

sation is paid only after penal sanctions are imposed on the perpetrators; if a person has disappeared under circumstances which suggest that the person was killed, the highest administrative authority has the capacity to declare the presumption of death of the individual; any related person may initiate the procedure leading to a declaration or presumption of death, or absence; and, a presumption of death must be established before payment of compensation may be made.

The report notes that the government agreed to a visit by the Working Group (WG), and that the mission was likely to take place during 1998.

During the period under review, eight newly reported cases were transmitted to the government, two of which were reported to have occurred in 1997. During the same period, two cases were clarified on the basis of information provided by the government, stating that the persons concerned had been released from custody. One other case was clarified when it was confirmed that the missing person was in prison.

Since the creation of the WG's mandate, 153 cases have been reported; 70 of them have been clarified. The majority of cases occurred in south-east Turkey, in areas where a state of emergency was in force. The peak of alleged cases of disappearances occurred in 1994. The report notes that allegations imputing disappearances to insurgent groups have also been received, but in conformity with the definition of disappearances in the preamble to the Declaration, the WG does not consider such cases.

The victims of the newly reported cases were all Kurds and their disappearances took place in Diyarbakir, south east Turkey, which is a region under a state of emergency. In six of the cases, plain clothes police officers were allegedly responsible. In two other cases, the alleged perpetrators were said to be members of the Anti-Terror Branch.

The WG stated that the existence of a state of emergency is reported to continue to be a major obstacle to the implementation of the Declaration, as it has led to excessive concentration of power in the hands of the authorities. Impunity is said to be another contributing factor in the continuation of violations of human rights. Reportedly, although members of the security forces are said to be responsible for most cases of enforced disappearances, they are never brought to trial or prosecuted for these acts. It is further alleged that one of the obstacles to prosecuting police officers, particularly in the provinces under a state of emergency decree, is the Temporary Law on the Procedure for Investigation of Civil Servants, which dates from 1913. According to this law, the decision to prosecute members of the security forces for acts committed in the course of their duties is not in the competence of the prosecutor, but of local administrative councils, which are made up of civil servants under the influence of the regional or provincial governor, who is also the head of the security forces.

With regard to seven of the new cases, the government informed the WG that none of the persons named had been taken into custody and there was no record with the police; and investigations into those cases were under way. The government also provided replies of a more general nature related to a series of measures to eliminate human rights violations, including: reforms in the judiciary, instructions to police to conform strictly to all relevant national legislation and all international commitments in the field of human rights; establishment of a Special Bureau to Investigate Allegations Concerning Missing Persons; adoption of a draft law that introduced major reductions in the detention period; and a plan to establish a committee to monitor the implementation of all these measures and to bring proposals to the government. Information related to the functioning of the Missing Persons Bureau included that: in order to facilitate investigations and receive applications, the Bureau is open 24 hours a day; a mobile centre for the investigation of disappeared persons was established within the bureau in order to facilitate speedy processing of applications concerning alleged disappearances; and an intensive public information campaign was carried out in order to make the Bureau and the mobile centre widely known.

The WG acknowledged that recent legislation reduced the period of administrative detention and lifted the state of emergency in a number of provinces, but stated that the state of emergency in the remaining provinces was one of the causes for the continuing occurrence of enforced disappearances. Impunity was identified as another root cause.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 13, 14, 15, 17, 21, 29, 30, 32, 34, 39, 44, 57, 61, 68, 70, 71, 114; E/CN.4/1998/68/Add.1, paras. 381–395)

The Special Rapporteur (SR) noted that violent acts committed by terrorist groups do not fall within his mandate, but nonetheless acknowledged that violent acts committed by such groups have led to the killing of many civilians in Turkey. The SR expressed repugnance at terrorists' acts which claim the lives of a large number of innocent civilians, and cautioned that counter-insurgency strategies adopted by government — aimed at targeting those suspected of being members, collaborators or sympathizers of those groups — should not lead to further violations of the right to life.

The SR referred to information indicating that in the context of the conflict between the Turkish authorities and the PKK, extrajudicial, summary or arbitrary executions continued to occur. According to the reports received: women and children have not been spared by either side in the conflict; since the conflict started thousands of villages have been destroyed and over 2 million persons displaced; methods used to empty villages have reportedly included killings, disappearances, sexual violence, devastation of fields, and destruction of food stocks; and, during the first four months of 1996, 69 villages in the province of Sivas and approximately 100 in the province