should be used in the Draft National Program although the 2008 Accession Partnership does not actually include any mention of domestic security services. We are of the opinion that the existing provisions of Law No. 2803 on the Organization, Duties and Authority of the Gendarmerie, are sufficient for the fulfillment of domestic security services. I therefore state that, taking into consideration Turkey's priorities in the EU harmonization process, it would be appropriate to remove the statement in question from the Draft National Program.[81]

The pledge was ratified in spite of the Gendarmerie's request and included in the National Program.

A second major step was taken in March 2009 to resolve, in the interest of civilian authority, the problem of transferring districts from the gendarmerie's control to the police. Two legal regulations enacted on March 30, 2009 confer authority to public administrators for the re-organization of the fields of duty of the police

and gendarmerie within one month.[82] The creation of new districts and the transformation of Arnavutköy, Ataşehir, Başakşehir, Beylikdüzü, Çekmeköy, Esenyurt, Sancaktepe, and Sultangazi in Istanbul into new districts meant that these areas are under the police's jurisdiction and therefore that the gendarmerie's area of responsibility in Istanbul was narrowed. In fact, this subject was brought up in a press briefing organized by the TSK around the time when these amendments were published; according to a statement by the military, "the Gendarmerie's recommendations were not taken into consideration when these regulations were prepared."[83]

The third major step towards the civilianization of domestic security was the May 2009 submission to the TBMM of a draft bill for the foundation of the "Public Order and Security Undersecretariat" was submitted to the TBMM. Although this law aims for counter-terrorism to be conducted centrally, it also envisions the civilianization and oversight of domestic security. The Undersecretariat intends to form a Counter-Terrorism Coordination Council, in which all relevant bodies can participate, with the objective of achieving coordination among security institutions and other relevant bodies and evaluating existing counter-terrorism policies and practices. The importance of this undersecretariat, which will fulfill functions such as centralizing all intelligence, establishing counter-terrorism policies, providing security institutions and relevant bodies with strategic information, and ensuring coordination among the latter, lies in the fact that it is affiliated with the Ministry of Internal Affairs and is under its oversight.[84]

82 "Regulation on the Amendment of the Regulation on the Organization, Duties and Authority of the Gendarmerie" and "Regulation on the Amendment of the Regulation on the Fulfillment of the Security and Public Order Duties and Authority of the Gendarmerie and of the Police Force in Provinces, Districts and Sub-Districts and on the Relations between the Gendarmerie and the Police Force," Official Gazette No. 27185.

83 Hasan Aydın, "Askerin 'jandarma yönetmeliği' sitemi" (The military's reproach regarding the 'gendarmerie regulation'), *Milliyet*, June 4, 2009; in the weekly press briefing, Brigadier General Metin Gürak, Head of Communications Department, Office of the Chief of General Staff, said: "I can say that the General Command of the Gendarmerie was not fully consulted on the regulation."

84 'Terörle mücadelede yeni yol haritası' (New road map in counter-terrorism), *Yeni Şafak*, May 12, 2009

The Police Organization

Biriz Berksoy

STRUCTURAL-LEGAL TRANSFORMATION OF THE POLICE ORGANIZATION PRIOR TO 2006 AND THE POLICE SUB-CULTURE

STRUCTURAL-LEGAL TRANSFORMATION

The police organization in Turkey was founded in 1845, under the Ottoman Empire, in 1879 it was separated from the Gendarmerie and organized as a Ministry, and from 1909 onwards it was affiliated with the Ministry of Internal Affairs.[1] It acquired its present form via the Laws No. 2559 on the Duties and Authority of the Police (*Polis Vazife ve Salahiyetleri Kanunu*, PVSK) and No. 3201 on the Police Organization (*Emniyet Teşkilatı Kanunu*, ETK), which came into force in 1934 and 1937, respectively. The police organization, which is responsible for law enforcement in provinces, districts and sub-districts within the public administration system that have completed their legal municipal organization, has a centralized structure. Its headquarters, the General Directorate of Security, is in Ankara and is affiliated with the Ministry of Internal Affairs. In provinces it is accountable to governors and in districts to district governors. The duties of the police are officially divided into three: judicial, administrative, and political.

The police organization was unassuming for quite a long time; in the early 1960s it consisted of mounted teams, motorcycle teams, and motorized teams, as well as small riot squads (*Çevik Kuvvet*) that were responsible for public order in Istanbul.[2]

The first major expansion of the police happened in 1965 with the founding of the first professional public order unit, the Society Police (*Toplum Polisi*), via Law No. 654, dated July 14, 1965.[3] This new unit was tied to the social struggles carried out by workers, who were granted the right to organize, and university youth, following rapid socio-economic changes arising from the capitalization process and the re-organization of the accumulation mode in line with import substitution industrialization. The police organization was strengthened and expanded with the aim of restraining this mobilization. These units, which consisted of 250 officials, were first founded in Adana, Ankara, Istanbul, Izmir, and Zonguldak. Over time they were founded in other provinces deemed appropriate by the Ministry of Internal Affairs, and the number of officials reached 9,263 in 1969 and 11,667 in 1982.[4] While their duties were initially limited to illegal strikes and protests, a 1971 amendment to the relevant regulation[5] included legal strikes and demonstrations among the social disorders to be monitored and stipulated that these teams would patrol places considered sensitive. The units were strengthened that same year by equipping them with panzers with water cannons, purchased from West Germany.[6]

While the police was structurally strengthened through the formation of the Society Police, it was legally reinforced by an amendment introduced to Article 2 of the PVSK by Law No. 694 on July 16, 1965. The legitimacy of the orders given by police chiefs in thirteen "exceptional cases" became non-contestable by the officers responsible for carrying out those orders. Through this article's ambiguous definitions of "exceptional cases," which are still in force, such as "apprehending the perpetrators or confirming the evidence of crimes against the person of the state" and "apprehending people who individually or collectively attack or oppose state forces or averting these attacks or opposition" led to a major expansion of police chiefs' discretionary power and field of maneuver. Although police chiefs are accountable for the orders they give,

1 See Ergut 2004.
2 *Polis* 1964 [142], p. 11; *Polis* 1966 [171], p. 31.
3 Official Gazette No. 12053, dated July 29, 1965.
4 Ar 1999, p. 24.
5 Official Gazette, No. 13919, dated August 7, 1971.
6 *Polis* 1971 [223], p. 39.

the orders themselves have become non-contestable. Another important legal amendment was made in 1973 to Article 20, which regulated the entry of the police into residences. According to this article, when the legal conditions are fulfilled, the police have the right to enter workplaces and their annexes, and, more importantly, to intervene in universities to prosecute crimes and criminals, even without being invited. This article, which weakened the status of universities, which were autonomous until 1980, enabled the police to subject university students and academics to its control. Amendments made in 1980 to Articles 9 and 17 granted the police the authority to conduct extensive searches and seizures provided that a public administrator's permission was obtained and a number of conditions related to place/situation were fulfilled (Article 9), as well as legalized the police force's authority to check identification as a preventive measure, before the commission of a crime (Article 17).

Towards the late 1970s, an organic crisis emerged from the non-sustainability of the import substitution industrialization model and the social struggles for political and economic rights, carried out by factions uniting with workers under a left-wing umbrella against the ruling block consisting of industrial capital, the military bureaucracy, and nationalist conservative governments.[7] Following the 1980 *coup*, while industrial capital was provided a variety of incentives within the scope of an export-industrialization model, wages were reduced, social opposition was prevented, and there was an increase in exploitation and poverty.[8] To de-legitimize possible opposition to the state's repressive and inequitable strategies, many laws, such as the Law on Collective Labor Agreements, Strikes, and Lock-outs (No. 2822, dated May 15, 1983) and the Law on Meetings and Demonstrations (No. 2911, dated September 8, 1983) were re-written and social opposition of all kinds was criminalized. "Exceptional cases" were thus transformed into legal/normal cases through several amendments.

The structural-legal changes to the police in the post-1980 period constituted an important part of these amendments. In this period, in order to sustain the neo-liberal order and its increased exploitation and repression, the police organization was expanded, strengthened, and militarized and its effectiveness and surveillance powers were greatly increased. In the first phase of this process, at the initiative of the military junta, the organization, equipment, and cadre of the General Directorate of Security were evaluated and from 1983 onwards the budget was expanded for 10 years.[9] This enabled the re-structuring of the police organization's cadre in parallel with the military hierarchy, the opening of new police schools and the re-organization of training, the re-structuring of police centers through the division of provinces into four groups, and the provision of high technology arms and equipment, all in order for the police "to carry out more effectively its duties, which would become more difficult after the lifting of the martial law."[10]

The creation of paramilitary teams was the most important part of this process. First the Society Police, considered ineffective, was re-organized under the name "Rapid Action Units" (*Çevik Kuvvet*, RAU from now on) via Law No. 2696, dated August 11, 1982. It was equipped with high-technology weapons and was given military training.[11] Like the Society Police, these militarized teams were given the duty to prevent illegal street movements as well as to patrol legal demonstrations.[12] In 1983 these teams were established in 21 provinces and two districts with 11,000 personnel.[13] In the 1990s the number of provinces reached 63 and the number of personnel 15,000.[14] Nowadays these teams operate in 81 provinces with an estimated 17,000 personnel.[15] Throughout this period, as a major conduit of the repressive strategies aiming to depoliticize society through violence, the RAUs have carried out highly violent interventions against mass demonstrations – starting with the May 1st and Newroz[16] celebrations – organized by factions that have been "otherized" on a class, ethnic or sectarian basis; at times they have resulted in deaths (for example on May 1st of 1989 and 1996). This unit was also mobilized in big cities, in districts where the population consists of Romas and Kurds who have been subjected to forced migration and live beneath the poverty threshold. The RAUs have taken action many times in these districts, both to carry out the destruction of shanty houses and because these

7 See Savran, 2002; Yalman, 2002.

8 See Ercan, 2004.

9 Danışma Meclisi Tutanak Dergisi (Advisory Council Proceedings Minutes Magazine), August 18, 1983 [148/1].

10 Danışma Meclisi Tutanak Dergisi (Advisory Council Proceedings Minutes Magazine), January 21, 1982 [40/1], p. 409.

11 Official Gazette, No. 17781, dated August 13, 1982.

12 EGM, 2001, p. 109. Articles 12-18 of the ETK.

13 Danışma Meclisi Tutanak Dergisi (Advisory Council Proceedings Minutes Magazine), July 7, 1982 [117/1], p. 553.

14 Aydın, 1997, p. 98.

15 See <http://www.memurlar.net/haber/113592/>

16 Newroz refers to the coming of the spring and the new year as in the Iranian tradition and it is celebrated on March 21. In a Kurdish legend, the day also marks the deliverance of the Kurds from a tyrant and was declared by the PKK as a Kurdish national holiday.

places are considered the source of the alleged increase especially in drug-related crimes and crimes against property, they have been charged with the oversight and the incapacitation of these marginalized groups.[17]

Special Operation Teams are another paramilitary unit formed at the beginning of this period. Founded in 1983 by Korkut Eken, a former deputy commander of the Special Warfare Department, initially within the General Directorate of Security and in Provincial Directorates of Security in Ankara, Istanbul, and Izmir,[18] these teams were equipped with high-tech weapons and were taught guerilla warfare techniques "in line with the American system".[19] In 1987 they were affiliated with the Anti-Terrorism and Operation Department[20] and in 1993 they were re-structured separately, as the Special Operation Department. These teams were formed to a great degree by the Nationalist Movement Party (*Milliyetçi Hareket Partisi*, MHP) and Hearths of the Ideal (*Ülkü Ocakları*) circles[21] and were mobilized as part of the state's power strategy for solving the Kurdish issue through violence, focused on fighting the Kurdish guerillas of the PKK (*Partiya Karkerên Kürdistan*, Kurdistan Workers' Party) in the east and southeast with the army through conventional and unconventional warfare. Their field of duty overlapped with that of the army especially towards the mid 1990s.[22] However, the illegal demonstrations they organized in 1995[23] and their mistreatment of locals created discomfort within the Ministry of Internal Affairs and some of these teams were moved to cities in western of Turkey,[24] where they have frequently acted alongside RAUs in house raids in shanty towns against drug-related crimes and crimes against property.

After 1980, the police organization was once again strengthened legally, acquiring even broader powers. The amendments to the PVSK via Law No. 3222, dated June 16, 1985, were a turning point from this point of view.[25] They granted the police powers broad enough to maintain the continuity of martial law even after it had ended and introduced special investigation provisions granting special guarantees to police officers using arms (Additional Article 9). In addition, the following duties and authorities were granted to the police: keeping associations and syndicates under surveillance on the grounds of "oversight of venues," (Article 8); intervening directly in situations where previously petitions and complaints were needed for intervention (Article 11); in cases where delays will hamper the investigation, apprehending suspects when the conclusion is reached that a crime has been committed or has been attempted (Article 13); taking people into custody for 24 hours, for purposes of identification (Additional Article 17); taking over a crime regardless of area, place, and time of duty (Additional Article 4); using physical and material force and arms in increasing proportion to the level of resistance and attack (Additional Article 6); and appointing special teams consisting of headquarter personnel not registered within the police area boundaries (Additional Article 5).[26] As stated by Fazıl Sağlam, "powers of this kind, used diffidently by the police and only in obligatory circumstances because of the absence of written provisions, will now be used more frequently and excessively, thanks to the ease driving from the legal basis founded on general and indefinite concepts and criteria and the self-control applied by police will therefore be overcome."[27]

The expansion of the police powers continued six years later with the abolition of Articles 141, 142, and 163 of the Turkish Penal Code (*Türk Ceza Kanunu*, TCK) and the subsequent entry into force of Law No. 3713 on Anti-

17 See Berksoy, 2007.

18 Beşe, 2006, p. 115.

19 From the interview held by Saygı Öztürk with Korkut Eken. See http://www.bilinmeyenler.org/onemli-sahsiyetler/korkut-eken-kimdir.html (retrieved: 12.06.2010).

20 The Anti-Terrorism and Operation Department is another important unit founded in this period, with ministry approval given on August 26, 1986. The duty of this unit, which previously operated as the Destructive Activities Department under the Security Department, was established primarily as "separatist terrorism," in connection with the Kurdish issue, secondly as "left-wing terrorism," and lastly as "right-wing terrorism" (EGM, 2000, p. 131). In 1994 the Psychological Operation Department was added to this unit. This department is responsible for carrying out psychological operations described as "methodical (scientific) and systematic (technical) activities aiming to influence minds, feelings and behavior via methods of propaganda and agitation based on the psychosis of fear rather than by violence itself," in the words of an employee (Polis Magazine, 1997 [11], pp. 24-25). It can be claimed that from the point of view of the year and the department under which this unit was founded, its aim was the legitimization of repressive and highly violent practices implemented in the southeast by the state.

21 *Milliyet*, August 23, 1994.

22 Bora, 1994, p. 119.

23 In August 1995, the Special Teams performed a demonstration in Tunceli in front of the Regional Governor of the State of Emergency, Ünal Erkan, and the Director-General of Security, Mehmet Ağar, to protest the Governor of Tunceli and to call him to quit. The demonstration can be interpreted as showing the degree of their confidence in calling a governor to quit. An investigation was opened about these team members, four of whom were dismissed (*Milliyet*, 02.08.1995; *Milliyet*, 09.08.1995).

24 *Milliyet*, August 2, 1995.

25 Articles 8, 11, 13 and 17 were amended and 9 new articles were added. As then-Prime Minister Turgut Özal stated during a press conference, these amendments were actually prepared by the Bülent Ulusu government during the military junta, but had had been shelved because 67 provinces were under martial law. According to Özal, the need for such a law arose due to the abolition of martial law (*Milliyet*, June 17, 1985).

26 Sağlam 1985, p. 12.

27 *Ibid*.

Terrorism (*Terörle Mücadele Kanunu*, TMK). Prepared within a framework denying fundamental individual rights and freedoms, this law considers everybody a potential terrorist because of the broadness and the ambiguity of its definition of terrorism.[28]

The law has been amended many times since then, generally to achieve progress in terms of democratization: In 1992 alternative custody periods were abolished via amendments to Criminal Procedure Law; in 1999 the article granting power "to open fire directly and straight away," violating the right to life, was abolished by the Constitutional Court; and in 2003 the article restricting freedom of expression and the right to hold meetings and demonstrations was abolished. However, amendments made after 2006 (described in detail below) are a complete reversal of the efforts towards democratization.

In addition to militarization and expanding powers, one other trend within the police force became evident in the 1990s. Against new social problems and the state of "insecurity" caused by the neoliberal policies implemented in the post-1980 period, new police tactics were developed besides the ones based on violence. The free-market rationality upon which the neoliberal policies were based extended to the police organization, which began to implement "total quality management," where key concepts like "effectiveness," "productivity" and "performance criteria" stood out. With the increase in poverty and the rising visibility of crimes against property, as well as the dissemination of the fear of crime through the media, "preventive policing" practices were given priority and the development of public relations acquired importance in the context of "community policing." Gathering as much intelligence as possible through these developing relationships with the community and other methods, using it to form an intelligence network and make analyses, and creating a feeling of "security" became fundamental objectives. In this context, in 1993 Motorcycle Police Teams consisting of good-looking personnel with high communication skills were established in 44 provinces. These teams, numbering 1,572 personnel, were founded with the aim of intervening more rapidly in crime incidents. To garner the public's trust, they were called "Dolphins" (*Yunus*) and their uniforms were created by fashion designers. Moreover, through the Mobile Electronic System Integration (*Mobil Elektronik Sistem Entegrasyonu*, MOBESE) project, as of 2005 electronic cameras were established in streets and squares of Diyarbakır and Istanbul in particular, to be spread later to other provinces, with the aim of ensuring rapid interventions and data collection. CDs and leaflets have been distributed to the public to provide information on crimes against property and thus confer responsibility, with the aim of transforming the public into "cautious," "suspicious," "responsible" people and "informers," and thereby reducing the number of crimes committed. Public participation is tried to be achieved during celebrations on the anniversaries of the police organization's establishment and billboards are prepared in the effort to spread the idea that "the police stands by the people."[29]

These new strategies which increased police surveillance and control were also supported via legal amendments made to the PVSK in the 2000s. The most significant among these were achieved in 2002 and 2005. In 2002 Article 13 was amended to include the provision that "The police apprehends and conducts the necessary legal actions against people... who oppose and resist their measures and prevent them from fulfilling their duties." Indefinite concepts like "opposing" and "resisting" allow the police a broad area of maneuver for taking people into custody. According to an amendment made to Additional Article 7 in 2005, the police was authorized to intercept and record communications pursuant to a judicial decision. According to this article, which covers many areas, from drug trafficking to crimes against the state, in cases where delays could hamper the investigation, the General Directorate of Security is able to request such information, provided that it receives judicial approval within 24 hours. When taken into consideration along with Articles 135-138 of Law No. 5271 on Criminal Procedures which have similar provisions, the authorities granted to the police enable the gathering of intelligence through the complete and continuous monitoring/surveillance of the whole of the social sphere and through the violation of the confidentiality of personal information.

Another important development prior to 2006 is the fact that the army has adopted regulations that allow it to take over authority from the police in domestic security matters. The first of these was the Regulation on the Prime Ministry's Crisis Management Department, enacted by the coalition government of the Welfare Party (*Refah Partisi*) and True Path Party (*Doğru Yol Partisi*) in 1997. According to this regulation, which entered into force in the period following February 28, "legal and social movements are included within the definition of

28 Official Gazette, No. 20843, dated April 12, 1991.
29 See Berksoy, 2007.

crisis, the identification of when and which movements point to a crisis was left to the military, and crisis oversight and management was handed over completely to the military."[30] Another regulation consisted of the protocol accepted by the Ministry of Internal Affairs and the Office of the Chief of the General Staff in July 1997, which granted the Security and Public Order Assistance Squads (*Emniyet, Asayiş ve Yardımlaşma Birlikleri*, EMASYA), affiliated with the Land Forces Command, the authority to intervene in social incidents when necessary, even if public administrators do not request help.[31] These regulations not only fed tensions between the gendarmerie and the police arising from the fact that the gendarmerie did not hand over authority to the police in areas where municipal structuring was completed (for example Sultanbeyli in Istanbul and ODTÜ in Ankara),[32] but they also facilitated the army's intervention into daily life, militarized policing even further, and strengthened military control over society.

THE POLICE SUB-CULTURE AND THE "OTHERS"/"DOMESTIC ENEMIES"

In all incidents, policing duties include a "moment of decision-making" when the police officer prevails and uses the "discretionary power" that forms the basis of the state. These decisions emerge as a point of mediation between laws and daily life for police officers and therefore can only be evaluated by taking into consideration the sub-culture within which police officers socialize and through which they acquire their values, norms, and social codes.[33] In other words, examining only the legal and structural characteristics of the police is not sufficient to interpret police officers' practices in daily life – the police officers' sub-culture must also be taken into consideration.

When we examine three different sources (*Polis* [Police] journal, published by the Association of Social Solidarity for Police Officers and Retired Police Officers; *Polis Dergisi* [PoliceJournal], published since 1995 by the General Directorate of Security; and interviews conducted by the author with 27 police officers between April-June 2005[34])[35] in order to evaluate the police in Turkey from this point of view, we can see that the discourses that express the sub-culture of the police organization from the 1960s onwards continued existing after 1980, although they have diversified as a result of new components. These have developed under the influence of hegemonic discourses constructed and disseminated mostly by the militarized state and dominated by a nationalist-conservative perspective added onto a Kemalist basis. The main elements of this sub-culture are a "self image" expressed as a "public order army" and the sublimation of military methods; nationalist conservatism emphasizing race/blood especially before 1980; a sensitivity to the sanctity and perpetuity of the state; and the "otherization" of part of society and its perception of them as "domestic enemies". They have remained unchanged since the 1960s.

The first new element in the police force's perspective concerns sections of society seen as enemies. Besides non-Muslims, who existed on the borders of the legal system since the foundation of the Republic, a number of groups labeled as "anarchist/communist" within the framework of the anti-communist mobilization created by the state prior to 1980 were defined as threats; following the 1980 *coup*, these groups were largely eliminated through violent means and relegated to the criminal justice system. The category of "domestic enemies" was broadened in this period, when the Kurdish movement expanded in various ways and attempts to violently repress it failed to some degree and the Kurdish identity began to be expressed openly. Ethnic/sectarian groups openly expressing their identities in the face of the officially accepted "Sunni Turkish" identity and demanding their cultural rights became one of the broadest groups in this category. Kurds and Alawis especially have been accused of being "separatist, while leftists and some syndicates have continued to be criminalized as elements disrupting

30 Bayramoğlu, 2002, p. 47.

31 See Ahmet Faruk Güneş, "EMASYA", within *Almanak 2006-2008* (Almanac 2006-2008).

32 Three elements can be said to have been influential in the emergence of tensions, which heighten from time to time, between the police and the army. The first consists of conflict of authority between the gendarmerie and the police; the second is the difference in tone between the nationalist conservative perspective common among the police force and the "secular" Kemalist perspective of the army; the last can be said to be the reflection on police-army relations of the tensions that arise between governments and the army concerning their standing within the state organization and their conflict of authority.

33 Reiner, 1992.

34 For the period 1960-1980, the 1963, 1964, 1966, 1967, 1970, 1971, 1975 and 1979 issues of the *Polis* (Police) journal were examined. And for the period after 1980, the 1980, 1984, 1986 and 1989 issues of the *Polis* journal were analyzed. As for the *Polis Dergisi* (Police Journal), all of the issues published between 1995-2001 were analyzed, as well as the following issues published from 2001: 35 (2003), 36 (2003), 37 (2003), 38 (2004), 39 (2004), 41 (2004), 42 (2004), 43 (2005), 47 (2006). Furthermore, between April-June 2005, the author conducted a total of 27 interviews with police officers in a police station and in the Police Academy in Ankara, in the police headquarters of five districts in Istanbul (Bağcılar, Sultanbeyli, Gaziosmanpaşa, Beyoğlu, Kadıköy), in the Rapid Action Units Branch Directorate and in the Motorcycle Police Teams affiliated with the Public Order Department.

35 Research carried out on this subject by the author has been published in Issue 114 of the *Toplum ve Bilim* journal (Society and Science) (Berksoy, 2009).

"stability." Among non-Muslims, especially Armenians were made into enemies previously depending on the acts of the Armenian Secret Army for the Liberation of Armenia (ASALA) as a reason and later because of the "genocide" issue. The population that was excluded from the newly created neoliberal economic order, generally people of non-Turkish ethnic identity (Romas and Kurds who migrated to big cities as a result of forced migration) living beneath the poverty line, was also considered among enemy groups. The distinction made by the police between citizens and terrorists to be destroyed became clearer in this period; refugees not legally granted citizenship status who were living in "guesthouses" or wandering on the streets were generally considered by the police as problematic and as "organisms/bare lives" that needed to be eliminated.[36]

Another change observed in police discourse in this period is the emphasis on human rights in the 1990s. However, these statements, which gave the impression of democratization in police practices, were actually used to legitimize police practices. The last change to be mentioned here is the idea that emerged in the 2000s that the police needed to improve its public image and public relations. As mentioned above, this tendency resulted in the development of new strategies within the police organization, not as a result of self-criticism, but from concerns about achieving "effectiveness" and "productivity."

THE POLICE ORGANIZATION IN THE YEARS 2006-2008

DEVELOPMENT OF NEW STRATEGIES, NEW ARMS/EQUIPMENT, AND LEGAL CHANGES

The strategies developed by the police in the years 2006-2008, to counteract the social devastation arising from neo-liberal policies that created a feeling of "vulnerability" and "insecurity", generally focused on getting citizens to provide information to the police and to take measures to deter crimes; in other words, to take on some responsibility for policing. For example, in February 2006 police in Erzurum posed as thieves to prove that citizens were "insensitive" to such crime, subsequently urging the public to use the 155 police helpline and provide information to the police.[37] Later, paintings of footsteps with the words "You may not always be this lucky, this footstep belongs to the police," were placed in front of building doors that had been left open in Antalya.[38] These encouragements, which invited "ideal citizens" to be "suspicious" and "cautious," aimed to ensure cooperation between these ideal citizens and the police against what is deemed to be the threat of "enemy" occupation.[39] Another development was the 1550 "Buddy" mobile phone helpline, promoted by the police with the slogan "You may wish to denounce someone, or you may wish to check whether your passport procedures have been completed."[40] The aim of this helpline was to ensure that the police was seen as a "close friend/buddy" and increase the frequency of crime reports. "Informant citizens" would therefore increase the police's information on "otherized" people and these groups would thus be incapacitated, if not "eliminated."

"Family policing" is another pilot method implemented in Erzincan in 2007 by the Public Order Department Chief, inspired by the influence of "community policing" strategies developed in the 1980s in the West, especially in the US and UK, to solve similar issues arising from neoliberal policies.[41] The 22,000 dwellings in the city were divided into four areas and deputy directors of the Provincial Directorate of Security were held responsible for the areas, branch directors or police chiefs were held responsible for the neighborhoods and police officers were each held accountable for 38 dwellings. It was envisaged that police officers would spend half a day a week to get to know these families and listen to their problems. The police thus attempted on the one hand to solve the problems of "ideal citizens," and on the other to hold sway over all parts of society via the close relationships thus established and to ensure a continuous flow of information.[42]

The increase in foot patrols is another strategy aiming to ensure information flow and increase police visibility. A circular entitled "Preventive Security Measures," sent in early 2006 to 81 provinces by then-Minister of Internal Affairs Abdülkadir Aksu, stated that legal action would be taken against personnel neglecting to take adequate crime prevention measures and that maximum use would

36 See Agamben, 1998.

37 *Radikal*, February 14, 2006.

38 *Radikal*, February 24, 2006.

39 In November 2006 the police force in Antalya rang doorbells and warned homeowners who opened the door without saying "who is it?" and thanked those who said so (*Radikal*, November 20, 2006). The same thing was done in September 2007 in Rize, where the police rang doorbells and warned homeowners (*Radikal*, September 27, 2007).

40 *Radikal*, April 14, 2008.

41 Cordner 1999, pp. 137-149.

42 *Radikal*, November 1, 2007.

be made of motorized or foot patrol teams to achieve "authority over the streets." The circular also stated that motorized patrols were not sufficient for "identifying people with criminal tendencies and deterring criminals" and that patrol services would therefore also be carried out by uniformed officers on foot. Foot patrols were asked to use whistles to instill a feeling of "security" and to act as deterrent.[43]

Within the newly developed strategies, in March 2007 Director-General of Security Oğuz Köksal said that he would "send to the streets police officers working in offices, ensure that the police act more rapidly and increase the number of criminals caught red-handed, and form 'public peace teams' against pick-pocketing and theft."[44] A project developed within this context was subsequently carried out, deploying "Trust Teams" consisting of plainclothes police officers and "Lightning Teams" consisting of motorized officers. Police officers in the Trust Teams would dress as "*simit* sellers,[45] ticket sellers, drunkards" in order to gather intelligence, establish good relations with local tradesmen and the community, and endeavor to catch criminals red-handed; the Lighting Teams would assist them in the apprehension of criminals. Police officers would receive ten points for apprehending robbers and nine points for apprehending pick-pockets, and those who did not earn sufficient points would be removed from these teams.[46] It can be inferred that the point system can lead to aggressive policing and have the potential for increasing human right violations of people considered "police property."[47]

43 A new circular was issued by the General Directorate of Security in May 2006 and police officers were asked to use whistles even asking for help from each other (*Radikal*, May 17, 2006).

44 *Radikal*, March 3, 2007.

45 *Simit* sellers are ubiquitous throughout Turkey, selling a traditional pretzel-like bread from kiosks.

46 *Radikal*, June 1, 2007.

47 In *The Politics of Police* (1992, p. 137), Reiner states that the police's sub-culture reflects society's power structures, that groups with the least amount of power are continuously faced with police intervention and that they therefore become a sort of police "property." It can be said that there generally is an ethnic dimension to the class identity of the "groups with least power," referred to by Reiner.

48 *Radikal*, March 30, 2006, *Radikal*, April 6, 2006.

49 *Radikal*, October 7, 2006.

50 *Radikal*, May 29, 2006

51 *Radikal*, February 4, 2008; *Radikal*, February 24, 2008; *Radikal*, June 23, 2008.

52 (Official Gazette No. 26870, dated May 8, 2008); according to data provided by the EGM Personnel Department, the police personnel currently numbers 182.050. See <http://www.egm.gov.tr/daire.personel.asp>.

53 *Radikal*, December 6, 2006.

The social devastation experienced during the period led to the rising violence among children under 18 and this also became an issue for the police organization which adopted new policing measures in a number of provinces. For example, in March 2006 the *Yunus* Motorcycle Teams in Istanbul increased the frequency of controls at school entry-exist times, and in Izmir it was decided via a protocol signed between the Izmir Provincial Directorate of National Education and the Provincial Directorate of Security that a "school team" consisting of 22 police officers would be formed to work in the vicinity of several schools, gathering intelligence and other similar activities.[48] In a circular sent to governorships in October 2006, Minister Aksu asked that a high-ranking police officer be assigned to every school. Police officers were thus given responsibility for schools.[49] Projects were developed in some provinces to deal with children who show tendencies to commit crimes. For example, a project entitled "Police Brother, Police Sister," was realized in Konya in 2005-2006, according to which such children were kept under surveillance in order to prevent them from committing crimes.[50]

These policing measures concerning children were also implemented in the southeast, in line with the official rationality that the Kurdish issue is a security issue. Methods such as temporarily meeting children's material needs for shoes or food, or initiatives such as "Children Are Our Future," organized by the Adana Seyhan Youth Center and the General Directorate of Security, were implemented in cities like Batman and Adana to distract children, who take part in social disorders and who belong to families that were forced to migrate by the state and that struggled with poverty, from their state of material/spiritual deprivation and to help them ignore the violence inflicted by the police and cooperate with them instead.[51]

In addition, in the period 2006-2008 the police force sought to significantly increase its ranks. In 2005, in line with Law No. 5336, dated May 6, 2005, graduates of faculties of four years were given the opportunity to become police officers after six months of training, and municipal guards were included to the police organization by Law No. 5757, dated April 24, 2008.[52] In this period additions were made to arms and equipment too: towards the end of 2006, a digital system was adopted for fingerprints and 44 "live scan" devices were introduced in 30 provinces.[53] In the first months of 2007, a number of tests were carried out by the General Directorate of Security for the use of rubber bullets in social disorders,

and which were subsequently employed.[54] The "Long Range Acoustic Device" (LRAD), which make ears ring, was also tested for use, and it was decided that it could also be used with the aim of breaking up crowds in a shorter period of time.[55]

Besides reinforcing arms and equipment in order to increase the effectiveness of the use of force, the police also took progressive measures in August 2008 to control the use of force, including the printing of numbers on the helmets of the RAUs as a means of identifying them. The implementation of this measure was begun in Sivas, Kocaeli, Kayseri and Eskişehir, and was then extended to all 81 provinces. From now on it would at least be possible to identify police officers who engage in "disproportionate" use of violence.[56]

During this period, important amendments were made in the legal sphere. Following complaints by the army and the General Directorate of Security that their authority was being restricted by the new Code of Criminal Procedure (*Ceza Muhakemesi Kanunu*, CMK, dated 04.12.2004), many amendments were made to the Law on Anti-Terrorism (*Terörle Mücadele Kanunu*, TMK) by Law No. 5532, dated June 29, 2006.[57] The most important of these amendments are as the following: with the amendments in Article 3 and 4, the number of articles in the Turkish Criminal Code, which were taken into the scope of "terrorism" as to the acts they define as crime, rose from 20 to 60. Thus, document forgery, "alienating the public from military service" or "resisting public officials" were included as acts of terrorism. The punishment of these crimes was increased, violating the principle of proportion between the harm caused by these acts and their punishment. Amendments to Article 10 illegally restricted people's right to defense: Defendants can only hire one lawyer and their right to see their lawyer during the 24 hours of custody may be restricted at the prosecutor's request and a judge's decision. The amendments have also made it possible for lawyers to access their case files and for documents to be restricted. On the other hand, public officials carrying out anti-terrorism duties and accused of having committed crimes have the right to three lawyers whose fees are paid by relevant institutions. The amendment with the most dramatic outcome is Additional Article 2, which can clearly lead to violations of the right to life. Annulled by the Constitutional Court in 1999, this article was re-enacted in 2006, allowing the police to open direct fire on terror suspects who do not heed a warning to surrender or who attempt to open fire. Not heeding a warning to surrender has been considered sufficient for depriving suspected terrorists of the right to life.

Other amendments to the PVSK by Law No. 5681, dated June 2, 2007,[58] consolidated the police's comprehensive and repressive surveillance by expanding its authority to detain people and vehicles, ask questions, and search a person or a vehicle's visible parts on indefinite grounds like "reasonable doubt," even without a judicial decision or a public administrator's order (Article 4A); to record the fingerprints and photographs not only of suspects but of everybody (Article 5); to use force without warning and to use firearms with the aim of apprehending somebody and in the case that an attempt is made to conduct an armed attack, to open fire straight away in order to neutralize the danger (Article 16). With these amendments to both laws, all individuals became suspects to be placed under surveillance, the right to life is put at risk, and it has thus become possible to establish dominance over the entire society.

"DISCRETIONARY POWER," POLICE VIOLENCE, AND GROUPS AT THE EDGES OF THE LEGAL SYSTEM

Observing police practices in daily life, it becomes clear that the use of discretionary power constitutes an important part of these practices. The discretionary power of the police consists of the authority that the officer rely on in interpreting the law and making a decision in an indefinite number of spheres where they come face-to-face with people. Through this power, which is given a legal foundation via concepts like "reasonable doubt" and "setbacks caused by delay," the police are able to deprive individuals of their freedoms, as well as to turn them into simple beings on whose lives they have a say.

Some of the most important articles granting the police wide discretionary powers were: a) Article 13 of the PVSK, which regulates the authority to make arrests;[59] b) Article 4 of the PVSK, which regulates the authority to detain and check identification following the 2007 amendments (former Article 17), but which includes also the authority to conduct searches;[60] and c) Article 16

54 *Radikal*, March 24, 2007.
55 *Radikal*, March 11, 2008.
56 *Radikal*, August 22, 2008.
57 Official Gazette, No. 26232, dated July 18, 2006.
58 Official Gazette, No. 26552, dated June 14, 2007.
59 Arrest warrants are regulated by Article 90 of the CMK.
60 Search warrants are regulated by Article 119 of the CMK. In cases where there is a drawback to delays, police chiefs are conferred this power when there is no judicial decision or a prosecutor cannot be reached.

of the PVSK (Article 16 and Additional Article 6 prior to 2007), which regulates the use of force and firearms and its analogue, Additional Article 2 of the TMK.

With the authority granted by Article 13, the police are able to establish the definition of "resistance" to its measures, to apprehend and take legal action against individuals who "show resistance." The authority to "detain and check identification," granted by Article 4, is subject to "police officers' experience and to the presence of reasonable doubt based on their impressions regarding the circumstances." The authority to use force, regulated by Article 16, grants the police the ability to use force "with the aim of breaking resistance," gradually increasing the level of force until it is effective.[61] There are detailed conditions concerning the use of firearms, but whether or not these conditions are realized is left to the police. These are regulations that significantly expand the police officers' "discretionary power."

Broad discretionary power, combined with the police sub-culture's militarist, nationalist, and enemizing attitudes, has made it possible for police violence to take place frequently in daily life. While reports of torture, severe torture, and disproportionate force both inside and outside detention reached approximately 4,719 cases in 2006 and 2007, according to statistics by the Ministry of Justice,[62] there has also been a constant increase in police violence in daily life and in continuous police oppression of certain groups.

From 2006 to 2008, there were many cases of police violence in daily life. While people of low income or with a criminal record are frequently subjected to a treatment that verges on the blurred border between "exceptional" and "normal," people of higher income and believed to be "influential," such as lawyers and doctors, have to a lesser extent been targets of physical violence by the police on the grounds of their broad authority and with the awareness that they embody the state.[63]

Another type of police violence frequently witnessed in the years 2006-2008 consisted of shooting cases for reasons of non-compliance with a warning to stop. Although this type of incident occurred before the June 2007 amendments to the PVSK, amended Article 16 led to more frequent police violence. For example, in May 2006, Aytekin Arnavutoğlu was shot and killed in Fatih, Istanbul, by a Bomb Squad within an unmarked police vehicle, on the grounds that he had not complied with a warning to stop;[64] the police officers in question were sentenced in January 2008 to four years in prison for voluntary manslaughter.[65] In August 2006 Halil Bulut was shot and killed by police in Balıkesir, on the grounds that he had fled after having been stopped by traffic police for drunk driving.[66] In December 2006 Uğur Çelik was shot and killed by plainclothes police officers in Adana, allegedly while attempting a theft.[67] In August 2007, Hanım Çalıkuşu, a woman who had allegedly committed theft was shot by the police in Alanya.[68] In November 2007, Baran Tursun was shot and killed by the police while allegedly fleeing[69] and in July 2008 10 police officers were accused of obfuscating evidence and were brought to trial.[70] In August 2008 a robbery suspect in Bursa and Turan Özdemir in Sivas were shot and killed by the police for not heeding a warning to stop.[71]

Apart from these people who have become victims of police violence in daily life, there are also certain groups and sections of society under police surveillance that always live under the threat of police violence. These sections consist of ethnic/sectarian groups (especially identity-conscious Kurds, Alawis, non-Muslims, etc.), inhabitants of impoverished districts (also generally of a particular ethnic identity), illegal immigrants, and a number of syndicates and leftists. The systematic police control and violence exercised on these groups has continued in the years 2006-2008.

61 The power to use force has been regulated by the RAUs Regulation and police chiefs have been granted the power to establish the degree of force to be used (EGM, 2001, 111).

62 *Radikal*, August 27, 2008.

63 Some of the numerous incidents taking place between 2006-2008 can be summarized as follows: on August 11, 2006, police officers checked the identification of Çiğdem Nalbantoğlu, district administrator for Gümüşsuyu, during this process Nalbantoğlu was beaten, she received a hospital report regarding the beating but nevertheless was fined by the police for "resistance to a public official." While Nalbantoğlu was acquitted from the trial brought for resistance, the court made a criminal complaint regarding the police officers, to establish whether they had exceeded their authorities (*Radikal*, August 17, 2006, *Radikal*, May 24, 2008). On May 22, 2007 taxi driver Engin Topal fled from robbers and asked help from the police; not only did he not receive help, he was also beaten up when he attempted to complain about the police. On May 26, 2007 Ferhat Yalçıkkaya was taken into custody by the police in the Galatasaray Square, Istanbul, beaten and left in Yedikule. On May 8, 2007, businessman Sezai Yakar was detained on the Cumhuriyet Avenue, Istanbul, by traffic police and was then beaten in the Taksim Police Headquarters (Radikal, December 25, 2007). On July 29, 2007, the attorney Muammer Öz was manhandled by police officers who asked to check his identification while he was sitting in a park in Moda, Istanbul, was taken into custody and beaten. A statement by the police said that Öz had resisted to the police and that the police had neutralized him by "applying gradually increasing force." (*Radikal*, August 3, 2007).

64 *Radikal*, May 13, 2006.

65 *Radikal*, January 23, 2008.

66 *Radikal*, August 28, 2006.

67 *Radikal*, December 14, 2006.

68 *Radikal*, August 4, 2007.

69 *Radikal*, November 26, 2007.

70 *Radikal*, July 26, 2008.

71 *Radikal*, August 27, 2008.

The police violence to which Kurds are collectively subjected acquires visibility during Newroz and demonstrations, some of which are declared illegal. For example, police resorted to excessive violence, resulting in injuries and deaths, on several such occasions: on February 2, 2006 (anniversary of the apprehension of Abdullah Öcalan, the leader of the PKK) in Bağcılar, on February 2, 2008 in Cizre,[72] during the Newroz celebrations of 2006 and 2008, and during the funerals of PKK members on March 29, 2006 in Diyarbakır and Batman.[73] Buildings belonging to the Democratic Society Party (*Demokratik Toplum Partisi*, DTP) whose members are mostly Kurdish are systematically raided by the police. Examples include the police raids carried out in February 2006 in Doğubeyazıt,[74] in July 2006 in Urfa[75] and in February 2007 in Van.[76]

Districts inhabited by Alawis are also frequently subjected to police raids and intense police surveillance. One paradigmatic example is the clash between the public and the police in Istanbul's Gazi district in March 1995 in which approximately 20 people died. It was clear that the police viewed the district's population as an "enemy." Another important example is the October 2007 raid in the Ümraniye Mustafa Kemal district in Istanbul. 2,000 police officers from the Departments of Anti-Terrorism, Public Order, RAUs and Special Operation were sent there on the grounds of the alleged beatings of two plainclothes police officers. They raided 20 homes and arrested 30 people, 17 of whom were released following an identity check.[77] Another raid in the Gazi district occurred in October 2007, when a group protesting the installment of a MOBESE camera clashed with the police and 10 people were taken into custody. Upon its return to the Gazi police headquarters, the RAUs marched to the rhythm of *"Ne mutlu Türküm diyene"* (Happy is he who says, "I am a Turk") and *"Her şey vatan için"* (Anything for the motherland).[78] The police are in a state of continuous mobilization regarding these districts, whose inhabitants are clearly considered "traitors."

The third group within this context consists of non-Muslims. As can be seen from events like the September 6-7 incidents[79] and practices such as the Capital Tax,[80] in the Republican period non-Muslims have always been positioned on the boundaries of the legal system. Because of this position, they have always been under surveillance and they have even been blacklisted.[81] Five murders that took place in the period 2006-2008 – Hrant Dink, Father Santoro and the "missionary" murders – revealed the police side of the discriminatory policies and violence inflicted on non-Muslims. According to reports by legal experts and inspectors, in spite of having received intelligence on this matter, police officers of different ranks within the Istanbul Provincial Directorate of Security did not take the necessary measures to prevent the murder of Hrant Dink on January 19, 2007, instead allowing it to happen. The perpetrator was apprehended, but judicial order was not given for the arrest of implicated police officers.[82] The perpetrator of the murder of Father Santoro in Trabzon, in February 2006, was also apprehended, but two years later it was revealed that Father Santoro had been wiretapped on the grounds that he was "pro-Pontus"[83] and that he conducted activities "aiming to disrupt unity and indivisibility."[84] Santoro was killed three days before the wiretap permission ended. Last of all, on April 18, 2007, three people were murdered in the Zirve Publishing House (which published books and leaflets on Christianity) in Malatya. As in the Santoro case, it was revealed that they had been closely monitored by the police and that evidence about their murders was obfuscated in a variety of ways.[85] Abuzer Yıldırım and Salih Güler, two of the defendants in the trial, confessed

72 *Radikal*, February 23, 2006, *Radikal*, February 20, 2008.

73 *Radikal*, March 20, 2006; *Radikal*, March 31, 2006; *Radikal*, March 23, 2008.

74 *Radikal*, February 25, 2006.

75 *Radikal*, July 31, 2006.

76 *Radikal*, February 20, 2007.

77 *Radikal*, July 10, 2007.

78 *Radikal*, October 25, 2007.

79 September 6-7 incidents which took place in 1955 constituted a pogrom primarily against Greeks and also other non-Muslims in Istanbul. It started as a result of an officially organized provocation and at the end, around 15 people died; properties of non-Muslims were looted, their religious places were attacked and destroyed and many non-Muslims left the country (see Güven, 2006).

80 The Capital Tax was issued by the Turkish Grand National Assembly in 1942. The primary officially pronounced reasons behind the tax were to raise funds for the country's defense in case of an eventual entry into World War II and to tax the unfair earnings enabled by the war circumstances. But the main underlying goal behind the tax was to terminate the leading role that the non-Muslims had in economy. High tariffs were imposed on the country's non-Muslim inhabitants and those who could not pay the high amount were arrested and sent to a forced labor camp in Aşkale near Bayburt (see Güven, 2006).

81 For example, according to a statement by a former member of the Police Organization, in 1982 the Martial Law Command requested that police headquarters determine whether there were any individuals of Armenian descent in their areas and if there were, that the necessary investigations be carried out to keep them under surveillance (*Radikal*, October 4, 2007).

82 *Radikal*, July 23, 2008.

83 *Pontus* is the name of an ancient Greek kingdom established in the Black Sea region before Christ. "Pro-Pontus" is the name given by Turkish nationalists to Greeks who are allegedly in effort to revive this ancient Greek kingdom in this region.

84 *Radikal*, February 21, 2008.

85 *Radikal*, January 10, 2008.

that another defendant, called Günaydın, was in contact with the police.[86] All these murders and the police's behavior before and after the murders shows that non-Muslims are perceived by the police as excluded from "citizenship," deprived of their citizenship rights, and as threats that "can be eliminated."

Districts inhabited by Romas and Kurds who were forced to migrate from East and Southeast Anatolia, whose population is excluded from regular employment, are systematically subjected to police control and violence. On the pretext of reducing crimes especially against property, the police frequently organize raids in these districts, whose population is considered to be the "usual suspects," aiming to incapacitate and control them. Examples of such raids involving RAUs and Special Operation teams during the period in question include the following: the January 18, 2006 raid by 100 police officers on the Karabayır district; the February 10, 2006 raid on the Mezihlahir district, Edirne; the February 23, 2006 raid by 1000 police officers on the Sarıgöl district in Gaziosmanpaşa; the March 17, 2006 raid on the Hacıhüsrev district; the April 30, 2006 operations aimed at pick-pockets in the Dolapdere and Hacıhüsrev districts, in which 200 people were taken into custody; and the August 2008 raid on the Hacıhüsrev district, in which the police entered the district inside a truck.[87] The Romas, a population subjected to oppression, have been openly defined as "suspects," in the "Ordinance on Police Discipline, on the Police's Role in Ceremonies and Communities, and on the Organization and Duties of Police Stations."[88]

Refugees/illegal migrants are also frequently subjected to police violence. A paradigmatic manifestation of this behavior was seen in the Festus Okey incident. On August 20, 2007, a Nigerian refugee called Festus Okey was taken into custody in the Public Order Department of Beyoğlu, Istanbul, on the suspicion of drug possession, and he died under custody, as a result of a police bullet. The police officer responsible for this incident is still on trial for "voluntary manslaughter." A report entitled *"Unwanted Guests: Refugees Kept in 'Guesthouses for Foreigners' in Turkey,"*[89] published in November 2007 by the Helsinki Citizens Assembly, includes studies conducted on "guesthouses for foreigners" and interviews held with 40 refugees from Africa, mostly men. In these interviews, refugees stated that the police displayed a hostile, aggressive, and indifferent attitude towards them and subjected them to physical violence.

Finally, a number of syndicates, leftists, and similar opposition groups were frequently subjected to police violence in the period 2006-2008. The most obvious embodiment of this violence takes place during May 1 demonstrations. While syndicates forming the Confederation of Public Workers' Unions (*Kamu Emekçileri Sendikaları Konfederasyonu*, KESK) and the Confederation of Revolutionary Workers' Unions (*Devrimci İşçi Sendikaları Konfederasyonu*, DISK) are frequently subjected to police violence, a high degree of violence was inflicted on a broad spectrum of left-wing groups, especially during the May 1 demonstration in 2007 and 2008. During the annual protest of YÖK's foundation on November 6, left-wing students are systematically subjected to police violence. Examples of such police violence against leftists and other oppositional groups such as anarchists can be seen in the Sinan Tekpetek and Ferhat Gerçek incidents. Sinan Tekpetek, editor-in-chief of *Özgür Hayat* newspaper and *Yüzde 52 Öfke* magazine, was stopped for an identity check in Taksim, Istanbul on July 26, 2007, and was then forced into a police car, beaten and thrown off the moving car.[90] Ferhat Gerçek, who sold *Yürüyüş* magazine, became paralyzed as a result of a police bullet following a police intervention in Yenibosna on September 7, 2007. Prison sentences of up to 15.5 years were requested for six people, including Gerçek, with the accusation of "opposition to Law No. 2911 on Meetings and Demonstrations, resistance with the aim of preventing the fulfillment of duties, abuse of public officials because of their duties and damage to property." On the other hand, on the grounds that the weapon from which the bullet had originated could not be identified and that Gerçek had not been directly targeted, seven police officers were tried for "voluntary injury by exceeding authority to use force" with a request for prison sentences up to 10 years (*Radikal*, July 25, 2008).

In sum, during the period 2006-2008, police resorted to violence frequently and in a variety of ways. While legal amendments encouraged this behavior, a relaxed oversight mechanism and its infrequent application were also conducive to police violence.

86 *Radikal*, December 8, 2007.

87 *Radikal*, January 19, 2006; *Radikal*, February 24, 2006; *Radikal*, March 18, 2006; *Radikal*, May 2, 2006; *Radikal*, August 4, 2008.

88 *Radikal*, June 4, 2006.

89 For the report, see <http://www.hyd.org.tr/staticfiles/files/multeci_gozetim_raporu_tr.pdf>.

90 Radikal, July 29, 2007.

POLICE ACCOUNTABILITY, OVERSIGHT MECHANISMS, AND COURT DECISIONS

Practices by the police are difficult to oversee because of their high level of invisibility and because they include the use of discretionary power. However, clearer statement of authority in legislation and the development of an oversight mechanism that can be easily and systematically implemented would allow for a certain amount of control over these practices.

As stated above, expressions regarding discretionary power in the legislation, especially in the PVSK, are ambiguous enough to grant the police a very broad discretionary power and without any limitations. The oversight mechanism, on the other hand, has been regulated in a way that makes its application difficult. Apart from penalties given by superiors with appointment authority on the basis of their discretionary power, in accordance with Law No. 4483, dated December 2, 1999, on the Prosecution of Public Officials and Other Public Employees, decisions on disciplinary and criminal investigations are made by governors in provinces and in districts by district governors and a number of other authorities referred to in Article 3. When investigations are carried out, if the action or activities in question constitute a crime in terms of the TCK and of other laws, the inspector carrying out the investigation needs to express an opinion on "the need for prosecution from a judicial perspective.[91] Prosecution is therefore subject to special clauses, "interference in the judicial authority" is in question, and the process leading to prosecution has been made difficult because it is subject to a number of conditions.

At this point it is necessary to say that an amendment brought within the scope of the EU Acquis harmonization process has resulted in a significant improvement. According to the paragraph added to Article 2 of the Law on the Prosecution of Public Officers and Other Public Employees, in line with Article 33 of Law No 4778, dated January 1, 2003, the provisions of this law are not to be applied in cases of investigations and prosecutions brought within the scope of articles of the TCK that concern the crime of torture. This regulation therefore allows for the direct investigation and prosecution of public officers who are accused of committing this crime.

When the period 2006-2008 is examined in terms of the functioning of the oversight mechanism, it becomes clear that police officers who resort to violence are protected both during the investigation phase, by not providing the necessary permission for an investigation, and in the prosecution phase, by issuing light sentences and acquittals. The Hrant Dink case is the most significant example of the practice of preventing investigations.

Judicial decisions made during this period in trials begun previously are also of interest within this context. For example, although Muzaffer Çınar, who was taken into custody between September 21-29, 1999 in the Baykan district of Siirt, obtained reports from three different hospitals concerning his having being subjected to torture while under custody, the police officers tried by the High Criminal Court of Siirt, were sentenced to one year in prison and 2.5 months of prohibition of public employment and their prison sentence was reduced to 10 months and postponed. Another trial on police violence whose sentence was decided in this period concerned the incidents that happened in the Digor district of Kars on August 14, 1993 that ended in the deaths of 17 people and the wounding of 63 people. In this trial, special operation police who opened fire on crowds were prosecuted without arrest and were acquitted at the end of the trial. The relatives of those who died petitioned the European Court of Human Rights in 2004, and Turkey, accepting that "security forces had resorted to disproportionate use of force," proposed an amicable settlement and paid a fine. The last trial to be mentioned here is the acquittal of special operation police who on November 21, 2004 shot and killed Ahmet Kaymaz, on the grounds that he was preparing to carry out an action, and the 12 year-old Uğur Kaymaz.[92] In all these events, in all of which the right to life was violated and resulted in death, acquittals were based on police officers' claims, despite hospital certificates of torture and the fulfillment of conditions that would later result in Turkey being convicted by the European Court of Human Rights.[93]

Reports by the Human Rights Foundation for Turkey and the Human Rights Association make it clear that the majority of trials on police violence end in acquittals. Police officers resorting to violence are either not

91 Sönmez, 2005, p. 549.

92 *Radikal*, February 11, 2006; *Radikal*, February 24, 2006; *Radikal*, March 7, 2007; *Radikal*, March 19, 2007.

93 According to data supplied by the Human Rights Foundation of Turkey, of 7,597 trials concluded in the period 1994-2001, 1,347 of which were torture cases and 3,828 mistreatment cases, 5,175 were concluded with no punishment. The rest consist of fines and postponed sentences. For the press release, see:
<http://www.tihv.org.tr/index.php?option=com_content&task=view&id=1301&Itemid=69>. The vast majority of torture and mistreatment cases can therefore be said to have gone unpunished. Moreover, since the filing of cases on torture and mistreatment were subject to permission until 2003, the number of cases filed does not reflect the number of complaints.

prosecuted, are acquitted, or receive short sentences that are converted into fines or dropped. These examples demonstrate the impossibility of using accountability mechanism against police officers who arbitrarily resort to violence, thereby increasing such incidents.

A COMPARATIVE EVALUATION

Although prior to 1980 the police force in Turkey was expanded and strengthened to a degree via the foundation of the Society Police in 1965 and a number of subsequent legal reforms, the *coup* of September 12, 1980 was a turning point. Following the *coup*, the police organization was given greater prominence among state institutions, it was expanded and strengthened via new units and technological weapons, and it was militarized. However, this prominent transformation was not characteristic of Turkey only. When we look at the re-structuring process undergone by the US and UK, centers of global capitalism, as of the late 1970s, we see that this transformation was part of a bigger process taking place in the West. In this phase, which can be defined as neo-liberalization, the state endeavored to achieve sustainability for the delicate balance of the newly established network of social relations via authoritarian and violent methods, it defined the existence of broad masses living on or beneath the poverty line as acceptable, and it attempted to keep under control and repress the social issues arising from these situations (for example, an increase in crime and in the use of violence, an intensification of certain types of crime, etc) via a stronger police organization. While poverty was criminalized, separate fronts were created in society and efforts were made via "preventive policing" for "acceptable citizens" to side with the police. Those on the opposite side were frequently subjected to high levels of police violence through militarized methods/equipment and with the discretion granted by broad powers.

In Turkey, which closely follows the US and UK policies on the police,[94] the police expanded and became militarized within a neo-liberalization process that combined with conditions specific to Turkey. The organizational style and the conjunctural practices of a state dominated by a military bureaucracy, and the nationalist, conservative characteristics of the dominant mentality formed the foundations of this process. The sectors of society that were excluded as "unacceptable" and systematically subjected to police violence included not only a number of syndicates and left-wing individuals, but also wide masses that generally overlapped with the impoverished sectors of society that laid claim to an ethnic/religious identity separate from the "Sunni Turk" identity. As can be inferred from the police sub-culture and from police practices, Kurds, Alawis and non-Muslims who resist "homogenization" and "depoliticization" occupy a significant part of these masses. Districts mostly inhabited by refugees and impoverished Romas and Kurds who were forced to migrate were also systematically subjected to violence, considered to be disrupting the stability of a social order founded on exploitation.

When we look at the period between 2006-2008, we see that systematic police violence against these sectors continued and that priority was given to preventive "community policing." Moreover, the police authority was greatly expanded via amendments to the PVSK and the TMK. Thanks to these broad powers, the police was able to establish even stronger control over society and police violence continued to be part of daily life. Besides physical police violence taking place in various environments, many deaths also resulted from the police's frequent use of firearms on the grounds of not heeding a warning to stop. The broad field of movement granted to the police to reduce "risks" arising within society as a result of the implementation of these power strategies has transformed the violation of the right to life into a threat that all individuals may suddenly encounter during daily life.

94 See Berksoy, 2007.

OTHER INSTITUTIONS

The Village Guard System as a "Security" Policy

Dilek Kurban

The village guard system, which has been in force in Turkey since 1924,[1] has only become a subject of political and social debate since the "provisional village guard system" came into force in 1985.[2] Through an amendment to the Village Law, the National Assembly granted the government the authority to recruit provisional village guards when necessary, and the Turgut Özal government promptly made use of this authority, establishing the provisional village guard system on June 27, 1985.[3] Launched following the PKK's Eruh Raid in 1984, this system has since become one of the fundamental pillars of the state's military policy concerning the Kurdish issue. The armed clashes that began in 1984 between security forces and the PKK escalated with the declaration of a State of Emergency in 1987, and in the first half of the 1990s reached a peak both quantitatively and qualitatively. Except for short-term periods of no clashes, resulting from the PKK's unilateral ceasefire declarations, provisional village guards have always fulfilled a very important function in terms of the state's security policy.

The legal amendment dated March 26, 1985, through which the provisional village guard system came into force, identified the grounds for this practice as: "the emergence in villages or in their surroundings, [and] in provinces to be identified by the Cabinet of Ministers, of serious indications of reasons and violent activities requiring the declaration of a state of emergency, or an increase for whatever reason in assaults against villagers' lives and properties."[4] The government was therefore granted the authority to employ "a sufficient number" of provisional village guards at the governor's proposal and with the approval of the Ministry of Internal Affairs; the law not only provided legal grounds for the state of emergency that would be declared two years later, it also gave the government broad powers with indefinite limits. The law did not state the reasons that could require the declaration of a state of emergency, it did not provide the executive power with any guidance on "serious indications" of violent activities, and it did not provide any legal criteria on the kind and/or amount of increase in assaults on villagers' lives and properties that would require the employment of village guards. Most importantly, the law left the whole process regarding the recruitment of village guards to the administration's discretion and authority and did not grant the legislative power any approval or oversight authority. The principle that decision-making processes should be subject to democratic oversight mechanisms, valid in all democratic regimes based on a state of law, was therefore disregarded throughout the security policy on which the fight against the PKK was based and the government was left free to make use of nearly unlimited powers.

There are two types of village guards in Turkey - provisional and voluntary – both of which find their legal basis in the Village Law but which differ from each other based on their rights, powers and recruitment mechanisms.

THE PROVISIONAL VILLAGE GUARD SYSTEM

When the village guard system is mentioned in the context of the Kurdish issue, it generally refers to the provisional village guard system.[5] Provisional village guards are recruited in provinces under the state of emergency, at the proposal of relevant governors, with

1 "Village Law," No. 442, dated 1924.

2 "Law on the Addition of Two Paragraphs to Article 74 of the Village Law," No. 3175, dated March 26, 1985 (Law No. 3175).

3 Decision No. 9632, dated June 27, 1985, by the Cabinet of Ministers. Reply No B050TİB0000001/285 and dated June 20, 2003, by the Ministry of Internal Affairs, to the written motion dated May 26, 2003, by CHP Diyarbakır MP Mesut Değer.

4 Law No. 3175, Article 1(1).

5 For an evaluation on the village guard system, see Turgay Ünalan et al, "Türkiye'nin Yerinden Edilme Sorunu: Sorun, Mevzuat ve Uygulama" (Internal Displacement in Turkey: the Issue, Policies and Implementation) within Dilek Kurban et al, "Zorunlu Göç" ile Yüzleşmek: Türkiye'de Yerinden Edilme Sonrası Vatandaşlığın İnşası (Coming to Terms with Forced Migration: Post-Displacement Restitution of Citizenship Rights in Turkey), pp. 76-78.

the approval of the Ministry of Internal Affairs,[6] and by the decision of the Cabinet of Ministers. From an administrative point of view, provisional village guards answer to village headmen, but professionally they are subordinate to the gendarmerie commander responsible for the village where they are employed.

The duties and responsibilities of provisional village guards are established via a regulation.[7] Prerequisites for becoming a provisional village guard are stated as follows in this regulation: 1) Being a Turkish citizen, 2) Being literate in Turkish, 3) Having completed obligatory military service, 4) Not being younger than 22 or older than 60, 5) Not being deprived of public rights, 6) Not having been sentenced for any crime, 7) Not having participated in any destructive, separatist, or reactionary activity, 8) Being known as good natured and not displaying any ill-natured characteristics such as being quarrelsome or getting drunk, 9) Being a resident of the village where one will be employed, and 10) Documenting via a health certificate the absence of any physical or mental illnesses, or physical infirmity or disability that may prevent the fulfillment of duties.[8] The degree of compliance with these conditions is an open question. The fact that young people and even children are employed as provisional village guards, that many village guards have committed judicial and political crimes, and that their recruitment takes place very rapidly, without sufficient time to verify all ten prerequisites, raise doubts about the public administrators' compliance with the regulations, especially Articles 4, 6 and 10.

Provisional village guards armed by the state are paid regular monthly salaries[9] and they receive clothes and food from time to time.[10] In the event that provisional village guards are injured, disabled, or die on duty, they or their families receive monetary compensation and monthly salary from the state.[11] The provisional village guard system's yearly cost to the state is estimated at around TL 300 million (approximately 190 million USD).[12]

VOLUNTARY VILLAGE GUARDS

Village guards employed by the state to provide support to the security forces in their fight with the PKK are not limited to provisional village guards. Voluntary village guards are another category of village guards employed in the region. Unlike provisional village guards, voluntary village guards do not receive a regular salary from the state;[13] however, like provisional village guards, they are armed by the state and employed in the fight against the PKK. Voluntary village guards have been largely overlooked by public opinion and the press. As in the case of provisional village guards, the Village Law also provides the legal basis for the recruitment of voluntary village guards. According to the law,

> In the event that raiders and brigands emerge during harvest times, in order to protect the village inhabitants from looting, the village headman and the village council allocates the necessary number of village guards from among villagers who are able to use arms and submit the list of names to the district governor. When permitted by the district governor, these voluntary village guards protect the village and the villagers from raiders and brigands alongside the main village guards.[14]

What the original 1924 law envisioned was therefore to form a kind of voluntary army to protect inhabitants in the provinces from raiders and brigands. When the political, geographical, military and social circumstances of that time are taken into consideration, it is clear that

6 "Regulation Explaining the Application of Provisional Article 9 Added to Law No. 6136 via Law No. 4178," Official Gazette No. 22763, dated September 20, 1996, Article 3 (k): "Provisional village guards: village guards appointed in accordance with Article 74 of Law No. 442 and with Ministry approval.

7 *Ibid*, Article 9. According to this article, the duties of village guards are as follows: a) Identifying those who attack and violate villagers' lives, properties and security measures, pursuing them, notifying as soon as possible the village headman or the closest gendarmerie unit, preventing them from fleeing or hiding and apprehending them with the help of villagers and of village constabulary, b) Apprehending suspects while the crime is being committed or immediately afterwards, before their traces are lost, c) Taking measures to prevent the obfuscation of evidence in events related to law enforcement forces, d) Notifying the village headman and the closest gendarmerie unit as soon as information is obtained on natural disasters such as fires, floods, earthquakes, landslides and avalanches, e) Conducting researches on the business and relations of former convicts or suspects living in the village, following up on draft dodgers, providing the village headman or the gendarmerie with any information obtained, f) Taking measures to prevent attacks of all kinds on vineyards and orchards, and roads leading to them, drinking water facilities, power distribution units and common properties of the village, wells, water dams and canals and other similar village facilities and assisting general and special law enforcement forces in the protection of these facilities.

8 "Regulation on Village Guards," Article 5.

9 In 2005, the average monthly salary of provisional village guards was of TL 365. Reply No. B050TİB00000001/491, dated June 14, 2005, by the Ministry of Internal Affairs to the written motion by the Izmir MP Türkan Miçooğulları (Ministry of Internal Affairs, June 2005).

10 Ertan Beşe, "Geçici Köy Koruculari" (Provisional Village Guards) within Ümit Cizre (ed.), *Almanak Türkiye 2005: Güvenlik Sektörü ve Demokratik Gözetim* (Almanac Turkey 2005: Security Sector and Democratic Oversight), pp. 134-143 and 136.

11 "Regulation on Village Guards," Article 13 (2), referring to "Law on the Assignment of Monetary Compensation and Monthly Salaries", No. 2330.

12 Ertan Beşe, "Geçici Köy Koruculari" (Provisional Village Guards), p. 136.

13 Reply No B050TİB00000001/538, dated December 24, 2003 by the Ministry of Internal Affairs, Social Relations Department, to the written motion No. 7/1471-3645 by CHP Diyarbakır MP Mesut Değer (Ministry of Internal Affairs, December 2003).

14 "Village Law," Article 74(1).

the new Republic developed such a system to control Kurdish rebels who took up arms against it because it did not yet have a professional army.

But when we look at the present day, we see that the practice of voluntary village guards has been somewhat adapted to the changing political circumstances. The current objective is the fight against the PKK. Unlike provisional village guards who are appointed by decision of the Cabinet of Ministers, voluntary village guards are appointed by decision of local public administrators.[15] The voluntary village guard system is therefore exempt from the oversight of not only the legislative power but also the central government, and it is completely subject to the discretionary power and authority of local public administrators. Indeed, for people to become voluntary village guards, all they need to do is to petition the district governor on the grounds that they are concerned for their own or their families' security and they have a clean record. If these prerequisites are met, and provided that the security force (gendarmerie) confirms that there is a security concern in the village in question, petitioners can be recruited as voluntary village guards and given arms.[16] While provisional village guards are able to participate in operations led by the gendarmerie outside their villages, voluntary village guards are only allowed to carry arms within their own village in order to ensure their own security or that of their family.

TRAINING OF VILLAGE GUARDS

Another fundamental issue concerning both the provisional and the voluntary village guard systems consists of the arming of individuals who have not received basic weapons training. Unlike official security forces such as the army and the police force, village guards do not receive any ethical, technical, or other training on core matters such as the use of firearms, the apprehension of criminals, and protecting civilians during armed conflicts; the only training they receive consists of training "for a certain period," provided before duty or on duty, when required.[17] Neither the content nor the length of this training is established by law; procedures and principles are left to the discretion of the General Command of the Gendarmerie.[18] The village guards that TESEV's Research and Monitoring Group on Internal Displacement in Turkey[19] interviewed during fieldwork conducted in the Sason district of Batman, where there is a high concentration of village guards, stated that their training lasted 15 days, that only male village guards were subject to "training," and that security forces did not provide any training to village guard families' women or children, who are also armed.[20]

NUMBERS OF PROVISIONAL AND VOLUNTARY VILLAGE GUARDS IN THE REGION

There are no accurate data on the number of people employed as provisional or voluntary village guards in the region since 1985, when the provisional guard system was initiated. The only public information about the number of provisional and voluntary village guards is from replies given to motions presented to the Ministry of Internal Affairs by Members of Parliament. Another source on the number of village guards are the replies provided by the Ministry of Internal Affairs to the requests for information made by TESEV's Research and Monitoring Group on Internal Displacement in Turkey.

According to the Ministry of Internal Affairs's reply to a June 20, 2003 motion, as of that date a total of 58,511 provisional village guards were employed in 22 provinces.[21] According to the Ministry's reply to another motion, as of June 14, 2005, this figure had dropped to 57,757.[22] According to Ministry information obtained by the TESEV Research Group, as of April 7, 2006, this figure had dropped a little further, to 57,174. This decrease is due resignations (162), dismissals (317), "death on duty" (2) and other reasons.[23]

15 *Ibid*, Article 3(j): "Voluntary village guards: village guards appointed by public administrators, in accordance with Article 74 of Law No. 442."

16 This information was obtained during interviews held by the TESEV's Research and Monitoring Group on Internal Displacement in Turkey with public administrators, gendarmerie officials and village guards employed in the Sason district of Batman. For an evaluation of these interviews, see Ayşe Betül Çelik, "Batman İli Alan Araştırması Değerlendirmesi: Ülke İçinde Yerinden Edilmenin Sosyo-Ekonomik Sonuçları ve Geri Dönüş Önündeki Engeller," (Evaluation of Fieldwork Conducted in the Province of Batman: The Socio-Economic Consequences of Internal Displacement and Obstacles to Return) within Dilek Kurban *et al*, "Zorunlu Göç" ile Yüzleşmek: Türkiye'de Yerinden Edilme Sonrası Vatandaşlığın İnşası (Coming to Terms with Forced Migration: Post-Displacement Restitution of Citizenship Rights in Turkey), pp. 177-195.

17 "Regulation on Village Guards," Article 11 (3).

18 *Ibid*.

19 The following are the members of the group which came together between 2004-2006 to conduct a research on forced migration within TESEV: A. Tamer Aker, Ayşe Betül Çelik, Dilek Kurban, Turgay Ünalan ve Deniz Yükseker.

20 For an evaluation of these interviews, see Ayşe Betül Çelik, "Batman İli Alan Araştırması Değerlendirmesi" (Evaluation of Fieldwork Conducted in the Province of Batman)

21 Reply No. B050TİB0000001/285, dated June 20, 2003 by the Ministry of Internal Affairs to a written motion dated May 26, 2003, by Diyarbakır MP Mesut Değer (Ministry of Internal Affairs, June 2003).

22 Ministry of Internal Affairs, June 2005.

23 E-mail reply by the Ministry of Internal Affairs, Social Relations Department, to Deniz Yükseker, member of the TESEV Research Group, April 24, 2006.

According to the Ministry of Internal Affairs, as of November 30, 2003, there were 12,279 voluntary village guards in the 14 provinces[24] under a state of emergency between July 10, 1987 and November 30, 2002.[25,26] Inferring from these official data, the provisional village guard system is valid for 22 provinces in the region, while the voluntary village guard system is implemented in the 14 provinces within the state of emergency area.

The distribution of provisional and voluntary village guards by province reveals an interesting picture:[27]

TABLE 1: DISTRIBUTION OF PROVISIONAL VILLAGE GUARDS BY PROVINCE (AS OF JUNE 20, 2003)

Diyarbakır*	5.274	**Şırnak***	6.835	**Batman***	2.943
Bingöl*	2.533	**Bitlis***	3.796	**Mardin***	3.360
Muş*	1.918	**Siirt***	4.680	**Van***	7.365
Hakkari*	7.643	**Tunceli***	386	**Adıyaman***	1.510
Ağrı*	1.881	**Ardahan**	96	**Elazığ***	2.115
Gaziantep	565	**Iğdır**	374	**K. Maraş**	2.267
Kars	578	**Kilis**	34	**Malatya**	1.392
Şanlıurfa	966				
				TOPLAM	**58.511**

*** Shows provinces governed by a state of emergency**

This table refutes the official discourse asserting that provisional village guards are recruited in order to ensure the population's security. When there were 386 village guards in Tunceli, which was one of the provinces most affected by armed clashes, there were 2,267 village guards in Kahramanmaraş, which was not under a state of emergency (not to mention the fact that whether it was affected by the war was debatable). Even if the low number of village guards in Tunceli were due to its unique special structure and its residents' hostility to the village guard system, the employment of village guards in Kahramanmaraş, Kilis, and Gaziantep is questionable.

TABLE 2: DISTRIBUTION OF PROVISIONAL VILLAGE GUARDS IN PROVINCE UNDER THE STATE OF EMERGENCY (AS OF JUNE 20, 2003)

Diyarbakır	5.274	Şırnak	6.835	Batman	2.943
Bingöl	2.533	Bitlis	3.796	Mardin	3.360
Muş	1.918	Siirt	4.680	Van	7.365
Hakkari	7.643	Tunceli	386	Adıyaman	1.510
Ağrı	1.881	Elazığ	2.115		
				TOTAL	52.239

As of December 2003, the distribution of voluntary village guards in 12 provinces under the state of emergency[28] was as follows:[29]

TABLE 3: DISTRIBUTION OF VOLUNTARY VILLAGE GUARDS IN PROVINCES UNDER THE STATE OF EMERGENCY (AS OF DECEMBER 2003)

Diyarbakır	1.141	Şırnak	2.330	Batman	1.019
Bingöl	69	Bitlis	2.984	Mardin	1.226
Muş	2.375	Siirt	460	Van	189
Hakkari	5	Tunceli	89	Elazığ	392
				TOTAL	12.279

CRIMES COMMITTED BY VILLAGE GUARDS

In a reply to a motion presented in 2003, the Ministry of Internal Affairs stated that the reason for the provisional village guard system was "to protect the lives and property of citizens who live in settlements for which security forces cannot provide sufficient physical protection or that are difficult to access."[30] In other words, protecting the region's citizens and their property is the fundamental justification for this practice. The state has asserted that the main duty and function of provisional village guards is to protect the Kurds living in the region and to prevent that they are harmed.

However, far from protecting civilians in the region, provisional and voluntary village guards have committed a great number of very serious crimes against the civilian Kurds, whose villages they forcibly evacuated, whose houses, fields and forests they burned, and whom they tortured, "disappeared," and killed, as well as against the whole of society and the state, by aiding and abetting the PKK. Indeed, the recent massacre of 44 villagers in the Bilge (Zanqirt) village of the Mazıdağı district of Mardin on 4 May 2009 has resulted in the village guard system being examined and debated as never before. The fact that both the perpetrators and the victims were village guards and that the arms used in the

24 These provinces were Adıyaman, Ağrı, Batman, Bingöl, Bitlis, Diyarbakır, Elazığ, Hakkâri, Mardin, Muş, Siirt, Şırnak, Tunceli and Van.

25 The State of Emergency declared in 1987 was abolished gradually from 1999 onwards and completely in 2002.

26 Ministry of Internal Affairs, December 2003.

27 Ministry of Internal Affairs, June 2003.

28 The table contains data from only 12 out of 14 provinces.

29 Ministry of Internal Affairs, December 2003.

30 Ministry of Internal Affairs, June 2003.

massacre belonged to the state has revealed the links between the village guard system and crime. Human rights violations committed by village guards against Kurdish civilians have also been confirmed by dozens of convictions at the European Court of Human Rights[31] and the common and political crimes they have committed have been confirmed by official data supplied by the Ministry of Internal Affairs and the 1995 report of the National Assembly's Research Commission investigating unresolved murders.[32] According to this report,

> Some village guards have assisted illegal organizations, out of fear or unwillingly, while also receiving their monthly salaries from the state. Some have made use of their identity as village guards to conduct arms and drugs trafficking, confident that they would avoid being searched. The majority of the region's arms and drugs trafficking is currently under the control of village guards. Influential people in the region have used the village guard system as a basis for their dominance, and clan chiefs employed as chief village guards have been able to flout the law more than before, cruelly subjecting their opponents to oppression and denouncing them as PKK members to the security forces. Some village guards have even murdered villagers with whom they had blood feuds, claiming that they were PKK members, or have oppressed them and forced them to abandon their villages.[33]

According to the Ministry of Interior, between the beginning of the provisional village guard system in March 1985 and April 2006, a total of 5,139 provisional village guards committed crimes. The breakdown of these crimes is as follows: 2,391 for crimes of terrorism, 1,341 crimes against individuals, 964 crimes against property, and 443 smuggling crimes. As of April 2006, only 868 had been arrested.[34] According to the Ministry of Internal Affairs, in the 18 years between 1985-2003, legal action was taken against 4,804 village guards who committed crimes;[35] 2,376 of which were ordinary crimes, while 2,375 consisted of aiding and abetting the PKK.[36] On the other hand, there is no information on what the "action" actually is. The impunity so common for Turkish security forces implicated in crimes and human rights violations has also extended to provisional village guards.

Some official data exist also regarding crimes committed by voluntary village guards. As of 2003 there were 12,279 voluntary village guards, 264 of whom were convicted for "murder and attempted murder, opposition to Law No. 6136, opening fire in residential areas, and trafficking of forestry products and weapons," while 78 were convicted for aiding and abetting the PKK.[37]

Reports by national human rights organizations also reveal some data on the crimes committed by village guards. According to a special report published by the Human Rights Association, the breakdown of rights violations by village guards in the period 1990-2009 is as follows: village burning (38), forced evacuation of villages (14), harassment and rape (12), kidnapping (22), armed attacks (294), murder (183), wounding (259), making disappear (2), execution (50), robbery (70), torture and ill treatment (562), taking under custody (59), causing suicide (9), forest burning (17).[38]

While we have no information on whether or not village guards who have been arrested and convicted continue to be employed as village guards, the regulations do not include provisions on the dismissal of village guards who commit crimes. The only reasons for dismissal outlined in the regulation are lack of concern or laziness on duty, absenteeism without permission or excuse, and loss of arms or ammunition (including by allowing others to obtain them).[39] Committing a crime is not included in the list of reasons for dismissal. Therefore, not only is there no political will to dismiss village guards who have been involved in crimes, there is also no legislation upon which to base such dismissals. On the other hand, while according to the regulation it is forbidden for village guards to have a second job,[40] no punishments are

31 For an examination of decisions taken by the European Court of Human Rights regarding violations of rights during the force migration process, see Dilek Kurban, "Türkiye'nin Yerinden Edilme Sorununun Uluslararası İnsan Hakları Kurum ve Kuruluşlarındaki Yansımaları" (The Approach of National and International Organizations to Turkey's Internal Displacement Problem) within Kurban *et al*, "Zorunlu Göç" (Forced Migration), pp. 104-124.

32 Ülkemizin Çeşitli Yörelerinde İşlenmiş Faili Meçhul Siyasal Cinayetler Konusunda Meclis Araştırma Komisyonu Raporu (Report by the National Assembly Research Commission on the Unresolved Political Murders Committed in Various Regions of Turkey), No. 10/90 (principal), A.01.1.GEÇ/300-554, No. 10 (Decision), October 12, 1995.

33 Fedai Erdoğ, TBMM Faili Meçhul Siyasi Cinayetleri Araştırma Komisyon Raporu, (Report by the TBMM Commission for the Investigation of Unresolved Political Murders) p. 99, related by Ertan Beşe, "Geçici Köy Korucuları" (Provisional Village Guards), p. 141.

34 Ünalan, "Türkiye'nin Yerinden Edilme Sorunu" (Turkey's Displacement Issue), p. 77. This information was obtained by updating the figures in a reply by the Ministry of Internal Affairs to a written motion (Ministry of Internal Affairs, June 2005) in the light of information that the TESEV Research Group received from the Ministry of Internal Affairs in April 2006. Ibid.

35 Ministry of Internal Affairs, June 2003.

36 *Ibid*.

37 Ministry of Internal Affairs, December 2003.

38 Human Rights Association, Ocak 1990-Mart 2009 Döneminde Köy Korucuları Tarafından Gerçekleştirilen İnsan Hakları İhlallerine İlişkin Özel Rapor (Special Report concerning Human Rights Violations by Village Guards in the Period January 1990 – March 2009), May 8, 2009.

39 "Regulation on Village Guards," Article 17.

40 "Regulation on Village Guards," Article 16.

stipulated for those who violate this ban. Therefore, for village guards who have committed weapons or drugs trafficking, which may arguably not be considered to be a "job" but is certainly a source of income, the regulation does not stipulate any punishments, and if it is considered a "crime," it does not constitute a reason for dismissal.

THE ABOLITION OF THE VILLAGE GUARD SYSTEM?

International public opinion has long put pressure on the Turkish state to abolish the village guard system. With the European Union accession process, the village guard system has emerged as one of the major obstacles to Turkey's democratization and to the solution of the Kurdish issue. Both the European Commission[41] and the United Nations[42] have identified the abolition of the village guard system within the context of the Kurdish issue as a reform that Turkey needs to carry out in the short term. However, Turkey has never pledged to abolish the village guard system, either in the national programs prepared as a response to recommendations made in the European Commission's progress reports or in the laws and policies developed in order to fulfill the recommendations in the 2002 report of the United Nation General Secretary's Special Representative for Displaced Persons,. Indeed, the 2000 National Program does not make any references to the village guard system.[43] Although a decision by the Cabinet of Ministers -- which establishes the principles of the national policy for resolving the displacement issue, to be developed by the government to fulfill the pledges made to the United Nations -- refers to the village guard system, it only states that "within the context of the return to villages, complaints regarding provisional village guards will be given priority."[44] According to officials from the Ministry of Internal Affairs, this statement refers to village guards who harass victims of internal displacement returning to their villages.[45]

Nevertheless, over the last few years the government has been claiming that the recruitment of both provisional and voluntary village guards under the state of emergency area ceased as a result of a decision made in 2000 by the Cabinet of Ministers.[46] In other words, although the village guard system has not been and will not be abolished in the near future, no new village guards are being or will be recruited. On the contrary, however, the recruitment of voluntary village guards continues and has been increasing, especially over the last few years when armed clashes have escalated. Press reports, especially in the Kurdish media, concerning the continued recruitment of voluntary village guards in the east and southeast show that the decision by the Cabinet of Ministers was not translated into a real change in practice.[47] The findings of fieldwork conducted by the TESEV Research Group in the summer months of 2005 in the Sason district of Batman, where there is a high concentration of village guards, documented that recruitment of voluntary village guards is ongoing, at least in that district.[48]

Although it claims to have ceased the recruitment of village guards, the government continues to do so, at least in terms of voluntary village guards, and, through a

41 For the most recent report published every year by the Commission and evaluating Turkey's progress within the European Union access process, see European Commission, Turkey 2008 Progress Report, November 5, 2008.

42 In a report published after the 2002 working visit to Turkey by Francis Deng, the United Nation General Secretary's Special Representative for Displaced Persons, made a series of suggestions under seven headings for the government, on the solution of the problems of Kurds who have been forced to migrate (that is to say, who are internally displaced) The first of these recommendations consisted in the abolition of the village guard system. For Deng's report, see Specific Groups and Individuals Mass Exoduses and Displaced Persons, Report of the Representative of the Secretary-General on Internally Displaced Persons, Francis Deng, visit to Turkey, submitted pursuant to Commission on Human Rights resolution 2002/56, E/CN.4/2003/86/Add.2, 27 November 2002, Executive Summary. For a detailed evaluation of Deng's report, see Dilek Kurban et al, Güvensizlik Mirasının Aşılması: Devlet ve Yerinden Edilmiş Kişiler Arasında Toplumsal Mutabakata Doğru (Overcoming a legacy of mistrust : towards reconciliation between the state and the displaced).

43 European Union General Secretariat, "Avrupa Birliği Müktesebatının Üstlenilmesine İlişkin Türkiye Ulusal Programı ile Avrupa Birliği Müktesebatının Üstlenilmesine İlişkin Türkiye Ulusal Programının Uygulanması, Koordinasyonu ve İzlenmesine Dair Karar" (The National Program of Turkey with regard to the accepted European Union Acquis and the Implementation, Coordination and Monitoring of the National Program of Turkey with regard to the accepted European Union Acquis), No 2008/14481 (2008 National Program), Official Gazette, No. 27097, Re-issue No 5, dated December 31, 2008.

44 Cabinet of Ministers, "Yerinden Olmuş Kişiler Sorunu ile Köye Dönüş ve Rehabilitasyon Projesine Yönelik Tedbirler" (The Issue of Displaced People and Measures for the Return to Villages and Rehabilitation), Decision of Principle, August 17, 2005.

45 Ünalan, "Türkiye'nin Yerinden Edilme Sorunu" (Turkey's Displacement Issue) p. 76.

46 Bekir Sıtkı Dağ, "Mevcut Gelişmeler: Türkiye ve Yerinden Olmuş Kişiler" (Current Developments: Displaced People in Turkey), Displaced Persons Conference, UNDP, Ankara, February 23, 2006.

47 For example, in the summer months of 2005, when armed clashes resumed, the local press reported that 650 new voluntary village guards had been recruited in the Sason district of Batman, where there is already a high number of village guards. "Sason'da 2 bin 259 Korucu" (2,259 village guards in Sason), Batman Newspaper, June 16, 2005. According to report dated May 2007 by the Fırat News Agency, known for supporting the PKK, 50 voluntary village guards in the Şenoba town of the Uludere district of Şırnak were provided with arms. According to the report, it was decided that as these 50 people did not have the provisional village guard status, they would not be given a salary, but they would be given the Green Card, which is a free-of-charge health insurance provided by the state for destitute people with no regular income. ANF, "Şenoba'da 50 'gönüllü' korucuya silah verildi" (50 "voluntary" village guards in Şenoba have been provided with arms), May 17, 2007.

48 Ünalan, "Türkiye'nin Yerinden Edilme Sorunu" (Turkey's Displacement Issue), p. 77.

decision approved by the National Assembly in May 2007, it has also provided the legal grounds for re-initiating recruitment. The expiration of the PKK's unilateral ceasefire in May 2007 resulted in the resumption of armed clashes, thrusting the region into a state of war. This coincided with the lead-up to the general elections of July 22, at which time the AKP government was accused by the Turkish Armed Forces and some opposition parties of being ineffective in the fight against the PKK. In particular, the increase in deaths among security forces intensified pressure on the government to conduct a cross-border military operation in the area of Iraq under the control of the Kurdistan Regional Government. Under such pressure, the government presented the National Assembly with a draft bill to amend the Village Law. The bill was quickly approved by the National Assembly and entered into force on June 2, 2007.[49]

The amended law gives the government the authority to recruit up to 60,000 additional provisional village guards "in the event that serious indications are seen, in a village or in its surroundings, of reasons or violent actions that would require a state of emergency or that there has been an increase in attacks, for whatever reason, on villagers' life and property" and "at the proposal of the governor and with the approval of the Minister of Internal Affairs."[50] In other words, the recruitment of new provisional village guards has been attributed once again to the need to ensure the security of the civilian population and the region in general.

This legal amendment, made in one of the most tumultuous periods in Turkey's political life, was not presented to the public and has been largely overlooked. However, the new law invalidates the decision by the Cabinet of Ministers to cease recruiting provisional village guards and renders meaningless the government's pledge to the United Nations and the European Union to abolish the village guard system. Government officials responding to questions about this law have claimed that the real objective of the law was not to recruit new village guards but to provide existing ones with social security. Although the provision of village guards with a retirement pension may be reasonable and understandable,[51] why the law was not limited to this purpose but also allowed for the recruitment of new village guards is questionable. According to official figures, there are currently close to 70,000 provisional and voluntary village guards; the government's new authority to recruit up to 60,000 new village guards renders invalid, or at least inadequate, the government's reason for the new law.

THE SECRECY OF THE VILLAGE GUARD SYSTEM

The officially recognized existence of a secret regulation is probably the most debated aspect of the village guard system. In a reply to a motion by Mesut Değer, former Diyarbakır MP for the CHP, then-government spokesman Cemil Çiçek stated that the regulation was classified as secret "because the publication in the Official Gazette of the Regulation on Provisional Village Guards, which regulates the appointment, area of duty, jobs, responsibilities, training, and dismissal of personnel to be employed in the prevention of terrorism would bring about a number of drawbacks."[52] Referring to Article 124 of the Constitution and to the law stipulating which regulations should be published in the Official Gazette, Çiçek said that the secrecy of the regulation was in line with the law because "it concerns national safety and national security," and "it is classified as secret."[53]

Setting aside the question as to why there should be a separate regulation, in addition to the 2000 "Regulation on Village Guards" covering issues such as the employment, duties, responsibilities, and dismissal of village guards, its secrecy violates the concept of a democratic state of law. Instead of putting an end to this secrecy, however, the AKP government has made secret the new regulation coming out of the June 2007 amendment in June 2007 of the Village Law, passed by the Cabinet of Ministers on January 9, 2008.

CONCLUSION

The village guard system, which has been in force in the east and southeast of Turkey for close to 25 years, constitutes one of the most striking indicators of the state's security-based approach to the Kurdish issue. By putting forth reasons such as "protecting civilians" and "ensuring security in the region," the state has aimed to divide the entire population of the region into "supporters of the state" and "supporters of the PKK" (or at least "opponents of the state"), thereby weakening the PKK. During the forced eviction of the 1990s, in which more than one million people were forcibly displaced from their villages, the pressure exercised by security forces for civilians to either become village guards or abandon

49 "Law on the Amendment of the Village Law and of Certain Other Laws," No. 5673, dated May 27, 2007, Official Gazette No. 26450, dated June 2, 2007.

50 *Ibid*, Article 1 (2).

51 *Ibid*, Article 2.

52 Ertan Beşe, "Geçici Köy Koruculari" (Provisional Village Guards) p. 139.

53 *Ibid*.

their villages demonstrates that the village guard system is not a security measure but a policy of punishment, pressure, and intimidation against Kurdish civilians.

Another obstacle to the abolition of the village guards is that these groups of civilians armed by the state have, over time, become very strong – in some cases stronger than the state. By arming civilians, granting them very broad authority, and allowing them to commit crimes with impunity, in order to divide Kurds, the state has created a force that it cannot control and an unlawful situation that does not obey the principle of a state of law. This renders the village guard system dangerous not only for the region but also for the whole country.

Private Security

Mehmet Atılgan

A HISTORICAL OVERVIEW OF THE PRIVATE PROVISION OF SECURITY IN POLITICAL THEORY AND PRACTICE

From the late 1970s on, there was a noticeable increase in the number of private security companies globally and a significant expansion of their field of influence, a consequence of the transformation in the last quarter of the 20th century of "nation-state"-centered systems that had become dominant in the West from the 16th century on. Along with the rapid globalization of the world economy and the rise of neo-liberalism, security became a commodity with a market value, whose nature was determined by principles such as individual enterprise and circumspection. The field of security, which for almost a century had been perceived as off-market, gradually began to be included in market transactions, as were education and health, previously considered social services to be provided by the state in welfare societies.

However, saying that the private provision of security is a concept that has only recently emerged or that it results from the contraction of the state would oversimplify a complex political issue. In fact, examining modern and pre-modern political practice reveals many examples where structures considered private or non-state by conventional Western political thought played an active role in the use of force and the provision of security. So much so that in many different periods of history the state's monopoly in the use of force emerges as an exception, or even a historical aberration, rather than the rule.[1] Especially in the pre-modern period, when states formed neither administrative structures nor regular armies made possible through compulsory military service, the use of mercenaries, a practice shaped by the market and international trade, enabled states to use qualified soldiers from "non-state" sources in wars and to provide security. The private provision of force developed into a routine aspect of international relations before the 20th century.[2]

The Westphalia Peace Treaty of 1648 -- the system prevailing in Europe and over time throughout the world that considered the modern state to be the main provider of security -- envisioned that in order to create regular armies that could be relied on to fight wars or ensure domestic security, from the beginning of the 18th century on states would increasingly exert a monopoly over the use of force.[3] In the period between the second half of the 19th century and the last quarter of the 20th century, the distinguishing characteristic of states lay in their adoption as never before of a collectivist and interventionist approach in the organization of political and economic relations.[4] However, states continued to make use of non-state, private military resources in the general provision of domestic and foreign security.

The state's relatively recent monopoly over violence is an aberration in the context of the nation-state as well as in terms of domestic security. A draft bill prepared by the French government after the 1789 Revolution asserted that because of the complexity of industrial relations, employers responsible for the administration of labor needed to be granted the authority to regulate all relations concerning production and work, including security.[5] Similarly, a decree issued by Napoleon in 1810 stipulated that when private enterprises were granted the right to operate national mines, they needed to ensure order and security among miners.[6] On the other hand, according to Marx's and Engels' observations, in the relatively flexible legal and political environment of England in the first half of the 19th century, local courts of peace granted applicability to the sanctions that factory owners imposed on workers through "special criminal

1 Singer, 2003, p. 39.
2 Zabcı, 2006.
3 Schreier and Caparini, 2005, p. 1.
4 Gordon, 1991, p. 33.
5 Gordon, 1991, p. 25.
6 Agy, pp. 26-7.

codes."[7] In this period, when England underwent rapid industrialization, the security of many factories was provided by "overseers" privately appointed by factory owners. These "private security" forces, preferred by many private sector entrepreneurs because they were easy to steer and cheap to employ, continued to provide the security of many factories even after 1829, when the central police force was created in England.[8] In the USA, on the other hand, when the central police force first established in 1844 was found to be inadequate and corruption became widespread among police officers, the number of private police companies formed as of 1892 to compensate reached 15 in Chicago and 20 in New York.[9] In the period up to the last quarter of the 20th century, it is possible to encounter many examples where private persons or organizations such as mercenaries, private police companies, and security companies engaged in state-sanctioned violence or provided security.

On the other hand, unlike the period between the 18th century and the 1970s, when world states increasingly monopolized violence in order to use it in wars or to ensure domestic security and adopted a collectivist and interventionist attitude as never before in the regulation of political and economic relations, nowadays it can easily be said that a much more complex order has developed where wars, conflicts, and security in general have been privatized or have been taken over by non-state structures.[10] The emergence of such an order cannot be considered independently from neo-liberalism, which developed as a reaction to the Keynesian political practice prevailing after World War II and commonly known as the welfare state. Neo-liberalism aims to render more effective the role of individual initiatives in the provision of security by putting on the market fields generally perceived as off-market.[11] In welfare societies, besides health and education, the responsibility of ensuring the security of individuals' lives and properties, taken on by the state's official apparatus, is increasingly imposed on individuals themselves, through "self-policing."[12] Enterprising, "cautious," and "responsible" individuals, who are "customers" rather than citizens, are increasingly using "private security" technologies, which are among neo-liberalism's market transactions regulating state forms, the scope of which can expand from manpower to surveillance cameras.[13]

However, in neo-liberalism's re-organization of the provision of security, the fact that "enterprising" individuals gain prominence as the fundamental element in the provision of security does not mean that the state's dominant role in the provision of security has ended.[14] Indeed, the roles given to individuals and other non-state elements in the provision of security is an inseparable part of neo-liberalism's indirect and informal management strategies, which sought to steer or control individuals not through direct interventions by the state's official apparatus but through other means.[15] The trend, commonly considered to be "the state's withdrawal," was actually a process through which the neo-liberal state consolidated its rule via new actors that indicated a radical change in conventional state definitions.[16] While throughout the modern period security was believed to be a service taken on by the state in isolation from social life, its increasing provision by private structures from the late 1970s onwards and its conversion into a commodity that can be bought and sold by individuals must be evaluated in the context of the transformation of the neo-liberal state through strategies intended to strengthen its administration.

LEGAL ARRANGEMENTS CONCERNING PRIVATE SECURITY IN TURKEY

Although Turkey made a number of initiatives from the 1960s onwards to regulate the private provision of security,[17] the matter was only legalized via Law No. 2495, dated July 22, 1981, on the Protection of Certain Bodies and Organizations and the Provision of their Security.[18] This law contains regulations to be followed by public and private bodies and organizations of strategic importance that form their own security units and organizations. With this law, public and private bodies and organizations that were previously protected by the police or the gendarmerie created their own units to more effectively ensure their security.[19]

During the more than 20 years since the entry into force of Law No. 2495, in parallel with neo-liberalism becoming

7 Agy, p. 27.
8 Godfrey, 2002, p. 101.
9 Mawby, 1999, p. 227.
10 Schreier and Caparini, 2005, p. 1.
11 Yıldırım, 2004, pp. 52-3.
12 Agy, p. 56.
13 O'Malley, 1996, pp. 201-2.
14 Yıldırım, 2004, pp. 52-3.
15 Lemke, 2002, pp. 1-2.
16 Agy, p. 11.
17 A draft bill presented to the TBMM in 1974 and debated in the Justice Commission was rejected on the grounds that the establishment of a private security organization would mean the state's confession to its inability to ensure public security (Derdiman, 2005, p. 31).
18 Official Gazette No. 17410, dated July 24, 1981.
19 Bal, 2004, p. 8.

the dominant ruling form, security in Turkey increasingly became commercialized and included in market transactions. There was an unprecedented proliferation of private security provision in Turkey,[20] especially from the 1990s onwards, when many private security firms were established despite the lack of specific legal regulations. Given theoretical criticism of Law No. 2495, problems experienced with the law in practice, and the Constitutional Court's annulment of some of the law's provisions, the law was amended twice, in 1992 and 1995. Although there were a few more attempts to amend the law, for a long time it was not possible to solve the legal loophole caused by the actual situation arising from the developing supply and the newly founded private security companies.

The entry into force of the first law specifically and comprehensively regulating the private security sector happened only in 2004. Law No. 5188 on Private Security Services,[21] prepared in order to effectively regulate the growing special security sector, and to meet needs regarding private security arising both in the sector and in society, was approved on June 10, 2004.[22] The law's intent is to "Ensur[e] security of public life and property is in principle one of the most important duties of the state. On the other hand, individuals also possess the right to protect their life and property. Individuals who wish to protect their life and property, over and above the general security provided by the state, must be granted this ability."[23] This statement is an indication that the neo-liberal understanding that instrumentalizes not only the state's official security apparatus but also individual initiatives to ensure security, had a determining influence on the law.

Law No. 2495 (the 1981 law allowing public and private organizations of strategic importance to form their own security units) was annulled on the basis of Article 27 of the Law which came into force on March 27, 2005. In addition to Law No. 5188, legislation on private security consists of the Regulation of the Implementation of Law No. 5188 on Private Security Services,[24] the Regulation of the Amendment of the Regulation on the Implementation of Law No. 5188 on Private Security Services,[25] Circular No. 42 from 2005 on the Principles To Be Taken into Consideration for Law No. 5188 and the Regulation of its Implementation, and Circular No. 47 from 2006 on the Principles To Be Taken into Consideration in the Oversight of Private Security Companies, Educational Institutions, and Units.

Following the formation of a legal foundation for the private security sector via Law No. 5188, there was a significant increase in the number of private security training and service companies and private security personnel. According to statistics by the Private Security Branch of the General Directorate of Security's Public Order Department, at the end of 2007, there are 28,660 places falling under police jurisdiction that have obtained permission for private security, 218,660 individuals who hold a private security identity card, 314,940 individuals who are certified to work in the private security industry, 167,931 allocated personnel, and 100,984 existing personnel.[26] In addition, there are 925 private companies and 516 training institutions operating in areas under police jurisdiction, while there are 12 companies and four training institutions operating in areas under the gendarmerie's jurisdiction.[27] These figures show that the private security sector in Turkey is growing rapidly and is among the biggest in Europe.

THE CONCEPT OF PRIVATE SECURITY AND LAW ENFORCEMENT

Security instruments in Turkey are generally classified on the basis of the law enforcement concept. The various law enforcement forces covering all the instruments of violence, empowered by the state to ensure security, are defined by law. Law No. 3201 on the Law Enforcement Organization, accepted in 1937,[28] stipulated that the duty to ensure public order and security, generally conferred to the Ministry of Internal Affairs, according to Law No. 5442 on Public Administration, belongs to governors in provinces and to district governors in districts.[29] Governors and district governors are responsible for ensuring security through the police force and the gendarmerie.[30] According to Article 3 of Law No. 3201, law enforcement forces are organizationally divided into general and private forces. General law enforcement forces include the police force, the gendarmerie, and the coast guard forces which operate throughout the country

20 Bal, 2004, p.10.
21 Official Gazette No. 25504, dated June 26, 2004.
22 Meriçli, 2004, sp. 6.
23 Turkish Grand National Assembly. "Özel Güvenlik Hizmetlerine Dair Kanun Teklifi ve Gerekçesi" (Draft Bill and Legislative Intention on Private Security Services), May 26, 2004.
24 Official Gazette No. 25606, dated October 7, 2004.
25 Official Gazette No. 25806, dated May 5, 2005.
26 http://www.asayis.pol.tr/ozelguv_istatistik.asp#istatistik
27 http://www.asayis.pol.tr/ozelguv_istatistik.asp#istatistik
28 Official Gazette No. 36129, dated June 12, 1937.
29 Official Gazette No. 7236, dated June 18, 1949.
30 Kunter, Yenisey, Nuhoğlu, 2006, p. 390.

and hold all law enforcement powers.[31] This article also defines law enforcement forces that stand apart from the general forces; these private forces are established by special laws and use the limited powers they are granted within a limited area.[32] Municipal constabulary,[33] village guards and village watchmen,[34] protection forces for farmers' properties,[35] forest rangers,[36] and customs officers[37] are bodies and organizations included in the definition of private law enforcement forces.

When the existing legislation is examined, it is not possible to see clearly where to place private security units, organizations, and companies within the security diagram based on the above categories. According to Article 8 of Law No. 2495 on the Protection of Certain Bodies and Organizations and the Provision of their Security, private security organizations were defined as "private law enforcement [forces] responsible for protecting and ensuring the security of the organization they are affiliated with, within the clauses of this Law, and whose powers are limited by this Law;" these groups were included among "private law enforcement forces" as defined by Law No. 3201 on the Law Enforcement Organization.[38] However, Law No. 2495 was annulled by Law No. 5188 on Private Security Services. Law No. 5188 and related regulations and circulars do not contain any provisions on whether private security units, organizations, and companies should be considered law enforcement forces. From a legal aspect, Article 1 of Law No. 5188 clearly states private security's "complementary" function in ensuring public or general security: "The aim of this Law is to establish the procedures and principles concerning the fulfillment of private security services complementing public security."[39] It must be noted that private security personnel's crime-fighting duties and powers, regulated by Articles 7 and 9 of Law No. 5188, mean that they generally fulfill the duties of administrative and judicial law enforcement forces in the Turkish legal system.[40] From the point of view of fulfilling duties legally assigned to them with the aim of assisting law enforcement forces, private security personnel are considered private security units, but from the point of view of crimes against them they are considered public officials,[41] and strikes or collective dismissals have been forbidden because of disruptions that would be experienced in the event that they do not carry out their duties. When all these regulations are taken into consideration along with private security activities' oversight requirement by general law enforcement forces, the distinction between private security services and the law enforcement forces they assist is becoming increasingly blurred in practice.

PRIVATE SECURITY PERSONNEL'S AUTHORITIES AND AREAS OF DUTY

The presence of private security personnel in all spheres of life as an additional uniformed security force is an indication that the state's capacity to survey and oversee daily life has expanded, rather than narrowed, as commonly believed.[42] Private security forces, equipped with broad powers almost equivalent to that of law enforcement forces, are able to operate like law enforcement forces within their area of duty.[43] In addition, private security forces are also employed outside their area of duty, when necessary, to assist general law enforcement forces and complement public security, in line with orders issued by public administrators.[44] Turkey, like many other countries, resorts to private security companies to protect many

31 Özler, 2007, p. 364.

32 Eryılmaz, 2006, p. 126.

33 Law No. 5393 on Municipalities, Official Gazette No. 25874, dated July 13, 2005.

34 Village Law No. 442, Official Gazette No. 68, dated April 7, 1924.

35 Law No. 4081 on the Protection of Farmers' Properties, Official Gazette No. 4856, dated July 10, 1941.

36 Forestry Law No. 6831, Official Gazette No. 9402, dated September 8, 1956.

37 Statutory Decree No. 178, dated December 13, 1938.

38 Bal, 2004, p.10; Özler, 2007, p. 368.

39 Eryılmaz, 2006, p. 128.

40 Çolak, 2005, p. 58.

41 According to Article 23 of Law No. 5188, "From the perspective of the application of the Turkish Penal Code, private security personnel are considered civil servants. Those who commit a crime against them because of their duties receive punishment as if they had committed a crime against State employees."

42 Bora, 2004, p. 22.

43 According to Article 9 of Law No. 5188, private security personnel "… may use the powers listed in Article 7 only while on duty and within their area of duty. Private security personnel may not take their arms outside their areas of duty. Areas of duty include the route in situations where a route is in question, such as pursuing perpetrators of a crime or people who are suspected to be about to commit a crime, taking measures against attacks from the outside, the transport of money and valuable items, personal protection and funerals. Areas of duty may be expanded, when necessary, by decision of the Commission. General law enforcement forces are notified as soon as possible of incidents that require the use of force and of the authority to arrest; the people apprehended or the goods seized are turned over to the general law enforcement forces.

44 With the aim of ensuring law enforcement and public order, Article 1 of Law No. 3201 on the Law Enforcement Organization grants the Ministry of Internal Affairs the authority to make use of other law enforcements forces when necessary, as well as of the General Directorate of Security and the General Command of the Gendarmerie. According to Article 6, paragraph 2 of Law No. 5188, "The authority to ensure public security, granted by Law No. 5442 on Provincial Administration to governors and district governors, is reserved. In the event that this authority is enforced, private security units and private security personnel are obliged to carry out the orders of public administrators and of chiefs of general law enforcement."

official state institutions, such as the Court of Appeals and the Council of State, as well as private property, and municipalities around the country that have difficulties in obtaining sufficient constabulary forces from the state are increasingly making use of private security companies to ensure their security. Gradually handing over the protection services of all military offices and branches throughout Turkey from the Ministry of National Defense to private security companies is also in question.[45] All these practices indicate that the area of activity of private security firms is rapidly expanding, even covering official state institutions.

On the other hand, the powers of Turkey's general law enforcement forces, regulated by Law No. 2559 on the Police Force's Duties and Responsibilities[46] and considered the source of the powers of private security personnel, were greatly expanded by Law No. 5681 amending the Law on the Police Force's Duties and Responsibilities.[47] It is clear that this situation provides the basis for an unlimited restriction of individual rights and freedoms and for an excessive expansion of authority and arbitrariness. Given that there is ineffective external oversight and insufficient training of those employed in the private security sector, private security personnel frequently exceed their authority and violate individual rights and freedoms.

With the rapid expansion of the private security sector, there has been an increase in cases where private security personnel have exceeded their authority or used excessive force: including the following examples: a small girl accused of comitting a theft in the Şişli Cevahir Shopping Center was shut in a room and beaten;[48] officials from the Forestry Ministry were threatened at gunpoint when attempting to inspect the Beykoz Acarkent complex;[49] football fans who had wanted to unfurl a team flag on a ferryboat in Gebze were stabbed;[50] and unarmed young people forcing their way into a dormitory in the Elbistan district of Kahramanmaraş were shot at with a unlicensed service pistol, killing one and wounding two.[51] In universities, where, following the entry into force of Law No. 5188, security is no longer under police control but increasingly provided by private security firms, students' rights to carry out fundamental activities, such as putting up posters and organizing meetings, were obstructed. The legal re-structuring of private security personnel's authority in a clear and detailed way that would protect constitutional rights and freedoms is necessary for preventing these practices and protecting individual rights and freedoms.

STATE INFLUENCE IN THE PRIVATE SECURITY SECTOR

The fact that the administrators of private security companies and training institutions generally consist of retired official law enforcement personnel and that their employment in the private security sector is facilitated via legal regulations[52] shows that the state is endeavoring to control the private security sector more effectively by including its own personnel within the private security chain of command. Following the legalization of private security activities, many people who have retired from official state institutions have entered this sector as company owners or managers and some have even requested an early retirement with the expectation of a more profitable job. These retired civil servants, now owners or managers of private security companies, include a number of well-known people, among them retired Brigadier General Veli Küçük, arrested in January 2008 as part of the operation known as Ergenekon former Deputy Director of MIT's Foreign Operations, Yavuz Ataç, alleged to have provided the nationalist

According to Article 11 and 32 of Law No. 5442, governors in provinces and district governors in districts are the chiefs of general and private law enforcement forces and may employ these forces to ensure public security. Private security forces may be employed by general law enforcement forces in uncontrollable situations and temporarily (Derdiman, 2005, p. 42). Relations between private security personnel and general law enforcement forces are regulated in more detail by Article 13 of the Regulation on the Implementation of Law No. 5188. According to this article, "Public administrators hold the authority to oversee private security practices and private security measures with the aim of ensuring the security of public life and property and protecting public freedoms, to abolish practices exceeding the authority of private security personnel, and to request the changing of security measures or the addition of new measures... In cases where general security and public order are disrupted within their area of duty, private security personnel and administrators immediately notify general law enforcement forces. When it becomes clear that security of life and property is or is about to be seriously endangered in places whose protection and security is ensured by private security, public administrators employ general law enforcement forces. In such cases, public security personnel come under the orders of public administrators and chiefs of general law enforcement."

45 "Askere Özel Güvenlik' (Private Security for the Military), *Private Security*, April 2006.

46 Official Gazette No. 2751, dated July 1934.

47 Official Gazette No. 26540, dated June 2, 2007.

48 "Cevahir'de Zorbalık" (Despotism at Cevahir), *Radikal*, December 19,2006.

49 "Acarkent'e Tapu İptal Davası" (Land Deed Annulment for Acarkent), *Milliyet*, November 29, 2006.

50 "Vapurda Özel Güvenlik Terörü" (Private Security Terrorizes a Ferry), *Hürriyet*, November 24, 2006.

51 "Yurt Güvenlik Görevlisi, Zorla Girmeye Çalışan 3 Kişiyi Vurdu" (A Security Employee Shot Three People Forcing Their Way into a Dormitory), *Milliyet*, November 22, 2006.

52 According to Paragraf 3 of Law No. 5335 on the Amendment of Certain Laws and Statutory Decrees, the provision added to the end of Article 5, paragraph 3 of Law No. 5188, according to which "the prerequisite of being a graduate of a four year college is not necessary for active-duty officers," has made it easier for the members of some law enforcement forces to become founders or administrators of private security forces.

mafia leader Alaattin Çakıcı with a diplomatic passport; former Governor of Istanbul, Erol Çakır; former head of the Istanbul Region for MIT; retired Lieutenant Colonel Nuri Gündeş; and the former MIT Undersecretary, Sönmez Köksal. The OYAK Defense and Security Systems Incorporated Company (OYAK Security), part of the OYAK Holding, is cited among Turkey's 10 biggest security companies.[53]

Nihat Kubuş, the former Director of the Istanbul Narcotics Bureau and now the manager of a private security company, explains the logic behind the organization of private security in Turkey: "In 1999, incidents like the Mavi Çarşı fire took place under the governorship of Erol Çakır. So the Governor's Office began to look into 'what to do in order to be everywhere.'"[54] Private security activities in Turkey do indeed stand out as an indispensable element of the strategy to dominate all fields of life, to enable the state to be "everywhere."

Private security legislation in Turkey has been structured in a way that safeguards the delicate balance between the state and the private security sector. Although it can be argued that Law No. 5188 and other regulations in the legislation have allowed for the civilianization of the sector,[55] it would be realistic to expect that private security companies will continue to be managed predominantly by persons who have had a long-term fundamental or organic link with the state. Although over the last few years vocational colleges have been founded within some universities with the aim of training civilian managers for private security companies and training institutions, the tendency to recruit retired military personnel and other former security officials to manage such companies, and their unwillingness to share with civilian managers a field of such profitable investment, indicates that significant civilianization will not be possible in this sector at least in the near future. Altan Tutkun, President of the Security Systems and Organizations Association (*Güvenlik Servisleri Organizasyon Birliği Derneği*, GÜSOD), founded in 1994 by a number of private security company managers, says, "It is difficult for security in a country like Turkey to be shared with companies outside the state. Even the point we have currently reached is quite good," emphasizing that the state's extensive influence on the private security sector is a reality that will be difficult to change in Turkey.[56]

On the other hand, when debating state influence and the civilianization tendency in the private security sector, it is necessary to consider that, as in the case of the distinction between the public and the private, in the late modern period the distinction between civilian and official activities has become increasingly blurred. Considering private security activities as a management strategy beyond conventional Western political thought will be useful in terms of understanding the complex and multifaceted structure of private security in Turkey and elsewhere.

ISSUES IN THE PRIVATE SECURITY SECTOR

The rapid increase in private security companies and training institutions following the entry into force of Law No. 5188 has brought about many problems in practice. Ensuring the quality of private security services and their respect for individual rights and freedoms is made difficult by companies' efforts to keep tender fees low, rather than maintaining a high level of personnel training and service quality, in order to gain a larger share of the market, as well as the tendency of people, companies, institutions and organizations requesting private security to prefer low-cost companies.[57]

The quality of the training provided to private security personnel plays a very important role in the provision of high-quality service. On the other hand, the prerequisite of being a high school graduate for private security personnel, stipulated by Law No. 5188, was reduced by Law No. 5335 to eight years of primary education for unarmed personnel. In the renewal of working permits, the prerequisite of being a high school graduate will not be stipulated for primary and secondary school graduates whose employment is subject to Law No. 2495 and whose acquired rights are reserved until June 26, 2009, as long as they complete the re-training conducted every five years and successfully pass exams. These amendments show that the legislative power has recognized the private security sector's commercial concerns and has made legal regulations more flexible, in an attempt to balance the state's tendency to keep the sector under control with the sector's economic interests.

Many members of law enforcement forces point to the risk that private security companies, units, and training institutions could be used to conduct counter-insurgency,

53 "Özel Güvenlikçi Sayısı Polisi Geçti" (The Number of Private Security Members has Overtaken that of Police Officers) *Hürriyet*, May 21, 2006.

54 "Türkiye'nin Özel Güvenliği" (Turkey's Private Security),*Tarih Vakfı İstanbul Dergisi*, May 2007.

55 Kandemir, 2005.

56 "Özel Güvenlik Sektöründe İstihdam Sıkıntısı" (Unemployment Issue in the Private Security Sector)Hürriyet, July 11, 2006.

57 Schreier, 2005.

create a militia force, or conduct organized crime or other illegal activities. There are several examples that this risk is real, as members of private security firms have been implicated in criminal activity: the person arrested in April 2007 for planning to carry out an attack on Erdoğan Teziç, President of the YÖK, had been employed for the previous five years as a private security employee; the owner of a private security company, as well as a number of high-level civil servants, was included among those taken into custody in February 2006 and put on trial for "forming a criminal organization for the purpose of generating profit and carrying out activities" on behalf of the "Sauna Gang." Given this risk, the private security sector should be subject to strict oversight.[58]

THE OVERSIGHT OF PRIVATE SECURITY ACTIVITIES

There is no doubt that oversight plays an important role in the prevention of the exploitation of private security activities for illegal purposes. General law enforcement forces are authorized to oversee private security units, companies, and training institutions in order to ensure that that private security managers and officials take all necessary measures for private security activities to comply with the law and for inadequacies and insufficiencies to be rectified.[59] Oversight procedures are regulated in detail by legislation. Oversight has most recently been dealt with in the Ministry of Internal Affairs' Circular No. 47, dated 2006, on the Principles to be Taken into Consideration in the Oversight of Private Security Companies, Training Institutions, and Units. Article 1 of this circular, entitled "General Principles," clearly states the timing and frequency of oversight:

> [P]rivate security companies and training institutions, as well as people, institutions, and organizations protected by authorized private security units should be subject to oversight at least once a year and whenever regarded as necessary. Oversight personnel are subject to approval by the Ministry in the center and by governor's offices in provinces. Oversight will not be carried out without this approval. Approval may be for one time only or may cover a maximum period of one year.

The same article emphasizes the need to select people responsible for oversight from among experts on the subject. In practice, oversight is carried out by the Private Security Office, affiliated with the Public Order Department of the General Directorate of Security. The article states that oversight should be carried out by approval of the governor's office, that the oversight commission should consist of a minimum of three members, that oversight should be presided by college graduate personnel of high rank, and that, if necessary, experts like labor inspectors and finance inspectors should be employed, with the approval of the ministry or the governor.

However, despite these regulations, when we examine current practice, we see that the oversight of private security activities is still not carried out effectively. The oversight process only began in 2006, because the implementation of punitive sanctions stipulated by Law No. 5188 was postponed as a result of intense lobbying by the sector, in order to allow it to harmonize with the new legal regulations. As general law enforcement authorities are not able to carry out this oversight process adequately with current means and personnel, the General Directorate of Security has taken action to transform the Private Security Office, which is responsible for oversight, into a department, so that it may employ more personnel more efficiently.[60] The sector's general attitude to oversight is that it should be carried out by a structure independent from the state's official security structure.[61] However, when we take into consideration that there is an increasing tendency throughout the world for private security activities to be subject to oversight and other legal regulations, it seems quite improbable for the legislative power in a country like Turkey, where there is quite strong state influence on the sector, to be inclined to allow the civilianization of oversight.

On the other hand, it is not difficult to guess that, as envisioned by the legislation, the collaboration and hierarchy between the private security sector and the general law enforcement forces that oversee it may prevent real oversight. While it is becoming more and more difficult for the political relationships transformed by neo-liberalism to be expressed in the conventional categories of Western political thinking, such as public-private or official-civil, it is also necessary to approach with caution the oversight of private security activities, which are under heavy state influence, by the state's official security instruments. Oversight and accountability mechanisms can easily lose their function,

58 "Suikastçı Özel Güvenlikçi Çıktı" (The Assassin Has Turned Out To Be a Private Security Employee), *Hürriyet*, April 26, 2007; "Sauna Çetesi'ne Asker El Koydu" (The Military Have Taken in Hand the Sauna Gang), *Sabah*, February 22, 2006.

59 Çolak, 2005, pp. 59-60.

60 "Özel Güvenliğe Artık Daire Bakacak" (The Department Will Deal with Private Security from Now On), *Bugün*, October 16, 2006.

61 "Özel Güvenlik Krizde" (Private Security is Undergoing a Crisis), *Aksiyon*, January 9, 2006.

as seen in cases of abuse by private security forces where the judiciary ruled that state interests needed to be protected.

PRIVATE SECURITY ACTIVITIES OUTSIDE LEGISLATION

Last of all, we see a tendency in legislation that is in conflict with Law No. 5188's aim to establish the procedures and principles for the implementation of private security activities. The provision in the Regulation on the Implementation of Law No. 5188, according to which "Oversight, surveillance and control services under whatever name and aiming to ensure security of life and property cannot be provided outside the scope of the Law and of the Regulation" has been annulled by the Regulation on the Amendment of the Regulation on the Implementation of Law No. 5188. This is interpreted by many to mean that persons and organizations requesting protection from private security services are not obliged to comply with the regulations in the private security legislation and that only persons and organizations who are included within the legislative scope by their own will and the private security units and companies providing their protection and security may be subject to oversight.[62] Only time will tell if this possibility, which will further complicate the oversight of private security activities, will become reality.

Given the uncertainties in the current legislation, it is difficult to assert that private security activities in Turkey are clearly regulated by law. Private security legislation and practices in Turkey reflect the search for a balance between the possibility of people and organizations qualifying as customers to obtain private security, a commodity with market value that can be purchased freely and without any need for legal regulations, and the tendency of official instruments of the state to subject these activities to laws in order to control them more effectively.

62 See Karacin, 2005, 218. SPNTR, 2005, 'GÜSOD Heyeti Ankara'daydı' (The GÜSOD Delegation was in Ankara), December 12, http://www.spntr.net/content/view/1618/28/

Bibliography*

BOOKS:

Abrahamsson, Bengt: *Military Professionalization and Political Power* (Londra: Sage Publications, 1972).

Agamben, Giorgio: Homo Sacer: *Sovereign Power and Bare Life* (Stanford: Stanford University Press, 1998).

Agaşe, Çetin: The JITEM Reality From Susurluk to Ergenekon [*Susurluk'tan Ergenekon'a Jitem Gerçeği*] (İstanbul: Truva Publicationsı, 8th Editionı, 2009).

Akdeniz, Yaman; Altıparmak, Kerem: Internet: Do not Enter - A Critical Analysis of Internet Content Generation and Censorship in Turkey [*İnternet: Girilmesi Tehlikeli ve Yasaktır – Türkiye'de İnternet İçerik Düzenlemesi ve Sansürüne İlişkin Eleştirel Bir Değerlendirme*], <http://privacy.cyber-rights.org.tr/?page_id=255>.

Akgüner, Tayfun: The Concept of National Security in the 1961 Constitution and the National Security Council [*1961 Anayasasına Göre Milli Güvenlik Kavramı ve Milli Güvenlik Kurulu*] (İstanbul: İstanbul University Faculty of Political Sciences Publications, 1993).

Altınay, Ayşe Gül: "I Shall Sacrifice My Life, My Blood": Tracing Militarism in School Textbooks" ["*"Can Veririm, Kan Dökerim': Ders Kitaplarında Militarizm,"*], (ed.) Gürel Tüzün, Human Rights in School Textbooks: Assessment Results [*Ders Kitaplarında İnsan Hakları II: Tarama Sonuçları*] (İstanbul: History Foundation Publications, 2009)

Altınay, Ayşe Gül: *The Myth of the Military-Nation: Militarism, Gender and Education in Turkey* (New York: Palgrave, 2004).

Altınay, Ayşe Gül; Bora, Tanıl: "The Army, Militarism, and Nationalism" ["*Ordu, Militarizm ve Milliyetçilik"*], (ed.) Bora, Tanıl/ Gültekingil, Murat, Nationalism: Political Thought in Modern Turkey [*Milliyetçilik: Modern Türkiye'de Siyasi Düşünce*], Vol.t IV (İstanbul: İletişim, 3rd Edition, 2003).

Ateşsoy, Yaşar: The Diary of a Frequenter- A Journey Beyond the Horizon [*Bir Müdavimin Günlüğü-Ufkun Ötesine Yolculuk*] (Ankara: 2005).

Aydın, A. H.: *Police Organisation and Legitimacy: Case Studies of England, Wales, and Turkey* (Avebury: Aldershot, 1997).

Balık, Uğur; Şahan, Timur: The Shriver: Confessions of a JITEM Officer [*İtirafçı: Bir JİTEM'ci Anlattı*] (Aram Publications, 2004).

Bayraktar, Köksal: Political Crime [*Siyasal Suç*] (İstanbul: 1982).

Bayramoğlu, Ali; İnsel, Ahmet (ed.): A Community, A Party: The Military in Turkey [*Bir Zümre, Bir Parti Türkiye'de Ordu*] (İstanbul: Birikim Publications, 2006).

Bilge, Necip: Natural Guarantees for Judges and Prosecutors According to the Recent Constitutional Amendment [*Son Anayasa Değişikliğine Göre Tabii Hâkim ve Savcı Teminatı*] (Ankara: 1972).

Born, Hans; Fluri, Philipp; Johnsson, Anders (ed.): *Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices, Handbook for Parliamentarians* (DCAF, 2003).

Cerrah, İbrahim: Security Sector Governance: Intellectual Modernization and Democratic Oversight of Internal Security Sector in Turkey and Europe [*Güvenlik Sektörü Yönetişimi: Türkiye ve Avrupa İçinde İç Güvenlik Sektöründe Zihinsel Modernizasyon ve Demokratik Gözetim*] (İstanbul: TESEV, 2008).

Cerrah, İbrahim; Eryılmaz, M. Bedri (prepared for publication by), European Police Code of Ethics and Explanatory Notes [*Avrupa Polis Etiği Yönetmeliği & Açıklayıcı Notlar*] (Ankara: Security Sciences Institute Publications, 2001).

Cizre, Ümit (ed.): Almanac Turkey 2005: Security Sector and Democratic Oversight [*Almanak Türkiye 2005 Güvenlik Sektörü ve Demokratik Gözetim*] (İstanbul: TESEV Publications, 2006).

Clasius, Marlies; Kaldor, Mary (ed.): *A Human Security Doctrine For Europe* (Londra: Routledge, 2004).

Dahl, Robert: *Controlling Nuclear Weapons* (Syracuse, NY: Syracuse University Press, 1985).

Davutoğlu, Ahmet: Strategic Depth [*Stratejik Derinlik*], (İstanbul: Küre Publications, 2001).

Demir, Ali Faik: Leaders in Turkish Foreign Policy [*Türk Dış Politikasında Liderler*] (İstanbul: Bağlam, 2007).

Desch, Michael C.: *Civilian Control of the Military: The Changing Security Environment* (Baltimore, MD: Johns Hopkins University Press, 1999).

DGS: Turkish Police in the Year 2000.

* **Magazines used in Biriz Berksoy's article (Polis 1963, 1964, 1966, 1967, 1970, 1971, 1975, 1979, 1980, 1984, 1986, 1987, 1989; Polis Magazine 1995, 1996, 1997, 1998, 2000, 2001, 35 (2003), 36 (2003), 37 (2003), 38 (2004), 39 (2004), 41 (2004), 42 (2004), 43 (2005), 47 (2006); Consultative Assembly Proceedings Journal, [40/1] 21.1.1982, [117/1] 7.7.1982, [148/1] 18.8.1983) and newspaper articles (Radikal January 2006- September 2008, Milliyet June , August 1994, August 1995) are not listed in the bibliography. Further information on these sources may be found in the footnotes of the author's article.**

DGS: Factors Contributing to Riot Police's Intervention into Social Protests [*Çevik Kuvvet Polisinin Toplumsal Olaylardaki Çalışmasına Tesir Eden Faktörle]r* (Ankara: Directorate General of Security, 2001).

Erdoğan Tosun, Gülgün: State- Civil Society Relations from a Democratization Perspective [*Demokratikleşme Perspektifinden Devlet – Sivil Toplum İlişkisi*] (İstanbul: Alfa Publications, 2001).

Ergut, F: Modern State and Police [*Modern Devlet ve Polis*] (İstanbul: İletişim Publications, 2004).

Erman, Sahir: Military Penal Law [*Askeri Ceza Hukuku*] (İstanbul: 1974).

Faltas, Sami; Jansen, Sander (ed.): *Governance and the Military: Perspectives for Change in Turkey* (CESS, 2006).

Finer, Samuel: *The Man on Horseback: The role of Military in Politics* (Harmondworth: Penguin, 1962).

Genç, E. et. al..: Primary School 6th Grade Textbook on Social Sciences [*İlköğretim Sosyal Bilgiler 6 Ders Kitabı*] (Ankara:MEB, 2006).

Genç, E. et.al.:Primary School 6th Grade Guidance Textbook for Teachers [*İlköğretim Sosyal Bilgiler 6 Öğretmen Kılavuz Kitabı*] (İstanbul:MEB, 2007).

Godfrey, Barry: "Private Policing and the Workplace: The Worsted Committee and the Policing of Labor in Northern England, 1840-1880", (prep.pub..) A. Knafla, Louis, *Policing and War in Europe* (Westport, Connecticut: Greenwood Press, 2002).

Gordon, Colin: "Governmental Rationality: An Introduction", (prep.pub.) Burchell G./Gordon C./Miller P., *The Foucault Effect: Studies in Governmentality* (Chicago: University of Chicago Press, 1991).

Greenwood, David (ed.): Turkish Civilian Relations and the European Union [*Türk Sivil İlişkileri ve Avrupa Birliği: Süregelen Buluşmaya Hazırlık*] (CESS, November 2005).

Günlük-Şenesen, G. (2002) *Türkiye'de Savunma Harcamaları ve Ekonomik Etkileri, 1980-2001,* TESEV, İstanbul.

Güven, Dilek. *Cumhuriyet Dönemi Azınlık Politikaları Bağlamında 6-7 Eylül Olayları,* (İstanbul: İletişim Yayınları, 2006).

Hänggi, Heiner: "Making Sense of Security Sector Governance", (ed.) Hänggi, Heiner/Winkler, Theodor H., *Challenges of Security Sector Governance* (Verlag: DCAF & LIT, 2003).

Hardt, Michael; Antonio Negri:*The Empire* [İmparatorluk] (İstanbul: Ayrıntı Publicationsı, 2001).

Huntington, P. Samuel: *The soldier and the state* (Cambridge MA: Harvard University Press, 1957).

Jackson, M.R.: *The Machinary of Justice in England* (Cambridge: 1940).

Janowitz, Morris: *The Professional Soldier: A Social and Political Portrait* (New York: Macmillan Publishing Co. Inc., 1971).

Jennings, Ivor: *The Law and the Constitution* (London: 1945).

Kapani, Münci: The Independence of Judges Against the Executive [*İcra Organı Karşısında Hâkimlerin İstiklali*] (Ankara: 1956).

Kardaş, Ümit: The Foundation and Authority of Military Courts in terms of Independence of Judges [*Hâkim Bağımsızlığı Açısından Askeri Mahkemelerin Kuruluşu ve Yetkileri*] (İstanbul: 1992).

Kazancıgil, Ali; Özbudun, Ergun (ed.), *Atatürk: Founder of a Modern State* (C.Hurst & Company, 2006)

Kerse, Ahmet: Legislation of the Military Judiciary [*Askeri Yargı Mevzuatı*] (İstanbul: 1964).

Kılıç, Ecevit: Special War Office [*Özel Harp Dairesi*] (İstanbul: Turkuvaz, 2008).

Kili, Suna; Gözübüyük, A. Şerif: Turkish Constitutions: From the Bill of Alliance to Present Day [*Türk Anayasa Metinleri: Senedi İttifaktan Günümüze*] (Türkiye İş Bankası Yayınları, 2006).

Commission: National Security Intelligence (Ankara:MEB, 2007).

Kunter, Nurullah: Code of Criminal Procedure [*Ceza Muhakemesi Hukuku*] (İstanbul: 1981).

Kunter, Nurullah; Feridun Yenisey; Ayşe Nuhoğlu: The Code of Criminal Procedure Within the Framework off Procedural Law [*Muhakeme Hukuku Dalı Olarak Ceza Muhakemesi Hukuk*] (İstanbul: Arıkan, 2006).

Kurban, Dilek vd. (ed.): Coming to Terms with Forced Migration: Post-Displacement Restitution of Citizenship Rights in Turkey [*Zorunlu Göç" ile Yüzleşmek: Türkiye'de Yerinden Edilme Sonrası Vatandaşlığın İnşası*] (İstanbul: TESEV, 2nd edition, 2008).

Kurban, Dilek et.al.: Overcoming a Legacy of Mistrust: Towards a Reconciliation Between the State and the Displaced [*Güvensizlik Mirasının Aşılması: Devlet ve Yerinden Edilmiş Kişiler Arasında Toplumsal Mutabakata Doğru*] (İstanbul: TESEV, 2006).

Laski, J.Harold: *Studies in Law and Politics* (London: 1932).

Lord Denning: *The Independance of the Judges* (Birmingham: 1950).

Mawby, R. I.: *Policing Across the World: Issues for the Twenty-First Century* (London: Routledge, 1999).

Mumcu, Ahmet: Political Assassinations in the Ottoman State [*Osmanlı Devletinde Siyaseten Katl*] (Ankara: 1963).

Mumcu, Ahmet; Üçok, Coşkun: Turkish Legal History [*Türk Hukuk Tarihi*] (Ankara: 1982).

O'Malley, Pat.: "Risk And Responsibility", (prep. pub.) Barry, Andrew/Osborne, Thomas/ Rose, Nikolas, *Foucault and Political Reason: Liberalism, Neo-Liberalism, and Rationalities of Government* (London: University College London Press, 1996).

Oran, Baskın: Turkish Foreign Policy: Concepts, Documents and Analysis From War of Independence Until Present Day [*Türk Dış Politikası: Kurtuluş Savaşından Bugüne Olgular, Belgeler, Yorumlar*], Volumes I-II (İstanbul: İletişim, th edition, 2003).

Özarpat, Hilmi: Law on Military Jurisdiction Procedures [*Askeri Yargılama Usulü Hukuku*] (Ankara: 1950).

Özdemir, Hikmet: The Regime and the Soldier [*Rejim ve Asker*] (İstanbul: İz Publishing, 1993).

Özkan, Tuncay: The Secret History of National Intelligence Institute [*MİT'in Gizli Tarihi*] (İstanbul: Alfa, 2003).

Reiner, R.: *The Politics of the Police* (Toronto: University of Toronto Press, 1992).

Undersecretariat of Defense Industryı, How To Prepare A UDI Secrecy Ratings Guide [SSM Gizlilik Derecelendirme Kılavuzu Hazırlama Rehberi] (Ankara: Haziran 2007).

Schreier, Fred; Marina Caparini: *Privatising Security: Law, Practice and Governance of Private Military and Security Companies.*(Geneva: DCAF, 2005)

Seviğ, Vasfi Raşit: Military Justice [*Askeri Adalet*] (Ankara: 1955).

SIPRI, *SIPRI Yearbook 2008: Armaments, Disarmament and International Security, Stockholm International Peace Research Institute* (Oxford University Press, 2008).

Singer, Peter W.: *Corporate Warriors: The Rise of the Privatized Military Industry* (Ithaca, New York: Cornell University Press, 2003).

Sönmezoğlu, Faruk. USA's Turkey Policy (1964-1980) [*ABD'nin Türkiye Politikası (1964-1980)*] (İstanbul: Der Publications, 1995).

Sönmezoğlu, Faruk. Turkish Foreign Policy From War World War Until Today [*II. Dünya Savaşı'ndan Bugüne Türk Dış Politikası*] (İstanbul: Der Publications, 2006).

Şen, Serdar: The Military's Past and Present [*Geçmişten Geleceğe Ordu*] (İstanbul: Alan Publishing, 2000).

Şengör, Ali Mehmet Celal; Kaplan, Sefa: The Istanbul Earthquake [*İstanbul Depremi*] (İş Bankası Publications, 2006).

Tanör, Bülent: Ottoman-Turkish Constitutional Development [*Osmanlı-Türk Anayasal Gelişmeleri*] (İstanbul,2000).

Tanör; Bülent: Turkey's Human Rights Problem [*Türkiye'nin İnsan Hakları Sorunu*] (İstanbul: BDS Publishing, 1994).

Tunaya, Tarık Zafer: Political Establishment and Constitutional Law [*Siyasi Müessesler ve Anayasa Hukuku*] (İstanbul: 1969).

Yavuz, N.: Primary School 8th Grade Textbook on Republic of Turkey's History of Revolution and Ataturkism [*İlköğretim Türkiye Cumhuriyeti İnkılap Tarihi ve Atatürkçülük 8*] (İstanbul: Prizma Publishing, 2007).

Yeldan, Erinç: Turkish Economy in the Process of Globalization: Distribution, Accumulation and Growth [*Küreselleşme Sürecinde Türkiye Ekonomisi: Bölüşüm, Birikim ve Büyüme*] (İstanbul: İletişim Pub., 2001).

ARTICLES:

Akın, Cengiz: "Natural Judge Principle in Our Constitutions" [Anayasalarımızda Doğal Yargıç İlkesi"], *Istanbul Bar Association Journal,* 1996.

Akipek, Ömer İlhan: "The Concept of Service According to the NATO Forces Convention and Its Application in Turkey" [NATO Kuvvetleri Sözleşmesi'ne göre Vazife Kavramı ve Türkiye'deki Tatbikatı"], <http://auhf.ankara.edu.tr/dergiler/auhfd-arsiv/AUHF-1967-24-01-04/AUHF-1967-24-01-04-Akipek.pdf>.

Aydınlı, Ersel; Özcan, Nihat Ali; Akyaz, Doğan: "The Turkish Military's March Towards Europe" Foreign Affairs, Jan/Febt 2006 (trans. *Yeni Şafak,* 3-4-7 January 2006).

Bayramoğlu,Ali: "Soldiers and Politics" ["Asker ve Siyaset"], *Birikim,* 160-161, 2002.

Ben-Eliezer, Uri: "Rethinking the Civil-Military Relations Paradigm. The Inverse Relation Between Militarism and Praetorianism Through the Example of Israel", *Comparative Political Studies,* 30/3, 1997.

Berksoy, Biriz: "Police Sub-Culture as a Product of the Hegemonic Culture in Post-1960s Turkey and the Imagination of 'Domestic Enemies'" [1960 Sonrası Türkiye'de Egemen Zihniyetin Bir Yansıması Olarak Polis Alt-Kültürü ve Yaratılan 'İç Düşmanlar'"], *Toplum ve Bilim,* 114, 2009.

--------, "Police Departments in the West and in Turkey After 1980s " [1980 Sonrası Batı'da ve Türkiye'de Polis Teşkilatları"], *Toplum ve Bilim,* 109, 2007.

Bilgin, Pınar: "'Only Strong States Can Survive in Turkey's Geography' The uses of 'geopolitical truths' in Turkey,", *Political Geography,* 26, 2007.

Bora, Tanıl: "Private Security and Police Society" [Özel Güvenlik Ve Polis Toplumu"], *Birikim,* 178, February 2004.

Born, Hans: "Representative Democracy and the Role of Parliaments: An Inventory of Democracy Assistance Programmes", 2003, <http://www.isn.ethz.ch/5isf/5/Papers/Born_paper_IV-2.pdf> (Accessed 17.06.2008).

Born, Hans; Fluri, Philipp: "Oversight and Guidance: The Relevence of Parliamentary Oversight for Security Sector Reform", *Geneva Center For the Democratic Control of Armed Forces Working Paper* No: 111, 2003.

Cairo, Michael, F.: "Civilian Control of the Military", Urofsky, Melvin (ed.), *Democracy Papers,* 12, (U.S. Department of State, Office of Print Publications, 2001) http://usinfo.state.gov/products/pubs/democracy/dmpaper12.htm (Accessed 28.06. 2008).

Cordner, G: "Elements of Community Policing", (ed.) Gaines, L. / Cordner, G., *Policing Perspectives: an Anthology* (Los Angeles: Roxbury Publishing Company, 1999).

Cottey, Andrew; Edmunds, Timothy; Forster, Anthony: "The Second Generation Problematic: Rethinking Democracy and Civil-Military Relations", *Armed Forces & Security,* 29, 1, 2002.

Çelik, Aziz: "Milli Güvenlik Gerekçeli Grev Ertelemeleri", *Çalışma ve Toplum Dergisi,* Sayı 18, 2008/3.

Çoker, Fahri: "Askeri Yargıtayın Tarihçesi", *Askeri Adalet Dergisi,* 1966.

Demirel, Taner: "Comparative Perspective Lessons of Military Regimes and Democracy: The Turkish Case in a Comparative Perspective", *Armed Forces & Society,* 31, 2, 2005.

Ercan, Fuat: "The Contested Continuity of Capital Accumulation: A Critical Look into Turkey's Integration with Global Capitalism" ["Sermaye Birkiminin Çelişkili Sürekliliği: Türkiye'nin Küresel Kapitalizmle Bütünleşme Sürecine Eleştirel Bir Bakış"], (ed.) Balkan, N/Savran, S., Neoliberalism's Damage [Neo-liberalizmin Tahribatı] (İstanbul: Metis Publications, 2004).

Feaver, Peter D.: "Civil-Military Relations", *Annual Review of Political Science,* 2, 1999.

Gencer, Ümit; Sümer, H. Canan: "Recruiting and Retention of Military Personnel: Turkey", *Recruiting and Retention of Military Personnel,* RTO Technical Report, 2007.

Güney, Çetin: "Turkey-US Relations Within the Framework of AK Party's Foreign Policy" [AK Parti'nin Dış Politika Anlayışı Bağlamında Türkiye-ABD İlişkileri"], Eurasia File [Avrasya Dosyas]ı, 11, 2, 2005.

Günlük-Şenesen, G. (2004a): "Türkiye'nin Savunma Bütçesi: Veriler ve Gözlemler", İnsel, A. ve Bayramoğlu, A..(der.) *Bir Zümre, Bir Parti: Türkiye'de Ordu*, İletişim, İstanbul, 271-281.

Günlük-Şenesen, Gülay (2004b): "The Role of Defence on External Indebtedness: An Assessment of Turkey", *Defence and Peace Economics*, 15/2.

Hooker, Richard: "Soldiers of the State: Reconsidering American Civil-Military Relations", *Parameters*, Winter 2003-2004.

İnsel, Ahmet: "The Persistence of Authoritarianism in the Republican Era" ["Cumhuriyet Döneminde Otoritarizmin Sürekliliği"], *Birikim*, 125-126, 1999.

Kardaş, Ümit: "Law Enforcement in Turkey and Societal Oversight" ["Türkiye'de Polis ve Toplumsal Denetim"], *Birikim*, 213, 2007.

Kaya, Muammer: "Turkish Scientists Drive Our Country's Cooperation with the World" ["Türk Bilim Adamları Ülkemizi Dünya ile İşbirliğine Götürüyor"], University and Society [Üniversite ve Toplum], 4, 3, September 2004.

Kaya, Sezgin: "Changing Perceptions and Politics of National Security in Post-Cold War Turkey" ["Soğuk Savaş Sonrası Dönemde Türkiye'nin Değişen Ulusal Güvenlik Algılaması ve Politikaları"],Eurasia File [Avrasya Dosyası], 11, 2, 2005.

Kohn, Richard H.: "An Essay on Civilian Control of the Military", American Diplomacy, 3, 1997, <www.unc.edu/depts/diplomat/AD_Issues/amdipl_3/kohn.html> (Accessed 3.05. 2009).

Kohn, Richard H.: "How Democracies Control the Military", *Journal of Democracy,* 8, 4, 1997.

Kubuş, Nihat: "Private Security Officers Ought to be Able to Develop Careers in Their Line of Work Too" ["Özel Güvenlik Görevlileri de Kendi Mesleklerinde Kariyer Yapabilmeli"], Private Security, November 2006.

Lemke, Thomas: "Foucault, Governmentality, and Critique", *Rethinking Marxism.* 14, 3, 2002.

Lyons, Gene M.: "The New Civil Military Relations", *The American Political Science Review*, 55, 1, 1961.

Mert, Nuray: "Center Right Politics in Turkey: The Construction of Center Right Policies" ["Türkiye'de Merkez Sağ Siyaset: Merkez Sağ Politikaların Oluşumu"], (ed.) Yerasimos, S. et.al., Turkish Civil Society and Nationalism [Türkiye'de Sivil Toplum ve Milliyetçilik] (İstanbul: İletişim Publications, 2002).

Özkal Sayan, İpek: "Public Sector Personnel in Turkey: Identifying Administrative, Military, Academic, Judicial Personnel" ["Türkiye'de Kamu Personeli Sistemi: İdari, Askeri, Akademik, Adli Personel Ayrımı"], *Ankara University SBF Journali,* 64,1, 2009.

Özler, Murat: "The Privatization of Security" ["Güvenliğin Şirketleşmesi"], Law and Justice [Hukuk ve Adalet], 4, 9, Winter 2007.

Prugh, George: "The Organization of Military Jurisdiction and the Status of Judges and Public Prosecutors of that Jurisdiction United States", Revue de Droit Penal Militaire et de Droit de la Guerre, 1970.

Sağlam, F: "Thoughts on the Amendments to Law on Responsibilities and Authority of Police" ["Polis Vazife ve Salahiyet Kanunu'nda Yapılan Değişiklikler Üzerine Düşünceler"], *Journal of Civil Service College Alumni Association* [Mülkiyeliler Birliği Dergisi], 79, 1985.

Sarıgil, Zeki: Deconstructing the Turkish Military's Popularity", *Armed Forces & Security,* 20, 1, 2008.

Savran, Sungur: "The Legacy of the Twentieth Century", (ed.) Balkan, N/Savran, S., The Politics of Permanent Crisis: Class, Ideology and State in Turkey, (New York: Nova Science Publishers, 2002).

Tanıl, Bora: "Turkey's Political Right's Ideological and Political Depression: Volatile Political Center and Political Volatility Without A Focus" ["Türkiye Sağının İdeolojik ve Siyasi Bunalımı: Oynak Merkez 'Merkez'siz Oynaklık]", *Birikim,* 64, 1994.

Tanrıkulu, Sezgin, "JITEM and Ergenekon According to State Records" ["Devlet Kayıtlarında JİTEM-Ergenekon"], Contemporary Law [*Güncel Hukuk*], 2009/3, 2009.

Varoğlu, Kadir A.; Bıçaksız, Adnan: "Volunteering for Risk: The Culture of the Turkish Armed Forces", *Armed Forces & Security,* 31,4, 2005.

Yamaguchi, Noboru; A. Welch, David: "Soldiers, Civilians and Scholars: Making Sense of the Relationship Between Civil-Military Relations and Foreign Policy", *Asian Perspective,* 29, 1, 2005.

Yentürk, Nurhan: "Military and Domestic Security Spending Tracking Guide" ["Askeri ve İç Güvenlik Harcamaları İzleme Klavuzu 2009-2010-2011"], Istanbul Bilgi University NGO Research Unit, NGO Study Guides, Budget Tracking Series, no:4, 2009. <stk.bilgi.edu.tr/stkButce.asp>

Yetener, Meltem: "Adnan Menderes", Leaders in Turkish Politics [Türk Dış Politikasında Liderler], (ed.) Demir, Ali Faik, *Bağlam*, İstanbul, 2007.

Yıldırım, Jülide; Erdinç, Bülent: "The Reinlistment Decision in Turkey: A Military Personnel Supply Model", *Defence and Peace Economics,* 18, 4, 2007.

Zabcı, Filiz Ç: "The Private Military Contractors as the Secret Face of New Wars" ["Yeni Savaşların Gizli Yüzü Özel Askeri Şirketler"], 2006, <http://www.savaskarsitlari.org/arsiv.asp?ArsivTipID=6&ArsivAnaID=35742&ArsivSayfaNo=1> (Accessed 7 Mart 2007).

DISSERTATION:

Akça, İsmet: Militarism, Capitalism and the State: Putting the Military in its Place in Turkey (İstanbul: Boğaziçi University Publications,Unpublished Doctoral Thesis, 2006).

Ar, F: A Study of Çevik Kuvvet in İstanbul: The Effects of Social Patterns on the Degree of Violence (İstanbul: Boğaziçi Universit, Unpublished Masters Thesis, 1999).

Kesgin, Hakan: "An Investigation Into Social Events Intervened By Istanbul Halkalı District Tactical Legion First Gendarmerie Battalion in the Last 8 Years" ["İstanbul Halkalı Jandarma Komando Taktik Alayı 1. Jandarma Taburunun son 8 Yılda İstanbul İlinde Müdahale Ettiği Toplum Olaylarının İncelenmesi] (İstanbul: İstanbul University, Unpublished Masters Thesis, 2004).

Şarlak, Zeynep: Coups and Constitutions in Brazil, South Korea and Turkey: A Comparative Study of Legal-Institutional Frameworks (İstanbul: Boğaziçi University, Unpublished Masters Thesis, 1995).

CONFERENCE PAPERS:

Bal, Mehmet Ali: "New Developments and Visions In Private Security" ["Özel Güvenlik Alanında Yeni Gelişmeler ve Yeni Vizyonlar]", 2004, <http://www.ozelguvenlikkongresi.com/arsiv/doc/6-1.doc> (accessed 21 Nisan 2007).

Çolak, İlker: "Law Enforcement and Private Security Relations" ["Genel Kolluk ve Özel Güvenlik İlişkileri"], (prep. pub.) Çelik, Faik et.al. Second Annual National Private Security Symposium: The Past, Present and Future of Private Security Services in Turkey and the World [II. Ulusal Özel Güvenlik Sempozyumu: Türkiye'de ve Dünyada Özel Güvenlik Hizmetlerinin Dünü Bugünü ve Yarını] (Kocaeli: Kocaeli University Publications. 2005).

Dağ, Bekir Sıtkı: "Current Developments: Turkey and Internally Displaced Persons" ["Mevcut Gelişmeler: Türkiye ve Yerinden Olmuş Kişiler"], Internally Displaced Persons Conference [Yerinden Olmuş Kişiler Konferansı], (Ankara: UNDP, 23 February 2006).

Derdiman, Cengiz: "Private Security Concept and Analysis on Problems Caused by Application of Law No. 5188" ["Özel Güvenlik Anlayışı ve 5188 Sayılı Kanun Uygulamasından Doğan Sorunlara İlişkin Değerlendirmeler"], (prep. pub.) Çelik, Faik et.al. Second Annual National Private Security Symposium: The Past, Present and Future of Private Security Services in Turkey and the World [II. Ulusal Özel Güvenlik Sempozyumu: Türkiye'de ve Dünyada Özel Güvenlik Hizmetlerinin Dünü Bugünü ve Yarını] (Kocaeli: Kocaeli University Publications. 2005).

Gillisen, John: "General Report on the Present Evolution of Military Justice", VIII International Congres (Ankara: 1979).

Karacin, Nadir: "The Spirit of Private Security Activities" ["Özel Güvenlik Faaliyetlerinin Ruhu"], (prep. pub.) Çelik, Faik et.al. Second Annual National Private Security Symposium: The Past, Present and Future of Private Security Services in Turkey and the World [II. Ulusal Özel Güvenlik Sempozyumu: Türkiye'de ve Dünyada Özel Güvenlik Hizmetlerinin Dünü Bugünü ve Yarını] (Kocaeli: Kocaeli University Publications. 2005).

Meriçli, Ahmet: "The Birth of Private Security Services and Factors Necessitating Private Security" ["Özel Güvenlik Hizmetlerinin Doğuşu ve Özel Güvenliği Gerektiren Faktörler"], 2004, <http://www.ozelguvenlikkongresi.com/arsiv/doc/6-1.doc> (Accessed 25.04.2007)

Saygun, Ergin: "Proceedings of International Symposium on NATO in a Changing Security Landscape" ["'Değişen Güvenlik Ortamında NATO' Konulu Uluslararası Sempozyum Bildirisi"], (Ankara: 31 May 2007) <http://www.tsk.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_7_Konusmalar/2007/sempozyum_II_bsk_acilis31052007.htm> (Accessed 15.05.2009).

Schreier, Fred: "Privatization of Security Services" ["Güvenlik Hizmetlerinin Özelleştirilmesi"], TESEV & DCAF International Conference: Democratic Horizons in Security Sector, Security Sector Governance: Turkey and Europe, Ankara, 2005, <http://www.tesev.org.tr/etkinlik/conf_3feb_fSchreier.php>.

Smith, James Stuart: "Jurisdiction with Respect to Penal, Disciplinary and Administrative Matters in the Forces in the Time of Peace", VIII International Congres (Ankara: 1979).

Veutro Vittorio: "L'Independance des Juridiction Militaires", VIII International Congres (Ankara: 1979).

MEDIA:

--------, "State of Emergency Law to be Approved by President", *Yeni Şafak*, 7 January 2008.

--------, "Private Security for Soldiers", *Private Security*, April 2006.

--------, "A New Era in Military Service",, *Sabah*, 5 May 2008.

--------, "We Have No Comment on Balbay's Explosive Statements", *Yeni Şafak*, 23 October 2003.

--------, "Çiçek: Existing Laws Do Not Recognize A Crime Called Political Reactionarism", *Sabah*, 2 November 2006.

--------, "Gönül: Length of Military Draft To Be Reduced", *kenthaber*, 5 April 2005.

--------, "The Red Book's Plea to Reject is Overruled" , *Objektifhaber*, 12 October 2006.

--------, "Political Reactionarism in the Red Book", *Sabah*, 6 October 2006.

--------, "The 'Influence' of NSC to be Reduced", *Bugün*, 20 April 2006.

--------, "TAF's Reply to Arınç", *Vatan*, 13 March 2009.

--------, "'The Ambiguity on Three Months Less to Serve on Military Draft", *Sabah*, 6 April 2005

--------, "General of First Army, Tuncel Refuted News of EMASYA Operations in Çağlayan", *Zaman*, 17 January 2007.

--------, "32 PKK Members Who Martyred 12 Soldiers are Killed. Hot Pursuit in Iraq", *Radikal*, 22 October 2007, <http://www.radikal.com.tr/index.php?tarih=22/10/2007>.

--------, " Zaman's Notes from 2006", *Zaman*, 30 December 2006.

--------, "Critical Report on 28 February", *Yeni Şafak* 24 April 2006.

--------, "A New Memoranda 10 Years After 28 February... There are Two Types of Journalists: Friends of TAF and Enemies of TAF", *Nokta*, 8-14 March 2007.

--------, "EU: Narrow Down the Definition of 'National Security'!'", *Milliyet*, 7 November 2005.

--------, "Land Deed Cancellation Case in Acarkent", *Milliyet*, 29 November 2006, <http://www.milliyet.com.tr/2006/11/29/guncel/agun.html< (accessed 1 Nisan 2007).

--------, "Ahmet Mete Işıkara Warns" Dmeq, 4 September 2007.

--------, "We Asked You to Confess Aktütün, Now We Shall Reveal What We Know", *Taraf*, 14 October 2008.

--------, "They Have Even Labeled Pre-Schools", *Taraf*, 1 March 2009.

--------, "Everyone Made It On the Memorandum", *Taraf*, 7 April 2008.

--------, "The Officers Are Concerned," *Cumhuriyet*, 25 June 2007.

--------, "The Officers Pay a Visit to the Generals to Reaffirm Their Support" *Yeni Şafak*, 4 September 2008, <http://www.yenisafak.com.tr/Gundem/?t=04.09.2008&i=137925>.

--------, "The Officers' Operational Sensitivity", *Hürriyet*, 17 January 2007.

--------, "Bahçeli's Party Convention Address", *Sabah*, 3 March 2008, <http://arsiv.sabah.com.tr/2008/03/03>.

--------, "Severe Allegations Directed Against the Prime Minister!", *HaberAktüel*, <http://www.haberaktuel.com/Basbakana-agir-suclama!-haberi-36783.html>.

--------, "Başbuğ Protests", *Hürriyet*, 26 April 2009, <http://arama.hurriyet.com.tr/arsivnews.aspx?id=11539225&indx=hur> (Accessed 17 May 2009).

--------, "Başbuğ: Everyone Should Assume Their Appropriate Positions", *Radikal*, 16 October 2008 <http://www.radikal.com.tr/Default.aspx?aType=HaberYazdir&ArticleID=903640>.

--------, "Başbuğ-Paksüt Meeting", *Taraf*, 13 June 2008.

--------, "Baykal Celebrated for Challenging Büyükanıt", *Milliyet*, 4 March 2008 <http://www.milliyet.com.tr/Yazdir.aspx?aType=SonDakikaPrint&ArticleID=501665>.

--------, "Baykal and Bahçeli Received Ultimatum", *aktifhaber*, 5 March 2008, <http://www.aktifhaber.com/news_detail.php?id=158757>.

--------, "Is Paid Exemption from Military Service Being Introduced?", *internethaber*, 7 April 2007, <http://www.internethaber.com/news_detail.php?id=78512&interstitial=true> (Accessed 17 May 2009).

--------, "Paid Exemption from Military Service Not on Agenda", *Hürriyet*, 5 November 2008, <http://arama.hurriyet.com.tr/arsivnews.aspx?id=10290320&indx=hur> (Accessed 17 May 2009)

--------, "I Was Acting With Good Intentions and Not Like an Ultra-Nationalist", *Hürriyet*, 21 October 2006, <http://hurarsiv.hurriyet.com.tr/goster/haber.aspx?id=5296334&p=2> (Accessed 11 May 2007).

--------, "A Handover Ceremony Filled With Messages", *Yeni Şafak*, 28 August 2008 <http://yenisafak.com.tr/Politika/?t=04.08.2008&c=2&i=136914>.

--------, "How Many People Completed Their Military Service Until Now?", *Star*, 16 May 2009, <http://www.stargazete.com/guncel/bugune-kadar-kac-kisi-bedelli-askerlik-yapti-haber-188676.htm> (Accessed 16 May 2009).

--------, "Büyükanıt Described His Ideal Presidential Candidatei", *Radikal*, 13 April 2007, http://www.radikal.com.tr/haber.php?haberno=218257.

--------, "Büyükanıt: PKK Camps Resemble Studios of Big Brother", *ntvmsnbc*, 18 December 2007, <http://www.ntvmsnbc.com/news/429810.asp>.

--------, "Büyükanıt: Noone Can Divide This Country," *ntvmsnbc*, 15 February 2007.

--------, "Büyükanıt's Condition for Professional Army", www.platform .net, 31 Mayıs 2008, <http://www.tumgazeteler.com/?a=2901558> (Accessed 18 May 2008).

--------, "Full Text of Büyükanıt's Address", *Hürriyet*, 12 April 2007, <http://www.hurriyet.com.tr/gundem/6321761.asp?gid=0&srid=0&oid=0&l=1>.

--------, "Barbarism in Cevahir Mall", *Radikal*, 19 December 2006, <http://www.radikal.com.tr/haber.php?haberno=207772> (Accessed 3 May 2007).

--------, "CHP's Kılıçdaroğlu Evaluates the Agenda", *Meclis Haber*, 5 August 2008.

--------, "Dağlıca Raid Was Known", *Taraf*, 24 June 2008.

--------, "Private Security for State Council", *Radikal*, 15 August 2006, <http://www.radikal.com.tr/haber.php?haberno=195838> (Accessed 3 April 2007).

--------, "Coup Orders", *Taraf*, 28 February 2009.

--------, "Witnesses to the Coup, Gül and CoS Özkök", Haber 7, 5 July 2008, <http://www.haber7.com/haber/20080705/Darbe-taniklari-Gul-ve-Org-Ozkok.php>.

--------, "State's Secret and Private Army", *Zaman*, 22 February 2006.

--------, "EMASYA Must Change", *Yeni Şafak*, 14 April 2006.

--------, "EMASYA Is Not Legal", *Yeni Şafak*, 9 May 2006.

--------, "Erdoğan: TAF Has Now the Authority To Conduct Cross Border Operations", *ntvmsnbc*, 1 December 2007, <http://www.ntvmsnbc.com/news/428136.asp>.

--------, "Ergenekon Suspects Spent the Night in the Courthouse", *Radikal*, 27 January 2008, <http://www.radikal.com.tr/haber.php?haberno=245600>.

--------, "Ergenekon's Conspirators Still Roam Free", *Sabah*, 6 April 2009.

--------, "Prosecutor With Special Privileges Assigned to Dossiers of Unresolved Political Assasinations", *Milliyet*, 22 April 2009.

--------, "PKK Used to Deliver Weapons on Muleback, Now They Use Trucks" , *Sabah*, 5 June 2008, <http://arsiv.sabah.com.tr/2008/06/05/haber,FCB32E3B875C4633B344E86449BF9019.html>.

--------, "Young Officers Suspects on Ergenekon" *Taraf*, 19 September 2008, <http://www.tumgazeteler.com/?a=4129980>.

--------, "Chief of Staff Is Targeted", *Sabah*, 4 March 2008 <http://arsiv.sabah.com.tr/2008/03/04/haber,844DA58FA7734814A14A360DBE706EFE.htm>.

--------, "Chief of Staff, Ministry of Interior and Ministry of Exterior Prepare Sub Documents", *Yeni Şafak*, 17 April 2006.

--------, "Chief of Staff Announcement on Paid Exemption From Military Service" *Hürriyet*, 6 March 2009, <http://arama.hurriyet.com.tr/arsivnews.aspx?id=11150754&indx=hur> (Accessed 18 May 2009).

--------, "Very Harsh Words From Chief of Staff", *Hürriyet*, 29 April 2007, <http://www.hurriyet.com.tr/gundem/6420961.asp?gid=180>.

--------, "We Reveal the Chief of Staff's Plans to Cooperate with NGOs", *Nokta*, 5-11 April 2007.

--------, "Secret code (NSPD) Was Only Advisory", *Radikal*, 30 August 2006

--------, "Gönül: The Parliament Does Not Sufficiently Oversee the Defense Budget'", *Taraf*, 23 August 2007.

--------, "Gönül: Defense and Security Are Chief Of Staff's Responsibilities", *Tempo*, 11 February 2006.

--------, "Rights Groups Want Answers on Refugees Drowned in Dicle River", *Bianet*, 2 May 2008.

--------, "'Debated' Article on Law on War Academies" *Milliyet*, 15 November 2006, <http://www.milliyet.com.tr/2006/11/15/son/sonsiy15.asp> (Accessed 2 September 2008).

--------, "The Fascinating Details of Sarıkız and Ayışığı: We Survived Two Coup Attempts in 2004", *Nokta*, 29 March-5 April 2007.

--------, "Psychological Operations Center in Every City", *Özgür Politika*, 24 October 2003.

--------, "Do You Have Lots of Time and Nothing to Do", *Radikal*, 8 April 2008.

--------, "No Coup Was Ever Secret", *Sabah*, 15 July 2007.

--------, "Here is the Civilian Members' Impact on the NSC", *Yeni Şafak*, 1 December 2004.

--------, "Here is the Ergenekon Plot of the Turkish Armed Forces", *Taraf*, 12 June 2008.

--------, "İzmir'deki İşyerlerinden 'Jandarma Fişliyor' İddiası", *Sabah*, 11 November 2007.

--------, "Gendarmerie Blacklisted Bureaucrats in Mardin", *Zaman*, 2 April 2006.

--------, "Gendarmerie Even Blacklisted the Governor", *Sabah*, 31 March 2006.

--------, "Secret Memo by the Gendarmerie", *Taraf*, 26 October 2008, <http://www.taraf.com.tr/haber/19920.htm>.

--------, "Mufti Returns Blacklist From the Gendarmerie," *Hürriyet*, 20 February 2006.

--------, "Blackout Meeting in the Headquarters", *Taraf*, 13 Haziran 2008, <http://www.tumgazeteler.com/?a=3006431>.

--------, "Code Name: Silk," *Sabah*, 26 November 2008.

--------, "Media Blacklists Were Pirate Copies", *Sabah*, 11 March 2007.

--------, "Vocational Associations Lambasted New Turkish Press Law Which Introduces Severe Penalties on the Press" , *Hürriyet*, 25 June 2006.

--------, "A Skillful, Determined Speech on a Legitimate Basis", *Cumhuriyet*, 13 April 2007.

--------, "NSPD Approved Through Provocation", *Zaman*, 27 April 2006.

--------, "NSPD: Officers' Position Unchanged", *Akşam*, 27 October 2005.

--------, "Missionary Activity Not Criminalized But Unreasonably Considered a Threat". , *Radikal*, 22 December 2007, <http://www.radikal.com.tr/haber.php?haberno=242289> (Accessed 9 May 2009).

--------, "The Ergenekon Note Allegedly Delivered to the Chief of Staff by the NIS Is Missing", *Radikal*, 7 February 2009.

--------, "Refugee Report: Pain and Torture", *Radikal*, 3 April 2008.

--------, "General Büyükanıt Listed the Threats to Security", *haber7*, 4 April 2008, <http://www.tumgazeteler.com/?a=2705625> (Accessed 16 May 2009).

--------, "There Was Also A Death List", *Radikal*, 13 November 2005.

--------, "Private Security Will From Now On Be Administered By A State Organ", *Bugün*, 16 October 2006, <http://www.spntr.net/content/view/3573/28/> (Accessed 11 March 2007).

--------, "Private Security in Crisis", *Aksiyon*, 9 January 2006, <http://www.aksiyon.com.tr/detay.php?id=23156> (Accessed 1 April 2006).

--------, "Employment Crisis in Private Security Sector", *Hürriyet*, 11 July 2006.

--------, "Number of Private Security Personnel Exceeds Size of Police Force", *Hürriyet*, 21 May 2006, <http://www.hurriyet.com.tr/pazar/4444642.asp?gid=69> (Accessed 2 April 2007).

--------, "Private Security Providers Debate With Students on the Public Announcement", Sol, 20 December 2006, <http://www.sol.org.tr/index.php?yazino=6352> (erişim tarihi 13 Mayıs 2007).

--------, "General Özkök Does not Deny the Existence of Coup Diaries" , *Zaman*, 12 April 2007, <http://www.zaman.com.tr/haber.do?haberno=526623>.

--------, "Professional Army Will Triple the Defense Budget", Star, 3 October 2006, <http://www.tumgazeteler.com/?a=1722109< (Accessed 15 May 2009).

--------, "Attacker: I Wanted to be Punished", *ntvmsnbc*, 19 May 2006.

--------, "2259 Village Guards in Sason", Batman, 16 June 2005.

--------, "National Era in Defense", *Tercüman*, 12 May 2007, <http://www.tercuman.com/v1/yazaryazi.asp?id=93&yazitar=12.05.2007&yaziid=24518< (Accessed 15 May 2007).

--------, "Sezer: the Regime is Under Threat Gül: The Public Feels Differently", *Radikal*, 14 April 2007, <http://www.radikal.com.tr/haber.php?haberno=218334>.

--------, "Interview With Sezgin Tanrıkulu", DİHA, 23 January 2009.

--------, "A Civilian Public Relations Command is Advised by NSC", *Radikal*, 24 October 2003.

--------, "Political Left Parties Oppose the Operations", *Radikal*, 20 December 2007.

--------, "Accusations Against NGOs", *Taraf*, 7 April 2008.

--------, "Assassin Turns Out to Be Private Security Officer", *Hürriyet*, 26 April 2007, <http://www.hurriyet.com.tr/gundem/6404921.asp?gid=0&srid=0&oid=0&l=1> (Accessed 23 May 2007).

--------, "Şemdinli Ruling: 39 Years Each For Both Soldiers", *Radikal*, 20 June 2006.

--------, "Arms Handed to 50 'Voluntary' Village Guards in Şenoba", ANF, 17 May 2007.

--------, "New Counter Terrorism Roadmap", *Yeni Şafak*, 12 May 2009.

--------, "Counter Terrorism Law Will Breach Rights", *Radikal*, 29 June 2006.

--------, "TAF is the Largest Landowner in Istanbul with 125 Million Square Meters", emlakkulisi.com, <http://www.emlakkulisi.com/4773_tsk__125_milyon_metrekare_ile_istanbul_un_arazi_zengini>, (Accessed 2 May 2009).

--------, "First Case of Debarment in the TAF Based on Accusations of 'Political Reactionarism'" , *Hürriyet*, 4 August 2006.

--------, "'General Staff Revolution in TAF: War Academies to Abolish the Entrance Exams" , nethaber, 9 March 2009, <http://www.nethaber.com/Toplum/93435/TSKda-Kurmay-devrimi-Harp-Akademileri-sinavi-kaldirilacak> (Accessed 11 May 2009)

--------, "TAF's New Irregular Warfare Plans", *Vatan*, 2 June 2008, <http://w9.gazetevatan.com/haberdetay.asp?detay=TSKnin_yeni_Gayri_Nizami_Harp_plni_181874_1&Newsid=181874> (Accessed 21 May 2009).

--------, "Mind Boggling Conference for TAF", *Radikal*, 21 May 2009, <http://www.radikal.com.tr/Default.aspx?aType=RadikalHaberDetay&Date=21.05.2009&ArticleID=936868> (Accessed 21 May 2009).

--------, "We are Proud of the Turkish Press", *Hürriyet*, 6 March 1997.

--------, "1 Million Torture Victims in Turkey", *Sabah*, 24 April 2008.

--------, "Turkey's Private Security", *Tarih Vakfı İstanbul Dergisi*, May 2007.

--------, "Turkey's %92 Already Within Gendarmerie's Area of Jurisdiction; Now They Want the Remaining % 8", *Taraf*, 13 October 2008.

--------, "People of Urfa Also on the Blacklist", *Sabah*, 1 April 2006.

--------, "Private Security Terror on the Ferry", Hürriyet, 24 November 2006, <http://www.hurriyet.com.tr/gundem/5495751.asp?m=1>.

--------, "Attorney General of Court of Appeals Asked for the Prohibition of AKP: Unbelievable!", *Radikal*, 15 March 2008.

--------, "Court of Appeals Overturned Prison Sentence in Şemdinli Case", *Milliyet*, 16 May 2007.

--------, "Court of Appeals Decided Once Again to Try 'Murderer Officers' in Military Courts", *Bianet*, 28 December 2007.

--------, "HMC Decisions", *Star*, 30 November 2007.

--------, "Yaşar Büyükanıt: We Wait for the Draft Bill before We Make Official Comments", *Radikal*, 2 October 2007, <http://www.radikal.com.tr/haber.php?haberno=234555>.

--------, "37 Military Personnel Debarred upon HMC Decisions", *Sabah*, 30 November 2006.

--------, "No Reserve Officers Shall be Assigned to Commando Troops", *Yeni Şafak*, 4 May 2008, <http://yenisafak.com.tr/Gundem/?i=115174> (Accessed, 15 May 2009).

--------, "New Draft Constitution", *Haber7*, 14 September 2007, <http://www.haber7.com/haber.php?haber_id=268304> (Accessed 30 August 2008).

--------, "New NSC's First Task: To Destroy the Blacklists", *Radikal*, 18 November 2004.

--------, "Private Security Guard of Student Dormitory Shoots and Kills 3 People Who Tried to Break In," *Milliyet*, 9 May 2007 <http://www.milliyet.com.tr/2006/11/22/son/sonturo7.asp> (Accessed 22 November 2006.).

--------,"Constitutional Court Rules 367 Votes Are a Must", *HürriyetUSA*, 5 January 2007, http://www.hurriyetusa.com/haber/haber_detay.asp?id=11639>.

--------,"Chief of Staff: TAF Prestige is Eroding", *habervitrini*, 20 March 2009, <http://www.habervitrini.com/haber.asp?id=391920> (Accessed 18 May 2009).

--------,"TRT, Consulted Psychological Operations Command Before Purchasing Licenses for Cartoons", *Zaman*, 22 March 2006.

Akbaş, Özgür: "Counter Terrorism Strategy Based on FBI Models", *Bugün*, 6 November 2006.

Arıkanoğlu, Soner: "A Civilian Public Relations Command is Advised by NSC", *Radikal*, 24 October 2003.

Aydın, Hasan: "Officers Reprimand the 'Gendarmerie Code'", *Milliyet*, 4 June 2009.

Babacan, Nuray: "Use Public Records 'Sparingly'", *Hürriyet*, 19 September 2006.

Baransu, Mehmet: "A Note Issued by the Gendarmerie to University Rectors", *Taraf*, 8 June 2008.

Bayramoğlu, Ali: "Soldier Civilian Relationship", *Yeni Şafak*, 5 August 2003.

Bayramoğlu, Ali: "The Press in a Democratic Regime", *Yeni Şafak*, 5 March 2009.

Bayramoğlu, Ali: "We Are Being Watched (Interview), *Radikal*, 12 April 2004.

Bayramoğlu, Ali: "About General Hilmi Özkök", *Yeni Şafak*, 17 August 2006.

Çakırözer, Utku: "A Change from Civilian to Military Leadership on the NSC", *Milliyet*, 10 September 2005.

Çetin, Bilal: "Gendarmerie Will Not Hand Pelitli Over to the Police", *Yeni Şafak*, 2 February 2007, <http://yenisafak.com.tr/Gundem/?t=08.02.2007&i=28710>.

Çölaşan, Emin: "The People's Table, The People's Reception", *Hürriyet*, 1 September 2005.

Dündar, Can: "Culture of War and Racist Threat", *Milliyet*, 13 February 2007.

Düzel, Neşe: "The Minister Would not Know About Defense Spending", *Radikal*, 20 June 2005.

Erdem, Tarhan: "Contact", *Radikal*, 2 April 2007.

Gedik, İnan: "NSPD;It Exists Everywhere but State Council", birgun.net, 27 July 2006.

Göktaş, Kemal: "Everyone's Communication is Tracked", Vatan, 1 June 2008.

Güneç, Sedat: "Gendarmerie Will not Let Go of New Towns", Zaman, 11 November 2008, <http://www.zaman.com.tr/haber.do?haberno=759116&title=jandarma-yeni-ilceleri-birakmiyor>.

Günlük-Şenesen, Gülay: "An Evaluation of TAF's Modernization Program", 2000, <http://www.savaskarsitlari.org/arsiv.asp?ArsivTipID=6&ArsivAnaID=1393&SayfaNo=5> (Accessed 3 May 2009).

Hiçyılmaz, Ufuk: "Prime Ministry Volunteers for Crisis", *Aksiyon*, 2 May 2005.

Hür, Ayşe: "Who Took Over Armenian Property?", *Taraf*, 2 March 2008.

İnsel, Ahmet: "The Enemy Within", *Radikal İki*, 8 June 2008.

İnsel, Ahmet: "A TAF Whose Permanent Agenda is Domestic Security", *Radikal İki*, 30 July 2006.

Kardaş, Ümit: "A Legacy of the Empire, Military-Civilian Tango", *Radikal 2*, 29 June 2003.

Keskin, Adnan: "All Intelligence to Go to NSC", *Radikal*, 31 August 2003.

Korkut, Tolga: "Official Line of Argument will be Less Convincing if the Archives are Opened", BİA Haber Merkezi, 19 September 2006.

Mengi, Güngör: "Unsuccessful", *Vatan*, 10 March 2006.

Öymez, Hasan: "Political Reactionarism Divided", Star, 6 November 2006.

Özkök, Ertuğrul: "The Truth Behind a Joke", *Hürriyet*, 29 March 2008.

Özmen, Kemal: "The NSPD will not Become a 'Secret Constitution' if the Government will not Permit it", *Bianet*, 1 November 2005.

Öztürk, Saygı: "The People in the Vehicle were Collecting Intelligence", *Hürriyet*, 11 November 2005.

S. Nebil, Füsun: "There are Problems with Internet Site Censorships which are not Based on Law 5651", internet.com, 2008, <http://turk.internet.com/haber/yazigoster.php3?yaziid=20850>.

Sali, Ali: "The Presence of Gendarmerie Troops in Urban Centers Violates the Code", *Yeni Şafak*, 22 February 2006.

Sali, Ali: "The Gendarmerie Troops Enter the City Upon the Governor's Orders", *Yeni Şafak*, 22 February 2006.

Sarıibrahimoğlu, Lale: "Turkey to Locally Develop Strategic Arms Systems", *Jane's Defence Weekly*, 30 March 2005.

Sarıibrahimoğlu, Lale: "Turkish Defence Industry Banking on Change", *Jane's Defence Weekly*, 31 May 2006.

Sarıibrahimoğlu, Lale: "Turkish Procurement Head Rejects Criticism", *Jane's Defence Weekly*, 3 August 2005.

Sarıkaya, Muharrem: "The Recipient of Arınç's Messages", *Sabah*, 25 April 2006.

Susam, Gökçe: "People's Security, not State's Security", *Bianet*, 1 March 2005.

Tahincioğlu, Gökçer: "Opposition to Surveillance", *Milliyet*, 2 June 2008.

Talu, Umur: "Being Recruited into the Military Service... Signing up for the Military Service", *Sabah*, 2 June 2009.

Talu, Umur: "We are all Colonels", *Sabah*, 18 March 2009.

Tayyar, Şamil: "The Cost of 'Heavy Artillery' Purchases during February 28", *Star*, 13 November 2008.

Tunçkanat, H.: "National Security Council", *Akşam*, 22 September 1996.

Tüzün, Rafet: "Independence of the Judiciary and Military Judiciary", *Milliyet*, 12 February 1973.

Uğur, Fatih: "Ministry of Interior May Become Ministry of Domestic Security", *Aksiyon*, 20 October 2008.

Uğur, Fatih; Baki, Mehmet: "Gendarmerie Without a Rifle Butt", *Aksiyon*, no. 728.

Yetkin, Murat: "State Council Triggers New Era", *Radikal*, 21 June 2006.

Yetkin, Murat: "State Council Will Trim Down 'Secret Constitution!'", *Radikal*, 21 June 2006.

Yetkin, Murat: "Two New Special Provisions Against PKK", *Radikal*, 31 August 2006.

Zeyrek, Deniz: "The Soldiers to be Called for Duty Again if Necessary", *Radikal*, 26 October 2005.

Zeyrek, Deniz: "Here is the Top Secret Legislation", *Radikal*, 27 August 2003.

REPORTS:

"Parliamentary Investigation Commission Report on Unresolved Murders in Various Regions in our Country", Principle No: 10/90, Law No: A.01.1.GEÇ/300-554, Decision No: 10, 12 October 1995.

"Report by Parliamentary Investigation Commission Tasked to Illuminate the Relationships between Criminal Organizations' Ties to the State and the Car Accident in Susurluk That Revealed Some of these Relationships", report principle numbers 10/89, 110, 124, 125, 126.

Defence Policy and Planning Division - NATO International Staff: "Nato-Russia Compendium of Financial and Economic Data Relating to Defence", 20 December 2007.

Helsinki Citizens Assembly: "Unwelcome Guests: The Detention of Refugees in Turkey's "Foreigners' Guesthouses", November 2007, <http://www.hyd.org.tr/staticfiles/files/multeci_gozetim_raporu_tr.pdf>.

Human Rights Screening Commission (IHIK): "Hakkari Şemdinli Investigation Report" April 2006, <http://www.tbmm.gov.tr/komisyon/insanhaklari/belge/kr_22HakkariSemdinli.pdf> (Accessed 20 May 2009)

Human Rights Screening Commission (IHIK): "Report Investigating Allegations of Death Caused by Torture of Engin Çeber in Metris Penitentiary and Screening Bakırköy Women's Closed Penitentiary", 4 December 2008, <http://www.tbmm.gov.tr/komisyon/insanhaklari/belge/engin_ceber_raporu.pdf> (Accessed 20 May 2009).

Human Rights Screening Commission (IHIK): "Hrant Dink Sub Commission Report", 22 July 2008, <http://www.tbmm.gov.tr/komisyon/insanhaklari/belge/Hrant_Dink_Alt_Komisyon_Raporu.pdf> (Accessed 20 May 2009).

Human Rights Association (İHD), "Special Report on Human Rights Violations Incurred by Village Guards in the Period between January 1990 and March 2009", 8 May 2009.

Human Rights Association (İHD): "Investigation and Analysis of Allegations of Disproportionate Use of Force in Protests in Van Erciş and the Death of Mehmet Deniz", <http://www.ihd.org.tr/index.php?option=com_content&view=article&id=484:van-ercte-yamini-yen-mehmet-den-e-k-arairma-ve-celeme-raporu&catid=34:el-raporlar&Itemid=90>.

The Association of Human Rights and Solidarity for Oppressed Peoples (MAZLUMDER): "Kırklareli Report", 2008 <http://www.mazlumder.org/haber_detay.asp?haberID=1307>.

The Association of Human Rights and Solidarity for Oppressed Peoples (MAZLUMDER): "Report on Van-Hakkari-Yüksekova 2008 Newroz Protests", <http://www.mazlumder.org/haber_detay.asp?haberID=135>.

NATO, "Financial and Economic Data Relating to NATO Defence", 19 February 2009.

Undersecretariat of Defense Industry 2007 Activity Report, <http://www.politics.ankara.edu.tr/dergi/pdf/64/1/8-ozkal_ipek_sayan.pdf> (Accessed 15 May 2009).

Ministry of Interior Administrative Council, Specialization Commission Reports, 2002.

TESEV: Monthly Monitoring Report, August 2007 <http://www.tesev.org.tr/UD_OBJS/PDF/DEMP/AIR/Aylik%20Izleme%20Raporu%20-%20Agustos%202007.pdf>.

TESEV: Monthly Monitoring Report, October 2007, <http://www.tesev.org.tr/UD_OBJS/PDF/DEMP/AIR/Aylık%20Izleme%20Raporu%20-%20Ekim%202007.pdf >.

TESEV:Monthly Monitoring Report, September 2007, <http://www.tesev.org.tr/UD_OBJS/PDF/DEMP/AIR/Aylik%20Izleme%20Raporu%20-%20Eylul%202007.pdf>.

TESEV:Monthly Monitoring Report, November 2007, <http://www.tesev.org.tr/UD_OBJS/PDF/DEMP/AIR/Aylik%20Izleme%20Raporu%20-%20Kasim%202007.pdf>.

The Union of Chambers and Commodity Exchanges of Turkey Defense Industry Assembly: "Turkish Defense Industry Sector Report (2007)", June 2008.

OFFICIAL DOCUMENTS:

"Proceedings of Planning and Budget Commission Discussions on 2009 Fiscal Year Central Administration Budget Draft Law and 2007 Fiscal Year Central Administration Definitive Accounts Draft Law ", 10 November 2008.

"The Ministry of Defense's Public Announcement According to Law no. 5018 article 10", Ministry of Defense, 2009, <http://www.msb.gov.tr/Birimler/MALIYE/html/doc/6.KamuoyuBilgilendirmesi.pdf> (Accessed 10 May 2009).

"Turkey: 2005 Progress Report", (Brussels: European Commission, 2005).

"Türkiye 2006 Progress Report – Based on Unofficial Translation into Turkish", (Brussels: European Commission, 2006).

"Türkiye 2007 Progress Report – Based on Unofficial Translation into Turkish", (Brussels: European Commission, 2007).

"Türkiye 2008 Progress Report – Based on Unofficial Translation into Turkish", (Brussels: European Commission, 2008).

"2001 Progress Report on Turkey's EU Accession Process", (Brussels: European Commission, 2001).

"2002 Progress Report on Turkey's EU Accession Process", (Ankara: DPT, 2002).

"2003 Progress Report on Turkey's EU Accession Process", (Ankara: DPT, 2003).

"2004 Progress Report and Proposals on Turkey's EU Accession Process", (Ankara: DPT, 2004).

"2000 Regular Commission Report on Turkey's Progress Towards Accession ", www.abmankara.gov.tr/ab/RRTurkey2001-TR.pdf (Accessed 2 May 2009).

Decision on the Turkey's National Program to Adopt the European Union Acquis Communitaire and on the Application, Coordination, and Monitoring of Turkey's National Program to Adopt European Union Acquis Communitaire, Official Gazette no. 27097, 5th edition, dated 31 December 2008.

Agreement on Cooperation between The European Police Office and the Republic of Turkey, http://www.europol.europa.eu/legal/agreements/Agreements/17686.pdf.

Cemil Çiçek, "The Minister of Interior Cemil Çiçek's Reply to Written Inquiry Submitted by Member of Parliament Hüsnü Çöllü", 25 July 2008.

Council Common Position on the application of specific measures to combat terrorism, 2001/931, OJ L244/93, 28 December 2001.

European Parliament, Resolution on Gladio, 22 November 1990, <http://database.statewach.org/search.asp >.

TGNA: TGNA, "2008 Budget Discussions", TBMM Proceedings Journal, 33th Session, 8 December 2007, <http://www.tbmm.gov.tr/tutanak/donem23/yil2/bas/b033m.htm> (Accessed 10 May 2009).

TGNA: TGNA Proceedings Journal, S:70, 1 March 2007.

TTGNA: TGNA Proceedings Journal, No.77, Vol.13, 23th Term, 2nd Legislative Year 55th Session, 29 January 2008, <http://www.tbmm.gov.tr/tutanak/donem23/yil2/bas/b055m.htm> (Accessed 11 June 2008).

TGNA: TGNA Proceedings, 23th Term,2nd Legislative Year 36th Session, 11 December 2007, <http://www.tbmm.gov.tr/develop/owa/tutanak_sd.birlesim_baslangic?P4=20027&P5=B&PAGE1=95&PAGE2=&web_user_id=5699081> (erişim tarihi: 17 Haziran 2008).

The Istanbul Declaration Our security in a new era, Press Release, (2004)097, 28 June 2004, < http://www.nato.int/docu/pr/2004/p04-097e.htm>.

LAWS:

Law on Reserve Officers and Reserve Military Personnel, dated 16 June 1927 and numbered 1076; Official Gazette, no. 628, 9 July 1927.

Military Law, dated 21 June 1917 and numbered 1111; Official Gazette, no.631-635, 12-17 July 1927.

Law on Police Organization, dated 4 June 1937 and no. 3201; Official Gazette, no. 3626, 12 June 1937.

Law on Precautionary Measures Against and Help Delivered in Times of Disaster Afflicting Public Life dated 15 May 1959 and numbered 7269; Official Gazette, no. 10213, 25 May 1959.

Village Law, dated 18 March 1924 and numbered 442; Official Gazette, no.68, 7 april 1924.

Law on General Command of Mapping, dated 22 April 1925 and numbered 657; Official Gazette, no. 99, 2 May 1925.

Law on Land Deeds, dated 22 December 1934 and numbered 2644; Official Gazette, no. 2892, 29 December 1934.

Law on Responsibilities and Authority of Police, dated 4 July 1934 and numbered 2559; Official Gazette, no. 2751, 14 July 1934.

Provincial Administration Law, dated 10 June 1949 and numbered 5442; Official Gazette, no.7236, 18 June 1949.

Law on Crimes Committed Against Atatürk, dated 25 July 1951 and numbered 5816; Official Gazette, no. 7872, 31 July 1951

Law on Turkish Engineers and Architects Chambers Union, dated 27 January 1954 and numbered 6235; Official Gazette, no. 8625, 4 February 1954.

Forestry Law, dated 31 August 1956 and numbered 6831; Official Gazette, no.9402, 8 September 1956.

Turkish Armed Forces Internal Service Law, dated 4 January 1961 and numbered 211; Official Gazette, no.10703, 10 January 1961.

Constitution of the Republic of Turkey, dated 9 July 1961 and numbered 926; Official Gazette, 20 July 1961.

Law on Turkish Citizenship, dated 11 February 1964 and numbered 403; Official Gazette, no. 11638, 22 February 1964.

Civil Servants Law, dated 14 July 1965 and numbered 657; Official Gazette, no. 12056, 23 July 1965.

Turkish Armed Forces Personnel Law, dated 27 July 1967 and numbered 926; Official Gazette, no.12670, 10 August 1967.

Law on Role and Authority of the Chief of Staff, dated 31 July 1970 and numbered 1324; Official Gazette, no.13572, 7 August 1970.

Law on Role and Authority of the Ministry of Defense, dated 31 July 1970 and numbered 1325; Official Gazette, no.13572, 7 August 1970.

Law on Constitution and Role of Supreme Military Council, dated 17 July 1972 and numbered 1612; Official Gazette, no.14258, 26 July 1972.

State of Emergency Law, dated 13 May 1971 and numbered 1402; Official Gazette, no.13837, 15 May 1971.

Universities Law, , dated 20 June 1973 and numbered 1750; Official Gazette, no.14587, 7 July 1973.

Law on Establishment of State Supervisory Board, dated 1 April 1981 and numbered 2443; Official Gazette, no.17299, 3 April 1981.

Law on Securing and Protecting Some Institutions, dated 22 July 1981 and numbered 2495; Official Gazette, no.17140, 24 July 1981.

Capital Markets Law, dated 28 July 1981 and numbered 2499; Official Gazette, no.17416, 30 July 1981.

Higher Education Law, dated 4 November 1981 and numbered 2547; Official Gazette, no.17506, 4 November 1981.

Law on Security Zones and Restricted Zones, dated 18 December 1981 and numbered 2565; Official Gazette, no.17552, 22 December 1981.

Law on Coast Guard Command, dated 9 July 1982 and numbered 2692; Official Gazette, no.17753, 13 July 1982.

Constitution of the Republic of Turkey, dated 7 November 1982 and numbered 2709; Official Gazette, no.17863, 9 November 1982.

Law on the Establishment, Duties, and Jurisdiction of the Gendarmerie, dated 10 March 1983 and numbered 2803; Official Gazette, no.17985, 12 March 1983.

Law on Political Parties, dated 22 April 1983 and numbered 2820; Official Gazette, no. 18027, 24 April 1983 (amendment to the law is dated 29 April 2005 and numbered 5341; Official Gazette, no. 25808, 7 May 2005).

Law on Atatürk Culture, Language and History High Council, dated 11 August 1983 and numbered 2876; Official Gazette, no.181385, 17 August 1983.

Law on Public Gatherings and Protest Marches, dated 6 October 1983 and numbered 2911; Official Gazette, no.18185, 8 October 1985.

State of Emergency Law, dated 25 October 1983 and numbered 2935; Official Gazette, no.18204, 27 October 1983.

Law on State Intelligence Services and Organization of the National Intelligence Services, dated 1 November 1983 and numbered 2937; Official Gazette, no.18120, 3 November 1983.

Martial Law and State of War Law, dated 4 November 1983 and numbered 2941; Official Gazette, no.18125, 8 November 1983.

Law on National Security Council and Secretariat General of the NSC, dated 9 November 1983 and numbered 2945; Official Gazette, no.18218, 11 November 1983.

Law on Turkish Radio and Television, dated 11 November 1983 and numbered 2954; Official Gazette, no.18221,14 November 1983.

Law on Constitution of Ministries and Principles of Authority, dated 27 September 1984 and numbered 3046; Official Gazette, no.18540, 9 October 1984.

Law on Structure of the Office of the Prime Minister, dated 10 October 1984 and numbered 3056; Official Gazette, no. 18550, 19 October 1984.

Law on Role and Authority of Ministry of Interior, dated 14 February 1985 and numbered 3152; Official Gazette, no. 18675, 23 February 1985.

Attachment of Two Articles to Village Law Article 74, dated 6 March 1985 and numbered 3175, Official Gazette, no. 18715, 4 April 1985.

Law on Specialist Non-Commissioned Officers, dated 8 March 1986 and numbered 3269; Official Gazette, no.19058, 25 March 1986.

Military Academies Law, dated 24 May 1989 and numbered 3563; Official Gazette, no. 20181, 31 May 1989.

Law on Human Rights Screening Commission, dated 5 December 1990 and numbered 3686; Official Gazette, no.20719, 8 December 1990.

Law on the Passing of Amendments to the Decree dated 30 April 1992 and numbered 3797 and dated 13 December 1982 and numbered 179 and dated 8 June 1984 and numbered 208 and dated 23 October 1989 and numbered 385 and dated 9 April 1990 and numbered 419 and 28 August 1991 and numbered 454; Official Gazette, no. 21266, 12 May 1992 (Correction: Official Gazette, no.21240, 27 May 1992).

Law on the Establishment and Broadcasting of Radio and Television Networks, dated 13 April 1994 and numbered 3984; Official Gazette, no.21911, 20 April 1994.

Law on Changing Some Decrees on Regulation of Privatization Measures, dated 24 November 1994 and numbered 4046; Official Gazette, no.22124,27 November 1994.

Military Colleges Law, dated 11 May 2000 and numbered 4566; Official Gazette, no. 24052, 17 May 2000.

Law on Amending Some Articles of the Constitution of the Republic of Turkey, dated 3 October 2001 and numbered 4709; Official Gazette, no. 24556, 17 October 2001.

Law on Public Tenders, dated 4 January 2002 and numbered 4734; Official Gazette, no. 24648, 22 January 2002.

Law on Vocational Colleges for Petty Officers, dated 1 April 2002 and numbered 4752; Official Gazette, no.25192, 7 August 2003.

Law on Amending Various Laws, dated 30 July 2003 and numbered 4963; Official Gazette, no. 25192, 7 August 2003.

Turkish Penal Code, dated 26 September 2004 and numbered 5237; Official Gazette, no.25611, 12 October 2004.

Code of Criminal Procedure, dated 4 December 2004 and numbered 5271; Official Gazette, no.25673, 17 December 2004.

Law on Prosecution of Criminal and Security Precautionary Measures, dated 13 December 2004 and numbered 5275; Official Gazette, no.25685, 29 December 2004.

Law on Amending the Law on the Passing with Changes of the Decree on the Organization of the Prime Ministry, dated 24 May 2006 and numbered 5508; Official Gazette, no. 26183, 30 May 2006.

Law on Private Security Services, dated 10 June 2004 and numbered 5188; Official Gazette, no.25504, 26 June 2004.

Law on Amending Constitution and Jurisdiction of Military Courts, dated 29 June 2006 and numbered 530; Official Gazette, no. 26219, 5 July 2006.

Law on Regulating Internet Publishing and Fighting Crimes Committed on the Internet, dated 4 May 2007 and numbered 5651; Official Gazette, no.26530, 23 May 2007.

Law on Amending Village Law and Some other Laws, dated 27 May 2007 and numbered 5673; Official Gazette, no. 26450, 2 June 2007.

Law on Changing Law on Role and Authority of the Police, dated 2 June 2007 and numbered 5681; Official Gazette, no. 26552, 14 June 2007.

Law on Amending Various Laws on Military Service, dated 11 June 2008 and numbered 5768; Official Gazette, no.26916, 24 June 2008.

Law on Amending Military Academies Law, dated 11 June 2008 and numbered 5771; Official Gazette, no. 26916, 24 June 2008.

Law on Changing Various Laws in line with Core Penal Codes and Other Legislative Changes, dated 23 January 2008 and numbered 5728; Official Gazette, no. 26781, 8 February 2008.

Law on Amending the Law on Retired Fund of the Republic of Turkey and the Law on Reserve Officers and Reserve Military Personnel, dated 26 February 2008 and numbered 5743; Official Gazette, no. 26814, 12 March 2008.

Law on Amending Various Laws on Military Service, dated 5 February 2009 and numbered 5837; Official Gazette, no.27140, 13 February 2009.

REGULATIONS:

Regulation on the Application of Temporary Article 9 Added to Law no. 6136 by Law no. 4178; Official Gazette, no. 22673, 20 September 1996.

Regulation on Emergency Relief Organizational and Planning Principles; Official Gazette, no. 19808.

Regulation on Vocational Colleges for Petty Officers; Official Gazette, no. 25261, 16 October 2003.

Regulation on Office of the Prime Minister Crisis Management Center, *Official Gazette*, no. 22871, 9 January 1997.

Regulation on the Performance of the Duties, the Utilization of Authority, and the Management of Relationships between the Gendarmerie and the Police when Policing and Maintaining Law and Order in Cities, Towns and Districts; *Official Gazette*, no. 10855, 15 July 1961.

Regulation on Changing the Regulation on the Performance of the Duties, the Utilization of Authority, and the Management of Relationships between the Gendarmerie and the Police when Policing and Maintaining Law and Order in Cities, Towns and Districts; *Official Gazette*, no.27185, 30 April 2009.

Regulation on Security Investigation and Archival Research; Official Gazette no. 24018, 12 April 2000.

Regulation on Changing the Regulation on Military Colleges, *Official Gazette*, no. 26053, 18 January 2006.

Regulation on War Colleges, *Official Gazette*, no. 24536, 27 September 2001.

Regulation on Changing Regulation on Role and Authority of Gendarmerie Organization, *Official Gazette*, no. 27185, 30 April 2009.

Regulation on Village Guards, *Official Gazette*, no. 24096, 1 July 2000.

Regulation on Changing National Education Supreme Council, *Official Gazette*, no.26248, 3 August 2006.

Regulation on Methods and Principles of Mandatory Emergency Spending on Preventive Measures; Official Gazette, no. 22863, 30 December 1996.

Regulation on Duties of Fire Fighters for the Prevention and Containment of Forest Fires; Official Gazette, no. 15729.

Regulation on the Application of Law on Private Security Services, Official Gazette, no. 25606, 7 October 2004.

Regulation on Principles of Network and Frequency Allocations to Radio and Television Companies and on the Principles of Tenders and on Broadcasting Licensing and Permits, Official Gazette, no. 22223, 10 March 1995. (Amended regulation available on Official Gazette dated 3 February 1999, no. 23600).

Regulation on Radio and TV Broadcasting Principles and Methods, Official Gazette, no. 25082, 17 April 2003.

Regulation on Higher Board of Radio and Television (RTUK) Personnel, Official Gazette, no. 24930, 8 November 2002.

Regulation on RTUK Satellite Broadcasting Licensing and Permits, Official Gazette, no. 26669, 10 October 2007.

Regulation on Presidency of the Board of Training and Education, Official Gazette, no.21482, 31 January 1993.

Regulation on the Application of the Law on Public Gatherings and Protest Marches, Official Gazette, no. 18836, 8 August 1985 tarihli.

Regulation on Internal Services of Turkish Armed Forces, *Official Gazette*, no. 10899-10900-10901, 6-7-8 September 1961.

Regulation on Turkish Armed Forces Middle Schools, Official Gazette, no. 26865, 5 May 2008.

Regulation on Radio and Television Broadcasting in VArious Languages and Dialects Used Traditionally in Daily Life by Citizens of Turkey, Official Gazette, no. 25357, 25 January 2004.

Regulation on Foundation Higher Education Institutions, Official Gazette, no. 26040, 31 December 2005.

ELECTRONIC SOURCES:

--------, "August 2007 High Military Council Meeting", <www.tsk.tr>.

--------, "August 2008 High Military Council Meeting", wwww.tsk.tr>.

--------, "Greater Middle East Project and Nato", <hww.sendika.org/yazi.php?yazi_no=510>.

--------, "Turkey supports Georgia", <http://www.dunyabulteni.net/news_detail.php?id=49746>.

--------, <http://www.asayis.pol.tr/ozelguv_istatistik.asp#istatistik>.

Başbuğ, İlker: "Chief of Staff İlker Başbuğ's Press Statement in Diyarbakır", 5 September 2008, <http://www.tsk.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_7_Konusmalar/2008/org_ilkerbasbug_diyarbakir_05092008.html> (Accessed 2 May 2009).

Başbuğ, İlker: "Chief of Staff İlker Başbuğ's Address During the Naval Ceremony in Heybeliada", 27 September 2008, <http://www.tsk.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_7_Konusmalar/2008/org_ilkerbasbug_heybeliada_27092008.html> (Accessed 2 May 2009).

Başbuğ, İlker: "Chief of Staff İlker Başbuğ's Annual Address During the War Academies Command Ceremony on 14 April 2009", <http://www.tsk.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_7_Konusmalar/2009/org_ilkerbasbug_harpak_konusma_14042009.html> (Accessed 2 May 2009).

Başbuğ, İlker: "Summary of Proceedings from Chief of Staff Communications Meetings on 16-17 September 2008", <http://www.tsk.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_7_Konusmalar/2008/org_ilkerbasbug_iletisim_16092008.html>.

Başbuğ, İlker: "General İlker Başbuğ's Speech During Hand over Ceremony", 28 August 2008, <http://www.tsk.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_7_Konusmalar/2008/org_ilkerbasbug_dvrtslkonusmasi_28082008.html> (Accessed 2 May 2009)

Boğaziçi – TÜSİAD Foreign Policy Forum: "Turkish American Relations – Latest Developments", <http://www.dispolitikaforumu.org/index2.php?option=com_docman&task=doc_view&gid=15&Itemid=6>.

Büyükanıt, Yaşar: "Chief of Staff General Yaşar Büyükanıt's Opening Remarks on the General/Admiral Seminary, 'İpekyolu 2007'", <http://www.tsk.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_7_Konusmalar/2007/gnkur_bsk_ipekyolu_semineri_03072007.htm> (Accessed 2 May 2009).

Büyükanıt, Yaşar: "General Yaşar Büyükanıt's Farewell Address During Hand over Ceremony", 28 August 2008, <http://www.tsk.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_7_Konusmalar/2008/orgyasarbuyukanitdvrtslkonusmasi_28082008.html> (Accessed 2 May 2009)

Gene, Healey: "Deployed İn The U.S.A.The Creeping Militarization Of The Home Fron", December 17 2003, < http://www.cato.org/pub_display.php?pub_id=1361>.

Office of the Chief of Staff: "Civil- Military Cooperation in Turkey", <http://www.tsk.tr/2_GENEL_BILGILER/2_7_Sivil_Asker_Isbirligi/konular/turksivil.htm> (Accessed 11 May 2009).

Office of the Chief of Staff: TAF Personnel Management System-2010 (PYS-2010) Project, <http://www.tsk.tr/7_INSAN_KAYNAKLARI/7_1_TSK_Personel_Yonetimi_Sistemi/Personel_Yonetimi_Sistemi.htm> (Accessed 5 May 2009).

Gürak, Metin: "Weekly Press Meeting", 10 October 2008, <http://www.tsk.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_9_Basin_Bilgilendirme_Toplantilari/2008/BBT_10_10_2008.htmm> (Accessed 15 May 2009).

Gürak, Metin: "Weekly Press Meeting", 13 March 2009, <http://www.tsk.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_9_Basin_Bilgilendirme_Toplantilari/2009/BBT_13_03_2009.html> (Accessed 15 May 2009).

Gürak, Metin: "Weekly Press Meeting", 16 January 2009, <http://www.tsk.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_9_Basin_Bilgilendirme_Toplantilari/2009/BBT_16_01_2009.html> (Accessed 15 May 2009).

Gürak, Metin: "Weekly Press Meeting", 20 March 2009, >http://www.tsk.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_9_Basin_Bilgilendirme_Toplantilari/2009/BBT_20_03_09.html>(Accessed 15 May 2009).

Gürak, Metin: "Weekly Press Meeting", 23 January 2009, <http://www.tsk.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_9_Basin_Bilgilendirme_Toplantilari/2009/BBT_23_01_2009.html> (Accessed 15 May 2009).

Gürak, Metin:"Weekly Press Meeting", 26 September 2008, <http://www.tsk.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_9_Basin_Bilgilendirme_Toplantilari/2008/BBT_26_09_2008.html> (Accessed 15 May 2009).

Gürak, Metin: "Weekly Press Meeting", 31 October 2008, <http://www.tsk.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_9_Basin_Bilgilendirme_Toplantilari/2008/BBT_31_10_2008.html> (Accessed 15 May 2009).

Gürak, Metin:"Weekly Press Meeting", 6 February 2009, <http://www.tsk.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_9_Basin_Bilgilendirme_Toplantilari/2009/BBT_06_02_2009.html> (Accessed 15 May 2009).

War Academies Command: "Armed Forces Academy", <http://www.harpak.tsk.mil.tr/pageContainer.aspx?PID=3> (Accessed 20 May 2009).

Helsinki Citizens Assembly: "Mapping Results of Rights Pursuit: Torture and Maltreatment in Turkey", < http://www.stramap.org/tr/anasayfa.aspx>.

İlter, Erdal: "History of Turkish National Intelligence", <http://www.mit.gov.tr/tarihce/birinci_bolum>.

Human Rights Association (İHD), 2006 Record of Human Rights Violations, <http://www.ihd.org.tr/images/pdf/2006_yili_insan_haklari_ihlalleri_bilancosu.pdf > .

Human Rights Association (İHD), 2007 Record of Human Rights Violations, <http://www.ihd.org.tr/images/pdf/2007_yili_insan_haklari_ihlalleri_bilancosu.pdf>.

Human Rights Association (İHD), Human Rights 2004 (press release), <http://www.ihd.org.tr/index.php?option=com_content&task=view&id=412&Itemid=78>.

KESK, "Poverty and Interest Rates Budgets are Mounted on our Backs Once Again in 2004", December 2003, < http://www.kesk.org.tr/index.php?Itemid=92&id=160&option=com_content&task=view> (Accessed 12 May 2009).

Kutlu, Savaş: Susurluk Report, 1997, <http://www.kovan.ceng.metu.edu.tr/~erol/ses/susurluk/Susurluk__Kutlu_Savas'in_Raporu.html>.

Secretariat General of National Security Council: "Press Statements from NSC Meetings in Year 1984", <http://www.mgk.gov.tr/Turkce/basinbildiri1984/8subat1984.htm>.

Secretariat General of National Security Council: "History", <http://www.mgk.gov.tr/Turkce/tarihce.html>.

Secretariat General of National Security Council: "Frequently Asked Questions," <http://www.mgk.gov.tr/ > (Accessed 1 May 2009).

OYAK: "OYAK Activity Report 2008", http://www.oyak.com.tr/OyakWEBTR/faaliyet_raporlari/20090601010102.Faaliyet_Raporu_2008.pdf> .

Özkök, Hilmi: Chief of Staff General Hilmi Özkök's Speech on War Academies Command, 16 March 2006, tsk.mil.tr, <http://www.tsk.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_7_Konusmalar/2006/harpakegitimogretimyiliaciliskonusmasi_160306.html> (Accessed 5 May 2009).

Undersecretariat of Defense Industry: Performance Program 2009, <http://www.ssm.gov.tr/TR/dokumantasyon/Documents/SSM_2009_PP.pdf> (Accessed 11 May 2009).

Turkey Union of Bar Associations: "Turkey Union of Bar Associations Press Statement on Draft Bill to Change Some Articles of the Counter Terrorism Law, no. 3713 ", 30 April 2006, <http://www.barobirlik.org.tr/calisma/haberler/tbb/060430_tmy.aspx>.

Turkish Grand National Assembly: "Draft Law on Private Security Services and Justification", 26 May 2004, < http://www2.tbmm.gov.tr/d22/2/2-0295.pdf>.

Human Rights Foundation of Turkey (TİHV): "Obligatory statement to correct the misperceptions on impunity of torture..." (press statement), 2007, <http://www.tihv.org.tr/index.php?option=com_content&task=view&id=1301&Itemid=69>.

TÜSİAD: Ankara Bulletin, <http://www.tusiad.org/tusiad_cms.nsf/DTAnk/20/$FILE/AnkaraBulteni-Subat2008.pdf>.

UNCHR: "UNHCR deplores refugee expulsion by Turkey which resulted in four deaths", 25 Nisan 2008, <http://www.unhcr.org/news/NEWS/4811e23c4.html>.

Yazgan, Kaya M.: "Corporate Mergers in Defense Industry", <http://www.sasad.org.tr/dosya/e0e/SSBirlesme_PDF.pdf> (Accessed 10 May 2009).

Yazgan, M. Kaya: "Our Defense Industry in Numbers in 2007", SaSaD, May 2008, <http://www.sasad.org.tr/dosya/e0e/2007_de%20Sayilarla%20Savunma%20Sanayiimiz_3.pdf> (Accessed 11 May 2009).

WEBSITES:

Secretariat General for EU Affairs, http://www.abgs.gov.tr/.

European Commission Delegation to Turkey, http://www.avrupa.info.tr/DelegasyonPortal.html.

Naval Command, < http://www.dzkk.tsk.tr/>.

Directorate General of Security, <http://www.egm.gov.tr/>.

Office of the Chief of Staff, < www.tsk.tr/>.

General Command of Mapping, < http://www.hgk.mil.tr/>.

Air Force Command, < http://www.hvkk.tsk.tr/>.

Ministry of Interior, <http://w3.icisleri.gov.tr/default.icisleri_2.aspx>.

General Command of Gendarmerie, < http://www.jandarma.tsk.tr/>.

Land Forces Command, < http://www.kkk.tsk.tr/>.

Ministry of Finance, <http://www.maliye.gov.tr/>.

Secretariat General of the National Security Council, <http://www.mgk.gov.tr/>.

National Intelligence Service, < http://www.mit.gov.tr/>.

Ministry of Defense, <http://www.msb.gov.tr/anasayfa/phpscr/anasayfa.php>.

NATO, <http://www.nato.int/cps/en/natolive/index.htm>.

Coast Guard Command, < http://www.sgk.tsk.tr/>.

Undersecretariat of Defense Industry, <http://www.mgk.gov.tr/>.

Turkish Grand National Assembly, <http://www.tbmm.gov.tr/>.

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The first in the series **Almanac Turkey: Security Sector and Democratic Oversight** was published by TESEV in 2006 with the aim of meeting the need for information and analysis on security sector reform. **Almanac Turkey 2005: Security Sector and Democratic Oversight** presented within an objective framework the organizations, activities, and legal structures of security sector units, their principles and understandings, and the reforms that Turkey has carried out or is expected to carry out as part of the EU accession process.

This second **Almanac** covers the three-year period from the beginning of 2006, when the first study was concluded, to the end of 2008. It also gives some information regarding the first half of 2009. In addition to examining the developments which occurred in the Turkish security sector during this time, the **Almanac** also focuses on the discussions surrounding the position of security actors in political and social life. It attempts to summarize the historical background that triggered these developments and thus to elucidate both the continuities of and the various divergences from historical patterns and trends in Turkish security sector policy.

In Turkey, very crucial debates regarding the political and social position of the security took place between 2006 and 2008. These incidents have demonstrated with amazing clarity just how important it is that security sector actors in Turkey be under the supervision of civilian political powers and, most importantly, the parliament. Accordingly, primary aims of this study are to make security institutions transparent and accountable, to put the need for civilian oversight on the agenda of policy-makers, the media, civil society, and public opinion, and to address the lack of information on this subject.

In Turkey, the main principle governing the different components of the state is based on a very vaguely defined conception of national security. This broad and all-encompassing perception of security engenders an administrative structure whereby the security institutions are highly privileged in decision-making, implementation, and oversight between the political authorities and members of the state bureaucracy. Changing this perception by giving civilian political forces the authority to discuss, assess and propose security issues is one of the most significant steps in the process of democratization. To realize this goal, political actors should act on the awareness that security issues are common problems for society at large, rather than a subject to be discussed exclusively by security officials. We hope that this study will prepare the grounds for such a development and will encourage similar initiatives.

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