

# HUMAN RIGHTS ASSOCIATION



## RESEARCH AND INVESTIGATION REPORT REGARDING THE EVENTS IN BULANIK DISTRICT OF MUŞ PROVINCE WHICH LED TO THE KILLING OF TWO PEOPLE AND THE INJURY OF SEVEN

**16 December 2009**

### INCIDENT

At around 11:00 in the morning on Tuesday, 15 December 2009, about one-thousand people gathered in front of the Democratic Society Party (*Demokratik Toplum Partisi – DTP*) building in Bulanık district of Muş province with the goal of protesting the closure of the DTP. The assembly wanted to move to a shopping district near the party building in order to make a press statement, and the crowd was fired upon with a long-barreled gun and a pistol from a workplace in the shopping district, leading to the death of two people and the injury of seven.

### DELEGATION

After hearing about the above-described incident, the General Headquarters of the Human Rights Association decided to form a human rights delegation in its name and to go to the place where the incident occurred. On Tuesday afternoon on 15 December, the General Headquarters of the HRA faxed messages to the Muş provincial governorship, the Bulanık district government, and the Bulanık Chief Public Prosecutor's Office in order to request interviews and meetings with them.

The delegation consisted of the following individuals:

1. Muharrem Erbey, Attorney at Law, HRA Vice President and President of the Diyarbakır branch of the HRA;

2. Ali Akıncı, HRA Central Executive Committee member and East and Southeast Anatolia Regional Representative of the HRA;
3. Cihan Güçlük, Attorney at Law, HRA Central Executive Committee member.

## **ACTIVITIES CARRIED OUT BY THE DELEGATION**

### **1. VISIT TO BULANIK DISTRICT AND THE SITUATION THERE**

The human rights delegation took to the road at 6:30 in the morning on 16 December 2009 with the goal of going to Bulanık district in Muş province. Along Bulanık road it was observed that police and security forces had been dispatched to Bulanık district. The delegation arrived in Bulanık at 11:15 in the morning. The weather in the area was cold and snowy, and it was observed that all shops were closed, there were many security forces and police panzers waiting at the corners of streets, the district government, police station and some public institutions were under blockade, the streets and avenues where the incident took place were closed to access, people were walking in the streets, everyone had a sulky face, and that tension was high.

### **2. EVENTS THAT DEVELOPED DURING THE RETURN FROM THE GRAVEYARD**

Kemal Ağaca, the village headman of Yoncalı village, was killed on Tuesday 15 December and buried the same night. 19 year old Necmi Oral was buried at 11:00 on Wednesday 16 December. At the time that our delegation went to the funeral home to pay our respects, Oral's relatives were returning from the cemetery. While passing by the house of the man who killed Necmi, Turan Bilen, a few young people became angry, began to shout insults and throw stones at the perpetrator's home. Upon this, security forces indiscriminately fired gas bombs at the crowd returning from the cemetery. It was seen that the deployed gas bombs disturbed both those returning from the cemetery and the people in the homes in the area, and that close to two thousand people were impacted by the gas. Because it was in the area when the incident occurred, the human rights delegation was also heavily impacted by the gas. It was seen that the deployed gas burned in the eyes and respiratory pipes and caused extreme discomfort for five or six minutes. In the meantime, Muş parliamentary deputies Sırrı Sakık and Nuri Yaman, along with the mayor of Bulanık, were observed intervening and trying to forcibly distance the youth from the vicinity of the house.

### **3. CONDOLENCE WISHES**

Subsequently, those returning from the cemetery came to the front of Necmi Oral's house, religious obligations were fulfilled together with the people there, and well wishes were transmitted to the Oral family. The human rights delegation was introduced to the family and to the people assembled there and it was explained that we had come with the goal of investigating the incident, and snippets of information related to how the incident developed were taken from people who had come to offer condolences and many individuals who had witnessed the event in person.

## **INTERVIEWS CONDUCTED**

### **1. Sırrı Sakık – Independent Parliamentarian from Muş**

Immediately after the event we rushed from Diyarbakır to Bulanık. An indiscriminate attack on the public had been witnessed. This event was unacceptable. The incident in Bulanık began and escalated when an individual by the name of Turan Bilen fired on a group of people protesting the closure of the DTP. Bilen has been protected by some state mechanisms for a long time, and this event can't be explained simply as a shopkeeper's reaction.

## **2. Nuri Yaman - Independent Parliamentarian from Muş**

Immediately after the event we came to Bulanık. This event is not a simple one. We've met with many people. According to what they've said, the first death occurred between 11:00 and 12:00. This man had waited in his workplace with a gun in his hand for a long time. However, during this period security forces didn't go and take his gun or warn him.

## **3. Ziya Akka – Mayor of Bulanık**

We're profoundly sad about the events that occurred on Tuesday, December 15. A press statement was going to be made with the goal of denouncing the closure of the DTP. I was in Muş. I came back. There was a provocation during the incident. It had a relationship with JİTEM. We lost two brothers. Our pain is huge. Hopefully we won't experience pain like this again. I didn't witness the incident. But many people say that the event was a volley of gunfire.

## **4. Rahmi Çelik – Former DTP Chairman in Bulanık District**

We were leaving our old party building and going to the shopping district with the goal of protesting the closure of the DTP. It was around 10:30 in the morning. The place we were going was about 500 meters away. There were very many security forces in the streets. All shops were closed and their shutters were shut. However, an individual named Turan Bilen – who is known to be involved with JİTEM – hadn't closed his shop, and he was seen in his shop with two other people. This man roams everywhere with a gun, no one asks him anything, no one can ask him anything. He's a very dark man. Moreover, many shots were fired. I don't know if the person who hit Necmi was a police officer or the individual named Turan. It'll be revealed if a ballistic investigation is conducted. There were three people in the shop. Those other than Turan were wearing snow masks. The person named Turan was wearing a bulletproof steel vest. Gas bombs and bullets were fired from the area across from Turan's shop.

## **5. Remzi Demirağ**

With the goal of protesting the closure of the DTP, we were going to make a press statement between 10:30 and 11:00 at the location of minibus stops at the beginning of Alpaslan avenue. We were 500 meters away from the DTP building. Gas bombs were deployed before the crowd dispersed, and then young people threw stones. Necmi was hit at 11:30. Turan Bilen – a shopkeeper and salesman who at the same time roams around with guns, sometimes gets in panzers, and workers with JİTEM – and the two people with him hit Necmi. His shop had two floors. The assembled people were fired on directly from the second floor. First, one person was firing, and later three people were suddenly firing. Turan was wearing a bulletproof steel vest under his jacket. His jacket was bulky and it was noticeable from far away. The two other people were wearing black snow masks. I was watching the event from 20 meters away. I saw Necmi fall at the corner of the Ziraat Bank building. He was at the

corner of the fabric shop. There were 50 meters in between. I went up to him. He hadn't died yet. He was alive. Showing me Turan's shop, he said "they shot me from the second floor." I took him into my hands. My other friends came to help me. He had been injured in the back of his head. After carrying him with our hands for a certain distance we got in a taxi. We brought him to the hospital.

At about 7:00 in the morning I saw the individual named Turan opening his shop. There were two people. They had a fire extinguisher and cloth sacks. There were heavy things in the sacks. They were middle-sized. It seemed as if there were things like guns and bullets inside. In the morning there were two people there. At the time of the incidents, there were three people. Many times before we had seen this man get in military panzers and go straight to Malazgirt district. This man had also threatened us many times before. He threatened me when I was a DEHAP (*Demokratik Halk Partisi* – Democratic People's Party) leader in 1995. As far as I know he had threatened many colleagues from the party. Everyone knows him. He's involved in cooperation with JITEM. The state protects him, looks after him, he has a goatee, wears glasses and is about 45 years old. All of the schools' contracts for uniforms, cloth and other such goods were given to him.

## **6. Bircan Demir – Former Member of the DTP's Party Assembly**

We were going to make a press statement on Alpaslan avenue with the goal of protesting the closure of the DTP. About 1,000 people had assembled. We were as much as 500 meters away from the place we were going. All of the shops were closed and shuttered. Stones might have been thrown, I didn't see. Gas bombs were deployed. It was about 11:15. At about 11:30 it was said that someone had been injured and had fallen to the ground. Following this, I went and met with the Bulanık provincial governor in the name of the party. I said that shots were being fired from the second floor of Turan's shop. I said the atmosphere was tense. We said that security forces should be withdrawn from the streets and that we should also disperse the rally so that the event wouldn't escalate. The provincial governor accepted. The police were withdrawn. However, the guns weren't taken from the individuals in the fabrics shop. They were still there. They weren't taken away. A little bit later, however it happened, events began again as people were drawing back and shots were fired from the shop for the second time. The second round of fire was opened around 13:00 in the afternoon. The assembled people were fired on directly from the shop. Before, they were going out and firing. But in the afternoon this individual was only raising his hand and gun and indiscriminately raking people with fire without directly looking at the crowd. In the meantime, other people fell to the ground.

## **7. Mehmet Temel – Editorial Director at *Bulanık Bilican* Newspaper**

On the day of the incident a press statement condemning the closure of DTP was going to be made. A mass gathered in front of the office of the closed DTP. They began to march from Alparslan Paha avenue straight toward İsaakoğlu avenue. A few young people had already arrived at the entrance to İsaakoğlu avenue and the police interfered in the assembly by deploying gas bombs. Not having yet arrived at the banks, the crowd was forced to disperse into side streets. The sound of youth shouting slogans was coming from the side streets. A workplace on İsaakoğlu avenue known as Mardin Manifatura (Mardin fabrics shop) opened in the morning hours. However, I saw the shutters closed later. There was a fully-equipped group of police directly across from Mardin Manifatura. Shots were fired from this shop after 20 minutes had passed since the first gas bomb was deployed. Necmi fell to the ground at a

place that was 20 or 25 meters away from Mardin Manifatura. I saw the moment when Necmi hit the ground. Immediately after he fell gas bombs were deployed to the area where he had fallen. When the fog dissipated a little I brought Necmi to a side street with a few other people. He was later brought to the State Hospital in a vehicle. He was worked on at the State Hospital for a half hour and was later dispatched to Muş. I returned to the shopping district. The police were waiting 50 or 60 meters away from the municipality building.

Because the crowd saw fire being opened from Mardin Manifatura they began to assemble and move straight toward the municipality. Furthermore, everyone was supposing that Turan Bilen's shop was closed until Necmi was fired upon. The shop was open in the morning but was closed at the time of the march. When the crowd was heading straight there Turan Bilen went in front of his shop and began to fire. After the crowd retreated and fell apart Turan went to his shop again and closed the shutters, which are the type that can be opened and closed automatically. When the crowd reassembled he went back and opened fire again. I didn't see if anyone was injured during this gunfire but I saw him raking the crowd. Without going outside himself, he stuck the barrel of his gun straight out and began to indiscriminately fire on the area. Bullets also came to my vicinity. By sheer luck I wasn't injured. When the sound of gunfire stopped I looked back and saw that village headman Kemal and three other people behind him had been wounded by the gunfire and fallen to the ground. One of them was wounded in the leg. At any rate, the crowd dispersed after the gunfire.

In the place where the event occurred as well as its vicinity fog bombs were deployed. You couldn't see eye to eye. The police went to Mardin Manifatura with panzers and took this individual. Due to the smoke, no one could see anything. The police went in front of the shop and took him quickly. Village headman Kemal was shot around 13:00. While the event was happening the police in the shopping district didn't intervene with the individual or in the shop in any way. I watched all of these events with a journalist's reflex. One point I want to emphasize is that all the information about the event was communicated to the national press and media by myself.

I also took some footage. However, when I watched the news later I noticed that the information I'd given had been completely distorted. For example, it was explained by the media that on the day of the incident Mardin Manifatura was hit with molotov cocktails, that Turan Bilen's car was burned, and that he later opened fire. This is definitely not true. His car was neither burned nor vandalized. He opened fire and shot Necmi without his shop facing any kind of attack whatsoever. The crowd got thoroughly out of control after the police took Turan Bilen away. The events in which his shop and the bank were burned took place after he was taken away by the police.

## **8. Fatih Aksoy -Bulanık Provincial Governor**

I've been performing duty in the district for about two and a half years. Until now press statements have been made in the district scores of times. Once or twice there have also been protest actions involving the closing of shops. We never interfered in any of them. As a result, ours is not a district where events such as these occur. On the day of the incident 700 or 800 people gathered to make a press statement. I put 70 police officers employed in the district on duty as a precaution in response to this. The assembly began to march toward the area where the press statement would be made. Upon arriving there, a group of 200 people went to the shopping district without making a press statement and without waiting and began to attack shops and banks.

Turan Bilen, the owner of a shop called Mardin Manifatura, had kept his shop open during past shop closure strikes. His shop was also open on the day of the incident. Moreover, on the day of the incident the police chief met with him in the morning. He said it would be better if Bilen closed his shop. But Turan was stubborn. He didn't close his shop. After the 200 people-strong mass arrived in the shopping district four or five people from our district met with me. They wanted me to withdraw the security forces. They claimed that they would be able to disperse the crowd if the security forces were drawn back. I drew the security forces back a little bit. However, this crowd of 200 people began to attack shops. The incident with gunfire began after this. We have surveillance cameras in the streets in our district but most of them are defective; one works in the area where the event took place but I assume that the footage is very poor. One kalashnikov and one pistol were seized from Turan Bilen's shop. Our research into the event continues but at the moment we're prioritizing activities to prevent the events and tension from continuing. Until now we haven't gotten any sense that the security forces were negligent in relation to this incident. They definitely didn't even shoot into the air during the event. The fact that Necmi had been shot was registered in the records of the 112 Emergency service at 11:26 in the morning. We know that a total of six bullets were fired during the incident. And these were rounds from long-barreled guns. We don't have any information about whether or not the pistol was used during the event, our research is continuing. 3 people always work at Mardin Manifatura. One of them is a woman. The other two are sibilings. We don't have any information about whether or not individuals who were wearing snow masks were in the shop at the time of the incident. There was no negligence by police forces during the incidents. The source of the incident was the fact that the assembled mass wasn't managed or directed and was unguided. During the event there was no one we could take as a negotiator and no one who could manage the crowd. The four or five people who came to meet with me tried to obstruct the events in good faith but they were unable to control the assembly.

#### **9. Çağlar Dilek – Bulanık Chief Public Prosecutor**

Because our legal inquiry is confidential it's not possible for me to give detailed information. The investigation is still continuing. Two people – named Turan Bilen and Metin Bilen respectively – were detained in connection to the incident. An investigation was carried out at the place where the incident occurred. Evidence is still being collected. Statements have been taken at police quarters, however a statement still hasn't been taken at the prosecutor's office. Stones were thrown at many shops in the shopping district, the shop belonging to Turan Bilen and banks were burned. Our research into whether shots were fired before or after the shops were burned is continuing. The surveillance cameras are out of order, and the one that works doesn't provide sharp footage. For that reason recordings taken with mobile phones and police cameras are being investigated. In Turan Bilen's shop one kalashnikov and one pistol were seized. We're researching whether or not there are permits for these guns. Ballistic investigations are also being done.

#### **LEGAL PROVISIONS PERTAINING TO TEMPORARY VILLAGE GUARDS AND VOLUNTARY VILLAGE GUARDS**

The kalashnikov that Turan Bilen had in his hand the day of the incident in Bulanık was taken from the provincial or district governorship in 1996 in his capacity as a Voluntary Village Guard and the gun has remained in his possession until the present.

The Village Guard system came into effect with Law 442 (The Law on Villages), which was published in the 68th edition of the Official Gazette on 18 March 1924. The system is regulated by article 74 of Law 442, which says the following:

**Article 74:** *If there are pillagers and activity derived from banditry during harvest times, village headmen and councils can designate as many armed villagers as necessary as voluntary guards in order to protect the population of the village. Their names shall be written on a piece of paper and brought to the district governorship. With the district governor's permission, these **voluntary guards** (emphasis added) may protect the village population from pillagers and bandits together with the principal guards.*

Law 442 was modified in 1985 with law 3175 and also in 1990 and 2007. In the process, the Temporary Village Guard System – which is actually required to be abolished – was strengthened. The law continues:

*In provinces determined by the Council of Ministers, depending on the reasons that necessitate the declaration of a state of emergency, in the case of proliferation of instances of violence in or around villages or under any circumstances in which assaults against the lives or property of villagers increase for any reason whatsoever, a sufficient amount of village guards may be appointed with the request of the provincial governor and the approval of the Interior Ministry. The number of village guards to be employed cannot exceed 40,000 people (emphasis added). The Council of Ministers has the authority to increase this number to 50,000. An end can be brought to their employment as temporary village guards through the same procedure in a situation in which the conditions that necessitated their employment no longer exists or according to administrative necessity.*

Articles 76 and 77 of law 3175 clearly designate the circumstances and manners in which temporary village guards may use their guns.

**Article 76:** *Only village guards may use the guns and ammunition with which they are officially provided. They cannot entrust these materials with anyone else.*

**Article 77:** *Village guards may use guns in the following circumstances:*

- 1. In a situation in which it's absolutely necessary to protect his life from an individual who has placed it in danger or attacked him while performing his duties;*
- 2. While performing duty, in order to rescue a member of the public whose life is exposed to danger or the threat of rape and no other remedy can be found and if he's overwhelmed;*
- 3. If he aims to apprehend the perpetrator or suspected perpetrator of a murder who was caught in the act (in other words while it was being done or after it was done and evidence connecting him to the murder was still clearly visible) and the suspect pulls a gun on him;*
- 4. If an apprehended murderer escapes and doesn't obey orders to stop and there's no solution other than the use of a gun in order to capture him again;*

5. *If a suspicious individual escapes from a residency during a bandit raid and doesn't comply with orders to stop.*

*Guards will be punished if they use their guns in circumstances other than the ones described above. Even when it's necessary for a guard to use a gun, the guard shall take care to insure that his actions result in injury, not death.*

Turan Bile worked as a shopkeeper at the same time as being a Voluntary Village Guard. However, the law is clear. In Article 81 it's expressed that guards cannot operate shops. So how does Turan Bilen do this work, why isn't this corrected?

**Article 81:** *It's forbidden for guards to engage in the following business:*

1. *To do work other than that associated with being a village guard, for example to operate shops, coffee houses, or inns or to be involved in partnerships related to such work (emphasis added);*
2. *To abandon his duties without permission in order to serve himself or anyone from the village;*
3. *To benefit in an unnecessary way from the vineyards, gardens and growing plains they guard;*
4. *To graze their own animals and do shepherding work in the village;*
5. *To not affix his badge identifying himself as a village guard on his dress, gun and wallet or to modify this badge.*

## **FINDINGS**

- It was confirmed that press statements had been made by the DTP office in Bulanik district of Muş province for a long time and on many different dates and that until this incident no serious problem had ever occurred as a result.
- It was confirmed that there was coordination and communication between public institutions, the mayor (who was a DTP member) and DTP party office in Bulanik.
- It was confirmed that at about 7:00 in the morning of 15 December, a day on which a press statement concerning the closure of the DTP was going to be made, Turan Bilen and his brother Metin Bilen armed themselves in preparation for the event.
- It was confirmed that Turan Bilen was warned by security forces against opening his shop in the morning, as doing so would have made him the only person in the district coming out against the shop closure protest.
- It was confirmed that Turan Bilen's gun – which was possessed within the framework of the Voluntary Temporary Village Guard System – ended the lives of two people (violations of the right to life), and also caused the injury of seven people.
- Although the incident involving gunfire continued for at least one hour, it was seen that police didn't make any interventions in the direction of capturing or neutralizing Turan Bilen.

- It was observed that this incident bears the quality of being a continuation of other events provoked by dark forces experienced recently in İzmir, İstanbul – Beyoğlu, Çanakkale-Bayramiç and various other places in Turkey.

## **MAJOR CONCERNS**

- Why is it that security forces only tried to persuade Turan Bilen, who went to his shop while armed at 7:00 in the morning on the day of the shop closure protest and press statement? Why wasn't the possibility of an event occurring anticipated?
- During the march before the press statement did Turan Bilen step outside and stand in the street with a gun in his hand? This point can be clarified with the use of surveillance cameras.
- Why wasn't the gun taken from Turan Bilen despite the fact that three or four people who wanted to make a press statement left the scene of the incident after fire was opened on the crowd and went and met with the district governor? Why didn't the security forces see and obstruct the firing from the shop despite the fact that everyone saw it?
- Is it true Turan Bilen was wearing a steel vest when he was shooting and that the two people who were with him at the time were wearing snow masks? Who were the people that were with him?
- Were the surveillance cameras in the street and the footage taken by the security cameras that belong to the Ziraat and Halk banks taken into custody? Were they placed in the case file as part of the inquiry?
- Is an inquiry going to be opened about the security forces who witnessed the incident but didn't stop Turan Bilen on the basis of the possibility that they were negligent in their duties?
- The shooting and death of the village headman occurred around noontime. Were security forces stationed in front of Turan Bilen's shop until that time? Did they witness the events? If so why weren't the guns taken? After the second death, what time were the weapons taken?
- It's being put forward that the permit for the weapon Turan Bilen possessed as part of the Voluntary Temporary Village Guard System was acquired in 1996. Are these statements true? And has the permit been renewed in the meantime?
- How many Temporary and Volunteer village guards are there connected to the Interior Ministry?
- What are the roles, duties and authorities of Voluntary Village Guards?
- From 1985 until the present how many crimes have Volunteer and Temporary village guards been involved in? For how many of these have inquiries and lawsuits been opened? How many have been clarified?
- How much money does each Volunteer and Temporary village guard cost the state? How much has the total cost to the state been up until now?
- What's the explanation for the fact that the destruction created by the Temporary Village Guard System and Voluntary Village Guard System, which only comes to the public agenda during massacres, isn't being seen and is being continued?

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