

[English Editing Still in Progress: October 18, 2011]

T.C.
ANKARA
11TH HIGH CRIMINAL COURT
(ASSIGNED UNDER CODE OF CRIMINAL PROCEDURE ARTICLE 250)

ATTACHMENT- JUSTIFIED DECISION
On behalf of the Turkish Nation

BASE NO: 2000/124
DECISION NUMBER: 2003/20
REPUBLIC PROSECUTOR BASE NUMBER: 2000/192

PRESIDENT: Mehmet Orhan KARADENİZ (20156)
MEMBER: Ramazan AKASAN (29196)
MEMBER: Kadir KAYAN (30025)
PROSECUTOR OF REPUBLIC: Salim DEMİRCİ (31600)
REGISTRAR: Hülya KURNAZ (86471)

CLAIMANT: K.H.

ACCUSED: Fethullah Gülen: Son of Ramiz and Rabia, born on 27.04.1941 in Erzurum City, Central District, Lalapaşa Quarters. Registered to Public Registry Office with C:0046, K:0053, BSN:0003. Residing at 2 Jacop Drive, Perrineville, New Jersey 03835. Single, literate, with no previous criminal record; Islam.

ATTORNEYS: Abdülkadir AKSOY, Orhan ERDEMLİ (Gazi mah. Çatallı Sk. No: 25 Ankara).

CRIME: To establish an illegal organization, intending to change the secular structure of the Republic into one based on religious law.

DATE OF CRIME: March 21, 1999 and before

DATE OF SENTENCE IN ABSENTIA: August 11, 2000

CANCELLATION DATE OF SENTENCE IN ABSENTIA: August 28, 2000

ADDENDUM: Justified decision

DATE OF SUSPENSION: March 3, 2003

DATE OF ADDENDUM DECISION: May 5, 2006

At the end of the open hearing held at our Court for the accused identified above:

PER CURIAM:

[Signatures and seal]

ALLEGATIONS:

The following are the accusations, dated March 31, 2000 (No.2000/192), of the Chief Prosecutor of the Ankara State Security Court:

It is alleged that the accused, Fethullah Gülen, has the intent to establish a theocratic Islamic republic by dismantling the Republic of Turkey and its secular, democratic, and social state of law and that he uses domestic schools and schools abroad to indoctrinate a significant portion of the society with his theocratic views, which he disguises as moderate, democratic Islam.

It is alleged that he intends not only to rule the Muslims in Turkey, but to rule over all the Muslims in the world and become their spiritual leader, according to negotiations he had with the Pope.

Some political parties, persons, and institutions of the state accept him, but he abuses the trust of the country's regime and supports his religious and political structures from unknown financial sources. Through foundations, schools, and academic programs, he has established a wide base of educated youth. He has followers in all levels of state organization: the bureaucracy, the ministry of national education, and security agencies.

He is funding efforts to form a youth group, which will view the political Islam that he intends to establish, with sympathy. Some in the national community respect the accused for his humanitarian activities, but these activities merely disguise the truth by hiding his theocratic intentions behind his moderate and democratic service organizations.

After searching villages and districts with teams that he has established, the accused selects clever and skillful students and binds them to himself by means of scholarships and facilities that he offers them. The opinions of the accused are then taught to the students by brainwashing them at houses, student boarding places, and camps. This strategy, followed patiently, influences these youth to support the institution of Islamic law in the state and is a necessary part of his strategy to rule over the whole society by means of religious law. The accused currently follows a policy intending to use the executive and the legislative power in parallel with his religious belief through his 88 foundations, 20 associations, 128 private school, 218 companies, 129 étude schools, and 500 student boarding places. Additionally, the accused exercises his power and disseminates his message through 17 broadcasting and publishing organs, including newspapers, TV stations, two radio stations that broadcast nationwide, financial institutions that do not charge interest, and an insurance company.

In the field of education, the accused has more power and influence than even the government. His influence continues to creep silently into the Turkish Armed Forces, which he sees as the only obstacle before him. He tries to recruit children of military officers to attend his schools and training centers.

Abroad, the accused tries to establish an economic base in prosperous Turkic countries. By providing companies with an avenue for commercial flow, he tries to raise bureaucratic cadres, which will be needed in such states, through six universities and higher education schools, 236 high schools, two primary schools, eight foreign language and computer centers, university preparation courses, and student boarding places established abroad for this purpose.

The accused, who understands that fighting against the government at the initial stage of his program would be self-defeating, intends to establish an alternative system by means of an organization that infiltrates the existing structure of the state. He organizes in all state organs, in local administrations, and in the civil sector, and intends to place his supporters at all levels of existing organizations in order to seize the control of the state in future. In the long term, he intends to extend the reach of his organization by acting intensely in the education sector in an attempt to acquire and instruct new, sympathetic followers.

With his moderate modern image, he attempts to inspire support from political parties, even the society of Atatürk's followers, and in this way ensure that his supporters seize the absolute majority in the Parliament. He supports the presidency system only because it will provide an easy transition to his planned theocratic dictatorship. When he becomes sufficiently powerful, he intends to abolish Atatürk's principles and establish an Islamic republic.

The accused's organization, which has been established to dismantle the secular structure of the state, is comprised of an illegal structure of regional, city, district, and house imams. He has wrapped the whole country in a net-like manner, owning and running companies, schools and foundations, with the appearance of legality. This organization, made up of both legal and illegal facets, pressures the public to conform to its views, and, for this reason, it should be considered as a terrorist organization.

It is alleged:

The public court case demands that the accused be penalized as per the first sentence of the first sub-paragraph of Article 7 of Law No. 3713, the Anti-Terror Law.

Before the suspension of the case, the prosecutor, in allegations dated January 20, 2003, declared that the accused had been affiliated with the Nur Cult before he started to act on his own. These same allegations were brought against the Nur group in the 1970's. The group included many foundations, associations, companies, private schools, and universities; and its intent was to change the existing constitutional system and establish a system ruled by Islamic law. It attempted to change the institutional structures to allow for use of Islamic law by shielding itself with democratic language and a moderate appearance. The accused uses propaganda through the Houses of Light (Işık Evleri) to form a base in the Turkish and Muslim countries under the aegis of Turkish-Islam union. The declarations of the accused use the language of "holy war" in the religious community and exert a moral pressure on the public, due to the powerful and pervasive presence of his organization. There is a preliminary prosecution (No. 2000/507) at the Chief Prosecutor's Office at State Security Court in Ankara regarding persons who act together with the accused. The accused is the founder of the Fethullah Gülen organization and therefore:

It is requested that he be penalized as per the first sentence of the first paragraph of Article 7 of Law No. 3713, the Anti-Terror Law.

THE PROCESS AFTER THE CASE

Filed as a public case, it was put on track for trial after being registered as Base No.2000/124 in Ankara 2nd State Security Court.

Ankara 2nd State Security Court, in a decision dated March 10, 2003 (No. 2000/124 E), suspended the charges and case because the amnesty law came in effect (Law No. 4616) in April. This law covers crimes committed until April 23, 1999, and applies to crimes under the Law No. 3713. The accused left the country on 19.03.1999 due to serious health problems and went to the United States. Following that date, there is no evidence that he still acts in relation to any crimes of which he is accused. Under this condition, finalization of the decision was suspended due to the fact that the alleged crime occurred before 23.04.1999 and is thus covered under scope of the Law No. 4616, Article 1/4.

The accused, his attorneys, and the Chief Prosecutor of the State Security Court objected to the suspension decision of the Ankara 2nd State Security Court.

By its decision on 03.04.2003 (No. 2003/420), the 1st State Security Court upheld the suspension.

The petition of the accused's attorneys, (March 7, 2006), states that advantageous changes in the law came into effect with the amendment of Law No. 4928 to Article 1 of Law No. 3713. In consideration of this point, they request reconsideration of the case and a decision, exculpating their client. The attorneys of the accused also state their client is now in the United States for reasons of health. As he has been examined before, they argue there is no need for reexamination of their client related to their request for application of the advantageous statutory change.

The attorneys argue that the amendment to the Law No. 3713 by Law No. 4928 means that the suspension of the case should be set aside and the case reopened without need to re-examine the accused.

DEFENSE

The accused have his defense in the United States, pursuant to judicial procedures. His statement is summarized below:

An investigation was initiated following publication of the accused's words on a cassette on June 18, 1999. In this cassette, selective editing made some remarks sound like incriminating comments, allegedly by the accused. The case was constructed against him by misrepresenting an assemblage of his opinions that originally appeared in many different published works. He went to the United States on 22.03.1999, before the case was heard, for an appointment with the Mayo Clinic at the beginning of January 1999, and is still there.

Some of his books date back 15-20 years, and there have been no cases initiated against him for these books and cassettes until now. The ideas of the accused rest on a constitutional foundation; they are based on tolerance and national love. A certain community has been leading a defamatory campaign against him on systematic basis; and such allegations, which have the quality of slander, infringe on his personal rights. The samples of his writings that have been presented to the Court have been altered or deliberately distorted in order to change their original meaning.

The accused passed the examination to become a state officer of the Ministry of Religious Affairs in 1959. Between 1965 and 1980, he was assigned the role of preacher in various cities. During his time as a preacher, he emphasized the necessity of science and education. Following his recommendations, people have legally opened private schools,

domestically and abroad, in response to his teaching. His support of these educational institutions has not been the cause of any previous investigation, and he does not have any organizational bond to these institutions. The schools are merely attributed to him because of his role as a public advocate of education, and they operate according to all required laws and inspections.

During his time as a preacher, he was engaged in scientific and intellectual activities, and published articles and poems. Some institutions, such as the Foundation of Journalists and Writers, requested that he contribute works on dialogue and tolerance. He has met with members of different religions in Turkey and abroad. Both in these meetings and in his public declarations, he has expressed the importance of Turkey supporting basic human rights in a democratic, European manner. He supports Turkey's joining the European Union (EU). He has never engaged in any illegal activities.

In the academic community, as a result of his scientific works and studies, he has never been accused of belonging to an illegal terror organization. On the contrary, his work has consistently demonstrated that Islam can adopt modernism. The accusations against him, which the academic community views as illusory, have been brought to court without any grounds or evidence.

The extracts from his works are misleading. The way in which they were removed from their context and the comments and assumptions made about them are clearly based on prejudice. The main themes of the articles are not considered at all, and the sections from the original text were excerpted in a misleading way and deliberately misrepresent the ideas of the accused. The prosecution, who prepared the indictment against him, had decided a *nolle prosequi* (lack of grounds for legal action) in 1995. Even the expressions, which are carefully picked from his books and included in the allegations, reveal that the intention of the accused was in fact to create believing and ethical persons.

The jihad, which is mentioned in the indictment, is a word used in the Qur'an, in the words of the Prophet, and in religious commentaries. The intention of jihad is to praise the name of Allah. Jihad refers to the journey that each person must undergo to reach his own being or the core of his humanity. In Islam, journeying toward the center of oneself is called the great jihad, and journeying toward integration with others is called the lesser jihad. Jihad does not refer to a real war; it is a prayer. To wrongly understand jihad as a commitment to religious violence is a crime. War is, in fact, a conflict between national or international forces, which the state should handle. Çanakkale, Sakarya and Dumlupınar are wars within this meaning.

The gist of the indictment is that the accused seeks to drag the country into conflict and struggle. The cassettes, which are selective extracts regarding the matter and broadcast on TV, have additions and splices. The same speech is broadcast in different forms on different TV channels. For example, in cassette No.9, broadcast on ATV, there is no reference to "term." These same cassettes, broadcast on NTV, the "chief term" and again related to this term in the broadcast cassette says "the ones who practice despotism, those who do that, are 5 % of the people; 95% of these people are innocent. Yes, today [you cannot say] to SHP, CHP, DSP, go to hell." From the meaning of the words, it is understood that what is missing is "you cannot say." This phrase is cut out of the cassette. There are some excisions made in such manner. Again, as an example, an extraction from page 35 of a book is alleged to be strategic and tactical; but the text is related to how Turkey and the Islamic community shall rid itself of the games played on it by the West when Russia [USSR]

existed. In the whole content of the answer, there is no mention of establishing an Islamic republic. People are easily provoked by the general media of Turkey. The Çorun and Sivas events, Alevi-Sunni conflicts, and the violent events of Hezbollah are examples. There is also a radical faction in the country; and the President of the General Staff has warned that, if there were a rebellion, the situation in the country would be worse than it was in Algeria. Gülen himself in the cited cassettes urges avoiding violence and riots. In this sense, as mentioned on page 59 of the indictment, his speeches are efforts to calm down and reform people who have different and radical opinions. Gülen mentions that the Turkish people want that the governor, district administrators, and judges to be people who fear God and do their jobs as best they can so that people trust them. Criminal organizations would not be like this. From this point of view, such upright people, who are not involved in such events, should act appropriately and carefully, and additionally to avoid discrimination in institutions between believers and non-believers, between those who pray and those who don't, and avoid unrest. In the country, all kinds of Islamic activities and all kinds of reflections may be attacked from time to time. Therefore, even authorized officers emphasize that, while struggling against Islamic reaction activities, sincere religious people should not be harmed. From this view, religious people also should be careful and take precautions. In addition, judgments cannot be made about a person by considering just a few of his words. An honest result can be reached only after considering when, why, and for what intentions such speeches are made. In many speeches, he has mentioned God's sake is over every other thing. A person saying such things can have no intent other than being a man of the soul.

The allegation that the accused is organizing in the Armed Forces is totally baseless. The courts should refute such wild accusations. He has never been in conflict with the army. In his book *The Era and the Generation*, he clearly states his opinions about the army. Persons, who selfishly object to all reflections on religion and present secularism and Atatürk as being without religion, abuse the sensitivity regarding this matter and provoke religious and patriotic people of the country against the army. But the army has never been against religion or against religious people.

The indictment presents the expression "the only ruling aspect in the future world will be Islam" as a crime. Yet, all religious people in the world are trying to spread their beliefs. Christian missionaries travel around the world spreading Christianity. It should not be a crime for a Muslim to state his opinions that Islam will be widely accepted in the future or wish to work for that.

The indictment associates the "House of Light (Işık Evleri)" with the accused, but he is not affiliated with them. Before September 12, 1980, anarchy disrupted official and private boarding houses so that students could not study. Students who wished to avoid this trouble asked him what to do, and he recommended that they rent houses with their friends to avoid violence. His inspiration in this recommendation was the Nur Surah, in which Allah mentions houses full of peace. The expression "House of Light" was the name he gave to these houses rented by students. He does not have any organizational ties with these places, and there is no evidence that any crimes have been committed at these houses with his support. Generally, in his works, he points to such places as these student houses as examples of lives lead in parallel with general public belief and morality. Contrary to the allegations, his works and speeches make no disparaging comments regarding Atatürk. He has never talked against Atatürk.

His publicized opinions regarding secularism make no comments in favor of theocracy. He has stated in many of his works that theocratic rule is not truly Islamic. It is a

mistake to support, on behalf of Islam, a government in which an institutionalized religious class systematizes theocracy according to its opinions. Since religion is holy, it cannot be made into a means for anything earthly. To make religion a political project would mean the sanctification of personal opinions, imperfect administration, and defamation of religion. When political parties are equated with religion, the personal deficits and defects of party members will be associated with the religion as well. When religion is politicized and claimed to be embodied by such persons, religion is tainted; and its reach, limited to those few in power. Religion also will receive its share of the hate directed toward those who politicize it. Religion will be discredited on all sides if it is aligned closely with political power. He expressed such opinions in a program on Channel D. Because of Islamic rights and freedom in Turkey, sincerely expressing religious feelings and living the religious life is more easily accomplished in secular Turkey than in Iran, Saudi Arabia, and other countries. If more democracy is demanded, it should be demanded by democratic means.

In the past, he has made statements rejecting allegations that he owns many private schools and that such schools teach reactionary education. There may have been educational institutions may have been established in response to his public encouragement of modern education, but it is not constitutionally valid to accuse him simply for expressing his opinion in speeches and declarations. In declarations at different times, he mentioned he does not have organic connections with such schools; but, as a person interested in matters of education, he made recommendations to people who provided the necessary facilities. Official authorities have inspected all these private schools.

The accusation that he established an organization of counselors and imams is totally baseless. All his activities are in public view, and he does not accept the religious community term, that is sometimes associated with his name. It is a very natural thing for people with similar thoughts, especially from the same religion, to come together and act within the framework of the law. There is no secret organization of imams, as alleged by the accusation. It is not correct to perceive the family order, the culture, and the mutual respect of the people in Turkey as dependant on hierarchy and discipline. The recommendation in religion that, when three persons gather together, they should elect one of them as imam and the recommendation to practice the namaz prayer as a community do not imply a hierarchical organization or any such establishment; this is well known.

As to the specific excerpts in the court file, the allegations were examined; and a nolle pros decision, issued. The persons, who broadcast such allegations, were penalized with indemnification. The publications of those, who expressly declare their hostility to his ideas, are presented as evidence in the indictment.

Notwithstanding the accusations of terrorism against him, he has always proclaimed Islam as a religion of peace. He expressly disapproves of any kind of terrorism, and supports lawful nonviolence in all situations. These opinions have always made him a target for radicals and terror groups, and they have threatened him in the past. Islam does not support terror; and a Muslim, who understands Islam, can never be a terrorist. From the Turkish point of view, there are many Islamic teachers open to dialogue and committed to peace. If the thoughts of Niyazi Misri, Yunus Emre, and Mevlana were broadly understood to be representative of Islam, everyone across the world would come running to be part of it!

Almost all the witnesses against him are associated with a particular organization. They have received instructions to testify against him, and it is clear from the court file that witnesses have received financial remuneration to ensure their statements. The declarations

and publications presented as evidence do not mention any criminal acts, such as force or violence. Nor do the positive evaluations of the President of the Republic, the army, and the politicians mentioned in the indictment. But the accusations of a student whom he does not know at all are presented as evidence.

His studies center on religious questions, and he is an informal advocate of the growth and improvement of the Turkish Nation. While working for the Presidency of Religious Affairs and after his retirement, he has not had any direct relationship with the people in different segments of society who organize themselves around his recommendations. He does not participate in the materially establish such activities. These activities are carried out by various members of society within the frame of law, and these formations do not conflict with the constitutional laws in any way. The educational establishments, which have emerged in response to a social need and which do not have organic ties with him, do not violate the Turkish Criminal Code; and his scientific and intellectual activities are not equivalent to the operation of a criminal organization.

Despite the claim that a terror organization has been established, there is no evidence of the alleged pressure, violence, and intimidation mentioned in the indictment, which also ignores the actual activities and stated social purposes of the various educational institutions. The allegation that moral pressure and intimidation is exerted over the public is an abstract allegation and does not violate any law. The decision for his exculpation should be given.

INDEX TO THE FOLDERS

In Folder 1:

Series 1-6: *The Hesitations Introduced by the Era* (written by F. Gülen).

In Folder 2:

Series 7: *Era and the Generation 1*; Series 8: *Era and the Generation 2*; Series 9: *Era and the Generation 3*; Series 10: *Era and the Generation 4*; Series 11: *Era and the Generation 5*; Series 12: *Era and the Generation 6* (written by F. Gülen).

In Folder 3:

Series 13: *Prism*; Series 14: *Prism 2*; Series 15: *Prism 3*; Series 16: *Scale and the Lights on the Way 1 & 2*; Series 17: *Scale and the Lights on the Way 3 & 4* (all written by F. Gülen).

In Folder 4:

Series 18: From Chapter to Chapter 1; Series 20: From Chapter to Chapter 2; Series 21: From Chapter to Chapter 3; Series 22 (all written by F. Gülen): A copy of the book prepared with the support of the STKB (Civil Society Organizations), 109 pages, named *The Schools of the Hodja*; Series 23: "My Little World" by Latif ERDOĞAN.

In Folder 5:

The criticisms by Ergün POYRAZ about Fethullah Gülen in the magazine MK in (issue No.15, April 1998); Series 25: Petition of Ergün POYRAZ, dated 10.03.1999; Series 78 and attachments: The statements Izmir Maltepe Military High School students in the attachment to the letter (dated 26.03.1999) of the Commandership of Land Forces upon request of the prosecutor of the State Security Court; Series 128: Information letter of the General Directorate of Security Forces, dated 05.05.199, and No. 5124 with the attachment of 55 pages related to the F. Gülen group, prepared on request of the State Security Court; Series

130 to 153: The legal petitions of some citizens and the complaints from the Presidencies of the Izmir Cirt and Konak District of the Labor Party about the accused and statements of these people taken at the prosecutor's office; Series 154: The breakdown of the published program of Hulki Cevizoğlu with Eyüp Kayar; Series 155: Evaluation and comments from the Ankara City Security Director, dated 21.04.1999 (No. 2456-99).

In Folder 6:

Series 158 to 212: Evaluation letter, described in the indictment as belonging to the General Staff but without heading and signature and its attached comments and article about F. Gülen in the *Middle East* magazine; some letters containing comments understood to from schools abroad and embassies.

In Folder 7:

Series 213: Transcript of cassette No.1 on which the indictment is based; Series 214: Transcript of cassette No.2; Series 215: Transcript of cassette 3; Series 216: Transcript of cassette 4; Series 217: Transcript of interview with Reha Muhtar on Show TV; Series 218: Transcript of the video cassette containing the news about F. Gülen on Channel D; Series 220: Transcript of the cassette broadcast on the ATV channel; Series 221: Transcript of the cassette broadcast on the NTV channel.

In Folder 8:

Series 224-264 and attachments: Information letters of the General Directorate of Security, prepared on request of the State Security Court; Series 251-253: Requests and decisions related to the communication hearing of the accused.

In Folder 9:

Series 267 and attachments: Extracts from the speech with Nurettin ÖZTÜRK- Eyüp KAYAR and documents with comments by the Union of the Civil Society Association against the accused; Series 268: Sections of criticisms against F. Gülen in the *Atatürk's Doctrine* magazine (ADD); Series 269: Copies of three newspaper extracts against F. Gülen with the note "to the attention of Gülseven YAŞER"; Series 270-271: Decision of the Military Court of Appeals (No. 1973/146-242 E.L.) and the decision of the general Criminal Board (No. 234-D1); Series 287 to 290: Documents and the communications about the arrest of the Ufuk Company manager in Uzbekistan; Series 293-317: Documents related to the investigation by the Istanbul State Security Court of the cassette broadcast on ATV, with the preliminary No. 1999/1485, as submitted to the Ankara DGM (State Security Court) with the Decision No. 384 on non-suit; Series 318-326: Complaint of Cahit POLAT about the accused and attached newspaper excerpts with articles against him; Series 334: Receipt for which there are nine video cassettes and one voice cassette (No. 1994/112).

In Folder No.10:

Series 335-633: Copies of different books by F. Gülen; Series 637-643: Petitions of Kaya YILDIRIM, Turan GÜNEL, Cengiz YILDIRIM, İsmail POLAT, Fatih CEBECİ, Ali ÜSTÜN — sent to the prosecutor's office declaring the accused is a positive person who admires his nation; Series 647-707: Transcripts of 3 different voice cassettes by expert witness Yücel TOPSAKAL; Series 708: Transcript of the voice cassette, made by the DGM prosecutor himself.

In Folder 11:

Series 709: Petition of Yavuz UYSAL against the accused and his requests that former president Süleyman DEMİREL, former prime ministers Bülent ECEVİT, Tansu

ÇİLLER, and Mesut YILMAZ, who have been supporting F. Gülen, should also be judged by the Court; Series 710: Newspaper excerpts about the accused; Series 711: Newspaper excerpt about the declaration of Bülent ECEVİT; Series 712: Petition of a person named Timur TEN; Series 714: Copy of the petition by Arife KAYAR and Eyüp KAYAR to the Prosecutor of the Republic and the 4th Criminal Court of First Instance; Series 715: Statements of Eyüp KAYAR at the prosecutor's office; Series 711-742: Petition of a woman named Fatma ETİK, who is divorced, stating that her husband is a member F. Gülen's religious cult, and attachments to that petition; Series 743-745: Evaluation note about Nurism and current Nurism of uncertain origin; Series 813-818: Transcript of the interview of Reha Muhtar with F. Gülen on Show TV, newspaper copies with the subject of F. Gülen (with receipt note No. 2000/30; Series 819-845: Request of the DGM for the re-collection of the book by F. Gülen *From Chapter to Chapter*, the rejection decision by the judge on duty, the acceptance decision of the Board after the rejection (with receipt note No. 2000/73); Series 851-979: Evaluation note about the F. Gülen group without a heading and signature, which is understood to be from the General Commandership of Gendarmerie, as attributed from the sections of evidence.

In Folder 12:

Series 980: 144 pages; Series 981: 46 pages; Series 982: 20 pages; Series 2002: 41 pages of cassette Transcripts (some of them belonging to previously resolved cassettes); Series 1048: Ayşe ANLATICI's; Series 1049: Ahmet SAYAR's petitions; Series 1067: In an envelope there is the diskette with written "F. Gülen" on it and the copy of the letter containing the press assessments of the meetings in Abant; Series 1068 and 1075: *The Portrait of the Republic's Enemy* by M. Emin DEĞER, the arrest request of the DGM prosecutor by showing this book as a justification, the rejection of this request by the judge on duty, and the decision for arrest in absentia by the court upon the objection.

In Folder 13:

The document between the Attachments 1 and 8, presented as evidence to the Court in the attachment of the writ. In Attachment 1, statement of witness Serhat ÖZKAN at the prosecutor's office. In Attachment 2, statement of Metin SATIARSLAN at the prosecutor's office. In Attachment 3, the hand-written petition of witness Yalçın ESEN. In Attachment 4, three newspaper excerpts. In Attachment 5, the August issue of *New Life* magazine (*Yeni Hayat*) and comments by Necip Hablemitoğlu (41 pages). In Attachment 6, six pages from different cassettes of ÇEV from which different sections are collected against the accused. In Attachments 7-8, responses of the General Directorate of Security to the DGM prosecutor. In Attachment 8, the information note, dated 13.10.2000 (No.6894), submitted by the General Directorate of Security upon request of the Court.

In Folder 13-B:

The breakdown of the documents presented to the Court against the accused between the Attachments 1-7, as attached to the preliminary letter, dated 12.07.2001 (No. 2000/507), of the DGM Chief Prosecutor.

In Folder 13-C:

The book *Addressing Flowers* by F. Gülen, presented by the Prosecutor of the Republic as evidence against him and the books *Traces* and *Efe from Alvar* and a copy of the Star Newspaper.

In Folder 14:

The intervention petitions and attachments.

In Folders 15-A, 15-B, and 5-C:

Petitions presented by the attorneys for the accused during the defense process and the documents attached to them. In these documents are the non-suit decisions related to similar criminal allegations, issued by the Konya, İzmir, İstanbul, Malatya, and Ankara DGM prosecutors; twelve final decisions related to rewards in indemnification cases for their client; seventy non-suit decisions obtained from the courts; evaluations and the reports from the Presidency of the Police Audits Board and the Information Office Directorate of the General Directorate of Security, interviews, reportage, and evaluations about their client in various publications.

In Folder 15-D:

Petitions and documents from the accused's attorneys. These documents show the negotiations with the Pope; and, in the strategy section of the indictment, there is the request to hear the representative of Vatican in Istanbul. And again, as the Abant Platform is shown as the basis of the crime, there are books *Abant Platform 1-23-3*, related to schools abroad allegedly related to the accused; a book published by the Prime Ministry, including the speeches of Bülent Ecevit.

In Folder 15-E:

Documents presented by the attorneys of the accused, in which there are the legal opinions of Çetin ÖZEK (48 pages); books of the Ministry of National Education about the schools abroad; an excerpt from a Turkish daily newspaper that a Turkish school in Afghanistan was closed due to Turkism propaganda.

In Folder 15-F:

Documents presented by the attorneys of the accused, in which there is a news article in which Minister of the Religious Affairs M. Nuri Yılmaz explains the jihad in the same way as their client; a document showing the justification of dismissing Eyüp KAYAR from Başkurdistan State University.

In Folder 15-G:

Documents presented by the accused's attorneys to his defense, in which there is a technical expert witness' opinion that there is no program for erasure of the Melisa virus, including the speeches of Gülseven Yaşer, which are obtained by secret recording that were broadcast on Işık TV on 04.05.2002; the cassette related to F. Gülen and the additions and splicing made to his speeches; the cassette and its Transcript on which there are the statements and the views related to the financial interests of, and instructions to, opposing witnesses.

In Folder 16:

Copies of communications, instruction additions, and other documents.

In Folder 17-A:

Petition of witness Mr. Osman AK and attachments; the statement, dated 03.06.1999 of Sabri UZUN, who is the director of the National Intelligence, as listed by the Auditors of the Civil Service; the report (27.05.1999, No.6203) of the General Directorate of Security, to the Ankara General Directorate of Security and the evaluations; The Minutes Magazine of the Great Assembly of Turkey; the documents indicating that defense is requested from Osman AK as his report prepared is based on hate and interests.

In Folder 17-B:

Court-ordered statements from witnesses Yalçın ESEN, Murat AYNİK, Mustafa SOYSAL, Hasan KEMERTAŞ and Emel AÇIKGÖZ; the petition given to the Court by Hüsem EKİZ; the court-taken statement of witness George MAROVICH; the expressions and the explanations of İsmail ÖZDEMİR about Eyüp KAYAR and SERHAT ÖZKAN; the court-ordered statement of witness Hüsem EKİZ; the petition of Nuri ÖZTÜRK; the non-suit decision, dated 20.04.1999 (No. 16443-4717), and attachments; the finalized decision of acquittal, dated 11.12.2001 (No. 2001-263-281 EK), given on behalf of persons accused of being members, for supporting members, of the F. Gülen terrorist organization, as given by the Adana 1st State Security Court; the finalized decision of acquittal by the Adana 2nd State Security Court, dated 18.06.2001 (No. 2000/106 E, 2001/106 K), related to members of the Nur religious society accused of holding meetings against the indissoluble unity of the State; again related to similar issues, the decision of 2nd State Security Court (Nos. 2000/36-140 EK, 1999/146-191 EK), on acquittals; the opinions of the Prosecutor of the State Security Court (20.01.2003); the deposition of the accused, taken in the United States on November 28, 2001; the translation of this and his defense of 56 pages, which he added to his deposition; the hearing minutes, the declarations of the witnesses, who are heard at the hearings; the suspension decision, given previously; the objection of the attorneys of the accused and the Republic's prosecutor against the decision; the decision of the Ankara 1st State Security Court related to the rejection of the latter, dated 03.04.2003 (No. 2003/420 D. Duty); the petition of the attorneys for the accused requesting new hearings and, along with this petition, the letter of the General Directorate of Security (03.03.2006) (No. 43178), indicating that the accused and persons and establishments are not in violation of the Law No. 3713; the non-suit decision of the Ankara State Security Court's Chief Prosecutor (15.09.2003, No.2003/87), as classified and given as a result of the preliminary investigation about legal and illegal organizing by F. Gülen.

EVIDENCE, EVALUATION, AND CONCLUSION

DECLARATIONS AND STATEMENTS

Issue of the Maltepe Military High School

On 13.03.1999, witnesses Mustafa SOYSAL, Murat YANIK, and Hasan Yakup KEMERTAŞ, students at the Maltepe Military High School, stated that, along with Murat YANIK, with whom they dined and had conversations at home, they listened to the cassettes of F. Gülen together and read religious books. However, these witnesses did not verify their previous declarations in the K17-B, as instructed by the Court. They made their declarations under psychological pressure, and subsequently said they do not know Fethullah Gülen.

Regarding the Military High School students related to F. Gülen, the İzmir Chief Prosecutor issued a non-suit decision on 20.04.1999 (No.1999/16443-4717), for lack of evidence of crime among these students. Their private conversations at home and their decision to listen to religious cassettes are not against the law.

The Issue of Eyüp KAYAR, Related Declarations and Evidence

The witness Eyüp AYAR, who declared he was in the Gülen religious society for a certain time and who has made declarations to the news and broadcast media about his involvement, has stated in his declarations (Folder 11, Series 715: The statement of State Security Court; Folder 14: intervention petition (26.01.2001) the statement at the hearing held

on 29.01.2001) that he met this society and stayed at the house which is called the Işık (“light”) House, that there is a responsible person at each home, called “brother,” and that the ultimate target of the religious society is to establish a state based on religious rules. He went on to claim that the reason for opening schools is to raise a generation sympathetic to their cause, and that, in the religious society, there are the regional, country, and world imams. Each city in Turkey covers the expenses of the schools that are abroad, and the Serhat Education Company in Kayseri is financing education activities in Başkurdistan. The witness claims that monies, collected domestically, were not transferred to the school in Başkurdistan where he was a student. He claims the organization’s leaders are using the money to buy cars for themselves. The persons responsible for this abuse, namely Hüsem EKİZ and Harun DOĞAM, have beaten him and seized his passport; and, after he returned to the country, he encountered pressure and threats because of his declarations about this religious society.

The witness Eyüp KAYAR has demanded participation with his petition, dated 26.01.2000 in Folder 14; and the witness’ mother Arife KAYAR also requested participation, stating in her petition (Folder 14), submitted on 13.10.2000, that she is intimidated because of the declarations made by her son. The Court decided that Arife KAYAR should attend the hearing on 16.10.2000, and Eyüp KAYAR should attend the hearing on 29.01.2001.

However, Eyüp KAYAR and Arife KAYAR later stated, in a petition on 04.03.2002, that they wanted to withdraw their statements and their requests for participation. Arife KAYAR, in her petition in Folder 14, dated 19.02.2002, stated that she withdrew their intervention and complaints and presented the notarized documents of Arife KAYAR and Eyüp KAYAR that they discharged their attorney Hüseyin BUZOĞU as of 04.03.2002. Upon this request to withdraw at the court hearing on 11.03.2002, it is decided to end the participation of Eyüp KAYAR and ARife KAYAR.

The witness Hüsem EKİZ, mentioned in the statement of Eyüp KAYAR, stated to the Court that he was the president of the Başkurdistan boarding house where Eyüp KAYAR stayed when he was a student, and he is not the representative of F. Gülen in Başkurdistan. Eyüp KAYAR had not been studying well, and failed school because of his visits with Russian girls. He was dismissed from the school. He then accused the school of poor conduct because he was afraid of telling his family that he had failed his classes. Regarding the accusation that Eyüp KAYAR was forced to leave Başkurdistan, Hüsem EKİZ stated KAYAR had not been in Başkurdistan at the time, and presented passport documents that match his declarations.

Related to the dismissal of Eyüp KAYAR from Başkurdistan and the university there, in the document of the Ministry of the Domestic Affairs, dated 16.03.2001 No. 681 in the K-15 (Attachment 3), the residential permit of Eyüp KAYAR shows it was restricted until 15.03.1997, due to his failure in the university.

In the program broadcast on Işık TV on 04.05.2002, of which there is the Transcript and the cassette itse;f in Folder 15, a conversation by the Contemporary Education Foundation’s President Gülseven YAŞER suggests that financial benefits had been provided to Eyüp and his family because of his decision to be a witness against F. Gülen in this matter.

Issue of Serhat ÖZKAN, Related Declarations and Evidence

The witness Serhat ÖZKAN, who declared he had been in F.Gülen’s religious society for some period of time and made declarations to the press regarding the matter, first

demanded intervention and then requested to withdraw, claiming he had been deceived. In his statements (in Folder 13, Attachment 1, prosecutor's, at the hearing on 28.03.2001), he explained he had studied at the İzmir high school while in this society. He had come to İzmir from Osmaniye, and later went to the university in Niğde, as advised by the high school. When he was unable to pay housing costs at the university, he was thrown out of the house, and started work as a salesman at bazaars. Later, he established contact with the religious society again and was assigned to work as an advertisement manager at the *Zaman* newspaper. He was later fired from his work there, and went to Istanbul. There, he met İsmail ÖZDEMİR, who had gone to school in İzmir like him and had later separated from the society. Together they decided to establish contact with people at the ÇEV (Contemporary Education Foundation) in order to write a book revealing the problems within this society. The book is *Hodja's Schools*. Serhat and İsmail went to appear on the program "Ceviz Kabugu," when they were kidnapped by people disguised as police and could not be on the program with Gülseven YAŞER and Haşmet ATAHAN. His friend, İsmail, who has gone back to this group, attended the program on the phone and renounced *Hodja's Schools*. They wanted their supporters to deny the allegations on STV, and threatened his family. His wife divorced him because she was scared, and against such pressure he has given the voice record as per their request, since they had submitted their complaints about the book to the Public Prosecutor in Fatih, and he opened a workshop in Osmaniye with \$18.000US which were given him against the bill, six months later as he has not gone to court, an arrest decision is absentia was issued; and this time, when he went to court, he verified the book and that in the society there has been district, group, region and city imams, and he himself was a house imam once.

Due to *Hodja's Schools*, upon the written complaints of Gülen's attorneys in the preliminary file of the Fatih Chief Prosecutor of the Republic (No. 19998/3415), Serhat ÖZKAN, in his statement to the prosecutor (Folder 15-A, dated 06.03.1998), said that he knows the Gülen society but that the things written in the book are a fantasy. When he saw his friend İsmail ÖZDEMİR in an excellent financial situation, he asked him the reason. He replied that he had been receiving financial support for the stories he told to Gülseven YAŞER. When he heard that a second witness was needed, he himself contacted with Gülseven YAŞER; and, for the money given to them, they made up stories full of lies. First, he was given sums of money, such as 5, 10, 20, 40 millions. Since he worked in textile, he bought himself a half ton of fabric. G. YAŞER phoned him from Osmaniye to come to Istanbul. They went with İsmail. A book was shown to them and they were told the book had been distributed in some places. The arrow now was out of the bow, and they will introduce it at the press meeting, and wanted them to attend, too. But they did not attend because the book did not belong to them. When the press objected that these persons were imaginary, they were obliged to present themselves at the second meeting. They were offered money, cars, and credits. They were lodged in a hotel to prepare for questions that could arise during the press meeting. They studied the book for two days, attended the press meeting, and verified the book. As the meeting did not draw sufficient attraction, they gave interviews on different programs. He himself has been a guest at Gülseven YAŞER's house, Haşmet ATAHAN took care of İsmail; also, his brother was called from Osmaniye to receive what had been promised to him. He again saw Miss Gülseven, but there was a delay in receiving what had been promised. For that reason, they did not agree to appear on Gülseven YAŞER's program called "Ceviz Kabugu." İsmail ÖZDEMİR, appeared on the program by phone and said that the book was not correct and the words against Gülen in the book were not his and they did not write the words in the book, but, rather, they declared that the words were of Gülseven YAŞER and her assistant. In the same preliminary investigation, Serhat ÖZKAN's brother Suar ÖZKAN, verified the statements of his brother Serhat at the prosecutor's office (Folder

15-A). His brother sent him 500kg of fabric from Istanbul. Once his brother called him to Istanbul again. They met with Gülseven YAŞER together, and wanted assurance due to the troubles they caused because of the book, and were given three different checks with value of 500 million TL and additionally they said they will give 250-300 million TL, which they gave them. They promised to send Serhat and his friend to the United States, and offered him a Ford transit vehicle. However, they did not fulfill their promises. Therefore, his brother and his friend did not appear on the Cevizkabugu TV Show. Ismail appeared this program by phone when they were together, and stated that the book is not true. Additionally, in investigation file Folder 15-A are copies of the check related to the payments, presented by Serhat's attorney.

Upon demand by Serhat ÖZKAN to attend, in a petition of 28.03.2001 in Folder 14, the Court decided to permit his intervention at the hearing on 21.05.2001. But by petition of 05.03.2002, he declared that he withdrew his attendance because some persons had deceived him. It was decided to end his intervention at the hearing on 11.03.2002.

Related to the allegation that Serhat ÖZKAN had been kidnapped by force, in the decision of the Uskudar Chief Prosecutor of Republic, dated 01.10.2001 (No. 2001/6713-10741) (Folder 15-B), this is not verified by İsmail ÖZDEMİR, there is no TV record, and the accused persons do not accept the allegations and accordingly non-suit was issued.

In the preliminary investigation that is the subject of the non-suit decision above, the other student, İsmail ÖZDEMİR, mentioned in the statements of Serhat ÖZKAN and their summary (Folder 15-F, Attachment 2, dated 06.07.2001), said they had gone to the Contemporary Education Foundation together with his friend Serhat ÖZKAN, aiming to obtain a scholarship. When they realized the foundation was interested in religious societies, they spoke with them and told them they had used their conversations without consent in the book *Hodja's Schools*. With his friend Serhat ÖZKAN, he went to STV and told the truth. Serhat has repeatedly changed his statements about receiving money, and is still Gülseven YAŞER's driver.

In the program broadcast on Işık TV on 04.05.2002, of which there is the transcript and cassette in Folder 15-G, the President of the Contemporary Education Foundation (ÇEV), Ms. Gülseven YAŞER, said this was actually written by Zubeyir KANDIRA. In the statement to the Court (in Folder 17-B, at the Court's instruction), she said he is a religious person, but he had problems at the school when he was a student. The administrative cadre of the school, who had conflicts among themselves, made this situation worse by promising to save him from it. The auditors made him sign minutes as if he has been going to the houses which were detected by the auditors and as if some others from the school were going at such places too, again Mustafa Kemal YAMAK, who said that he would solve such problems, established contacts with the senior cadres and he made up and renewed the scenarios which he made up for hours, he tried to related the discipline penalties at the academy to this situation, the issues mentioned in the book are these scenarios, the person named Zübeyir KANDIRA reached him through the Principles, may law suits were started against him because of this book, he is in a difficult situation, it is requested from him to verify the book, again he is taken to the Minister of Domestic Affairs at that time, the Minister also acted with Zübeyir KANDIRA, following the Minister at the phase of the investigation they have gone to Nuh Mete YÜKSEL, who has been Prosecutor of the Republic; he regretted these statements later on. Following his recovery from depression caused by the events at the academy, he renewed his statement, and expressed regret in the petition he gave to the prosecutor's office.

Witness George MAROVITCH regarding the Meeting with the Pope

George MAROVITCH is the Vatican's representative in Istanbul. It was demanded that he be heard because of the allegations suggesting that Gülen is interested in obtaining spiritual authority. In his statement (Folder 17-B with court order), Gülen met the Greek Patriarch and the Hebrew Chief Rabbi, and together arranged a meeting with the Pope at the Vatican. F. Gülen did not meet him as a representative of the Islamic world. He went to the Vatican with this group of religious leaders to promote dialogue among religions.

Witness Serpil GENÇ

Serpil GENÇ testified (in the statement at the hearing on 12.11.2001) that she had attempted to transfer some of her inheritance to her uncle, who had been a columnist for *Zaman* newspaper, but was threatened. She suspected these threats came from the Gülen group.

Witness Yalçın ESEN

Yalçın ESENİ declared he had been among the Gülen group before his eventual separation and stated in summary (Folder 13 attachment – prosecution, Folder 17 by court order), that he had gone from Osmaniye to İzmir at the request of his friend Serhat ÖZKAN and studied at high school in İzmir. He stayed at the student boarding house. While he was trying to bring students to the house, he could not keep up with his lessons and was sent back to Osmaniye by the school. He completed the 3rd grade (last class) of high school in Osmaniye. When he asked for help with the police examinations following the completion of high school and got it, he was disappointed. These people generally do not like Atatürk, and do not talk much on this subject.

Witness Ergün POYRAZ

Ergün Poyraz (the statement at the hearing on 06.05.2002) said he is a research journalist and has been investigating reactionary religious groups in the country. After evaluating the books of Gülen, he stated the Gülen group is an organization intending to establish an Islamic republic centered around the caliphate and this is what Gülen is saying in his comments. Additionally, he does not know Gülseven YAŞER and declared he has not received money from her.

On a İaşıık TV program on 04.05.2002, of which there is a transcript and a cassette in Folder 15-G, a conversation with Ergün POYRAZ reveals that financial support was promised to the witnesses, as spoken between Gülseven AYŞER and a man.

Issues and Declarations about the Report of the Ankara Provincial Security Directorate

The witness CEVAT SARAL, who is mentioned in the report of the Provincial Director, Cevdet Saral from the Ankara Provincial Security Directorate, dated 21.04.1999 and No. 245 (at the hearing on 17.09.2001), stated in summary that he was the Provincial Director of Security in Ankara at that time, and that a letter was submitted to him and to the branch director of the intelligence agency requesting an investigation. First, they evaluated the books of F. Gülen written between 1970-1990, and they sensed that an organization model was being presented. Even though the speeches had been widely accepted, they had the impression that there was a hidden message related to issues of religion and society. He

does not provide a detailed examination of the sources of the evaluations. Osman AK has performed that. He cannot exactly describe the structure of F. Gülen's security force, the examinations they have done are only informational studies. The works have not reached the second phase, namely the inquiry phase. He does not know the result of the investigation at the audits board. They have undergone an investigation because of the report which they prepared about Gülen, and were accused for having prepared a prejudiced report. He was penalized; and court sessions were scheduled, but then were cancelled.

Witness Osman AK, who was mentioned in the report of the Provincial Director of Security Forces in Ankara (at the hearing on 12.10.2001), stated that, at relevant times, he was assigned as the Assistant Security Director to the Ankara Provincial Security Information and Terror Branch Directorates. A letter was submitted to him, suggesting an investigation be conducted within the security organization about the organization headed by F. Gülen, based on news published in *Aydınlık* newspaper. They evaluated about twenty books by Gülen. In the records of the security archives, Gülen has always been viewed as a moderate and harmless person. This led to consideration that this has two phases, and they sent a letter to the senior officials in which they wrote that this situation should be evaluated across the country. They did not receive an express response after this letter, and they interpreted this lack of response to mean they should begin their investigation. Copies of their impressions were sent to the General Directorate and to the Chief Prosecutor of the State Security Court on April 21, 1999. Their work was preliminary, and not completed. There has been a team of people evaluating his work with Cevdet SARAL and Ersan DALMAN. There were some others collecting information, the reports did not show hate or revenge.

On the program shown on IŞIK TV on 04.05.2002, of which there is the transcript and the cassette in Folder 15-G, in a conversation with the President of ÇEV Güülseven YAŞER, it is indicated that the security forces were under the impression that the military was behind this event. After negotiating with Osman AK, and statements which support his statements, should be given after meeting with the directors in Ankara and Osman AK made them glad and so on.

Witness Ersan DALMAN gave a statement to the Ankara Provincial Security Directorate (by order in Folder 17-B) and at the hearing on 11.03.2002. That statement and the statement to the Court are similar to those by witnesses Osman AK and Zafer AKTAŞ. DALMAN had been the branch office director of the Ankara Provincial Information Office at that time, which was instructed to investigate the *Aydınlık* article. Since there was no criminal information or evidence against Gülen, they were told to perform an information study. They collected the published books of Gülen and spent the nine-day feast holiday reading them, and prepared a report by collecting sentences spread throughout all of the books. While they were performing this investigation, they suspected that their phone calls were being monitored, viruses sent to their computers, and someone was trying to erase their work. They were dismissed from this assignment after the wiretapping event, and their reports were sent to Security Information Office Directorate, Auditors Board Directorate and the Chief Prosecutor of the State Security Court (DGM). Their work was preliminary; they could not find evidence against the organization that would have legal consequences. Long before any accusations were made, the auditing board had initiated an investigation of 82 persons in the organization. This list was added to the study done in 1992, which states that there were security personnel were assigned places outside of Ankara. He declared similar things before the Court.

The witness Zafer AKTAŞ (mentioned in the report of the Ankara Provincial Security Directorate at the hearing on 11.03.2002) gave his statement before the Court. He was the director of the information branch office at the time when they prepared a 46-page report examining the books of Gülen. After the report was submitted to the senior departments, a country-wide investigation was requested. They did not come an express answer from senior officials; they claim that the provincial security department was responsible. They worked by establishing a board at the provincial security directorate. Then, the Melisa virus appeared on their computer; but they managed to save some of the information. On 21.04.1999, the above-cited report was presented; and, following that, wiretapping allegations arose against them. These allegations were judged at the Kırıkkale Criminal Court of First Instance. He was suspended, and his work is not admissible as material evidence.

Against the statements of the witnesses Ersan DALMAN and Zafer AKTAŞ that their computers had been corrupted by the Melisa virus and they could not recover their information, the report in Folder 15-G (dated 02.05.2002) states that the Melisa virus is not an erasure virus, but sends word files to third parties without the user's authorization.

Sedat ÖZTÜRK stated (at the hearing on 26.12.2001) that the Provincial Security Director of Ankara was Cevdet SARAL at that time; his assistant was Osman AK; and the branch office manager of information was Ersan DALMAN. The C Board was assigned by a verbal order as a supportive unit to deal with the reactionary and nationalist currents. The coordinator was Lütfullah Uğur PEKCAN, and Aydın BATU, who has been the chief of Office C, has also been the president of the board. T. Samet YERLİKAYA, Zeki GÜVEN and Ayhan ÖZTÜRK were also assigned to work alongside him. The manager Ersan gave them information at a meeting held at Chief Zafer AKTAŞ's office. He wanted people, who have been practicing namaz, fasting and other religious practices, or those who have been in a cult, religious society or thought to be among the Nurists, to be identified from the yearbooks of the schools. They stated that this working method was not correct, but he insisted that his orders be obeyed. The members of the board distributed the work among themselves, but he did the secretarial work since he could use the computer. Even though they had not detected any names, on the second day some names were sent in by Osman AK, Ersan DALMAN, and Zafet AKTAŞ. The names of 82 persons that were published in the *Aydınlık* newspaper had been entered into the computer prior to any investigation. There may be some religious people among them, due to the board's consideration that investigations should be reconducted according to proper investigation techniques and methods. They reported the circumstance to Lütfullah PEKCAN, Ersan DALMAN, Zafer AKTAŞ and Osman AK. They were told not to give any comments. Their offered work was not accepted, and no investigation was conducted as to the names on the list. The investigation within the Ankara provincial security organization was conducted indiscriminately regarding the personnel at all rural and general center offices.

Witness Ayhan ÖZTÜRK stated (regarding the hearing on 26.12.2001) that he has been a commissioner at the Ankara security information branch, and, while assigned at the left table A-3, he was included in the working board in C. His statements were similar to the statements by witness Sedat ÖZTÜRK. Additionally, he stated that Ersan DALMAN and Lütfullah PEKCAN ordered all of them to spy on the followers of Gülen at their shifts and report them in a few days. He and a few of his friends objected that such an investigation should be based on evidence and should comply with the law. Ersan DALMAN punished them for insubordination, and they were worried. At the beginning of April, they were told that their mission was over. As a result, he does not know how, when, or by whom the report on the case was written. They had not prepared any documents which could provide a basis

for this report. They collected information about the 82 persons mentioned in the list that was published in *Aydınlık*, but this information did not have any value.

The witness Aydin BATU (regarding the hearing on 26.12.2001) stated he had been the chief commissioner of the reactionary and nationalist currents at that material time. Zafer AKTAŞ, who was the assistant director of the branch, requested the previous report about Gülen, claiming that investigations would be carried out against him. He gave the previous reports on Gülen. When he was told he was making propaganda, he said there was a foundation to it. When some friends from other departments were included on the board, he felt as if he was not able to cope with the work. The work was preparing a list of names. They had not done any work beside the names. When he saw the report prepared by his commanders, he knew his group had not performed a work on such a scale.

The witness Zeki GÜVEN stated he had been a commissioner at the information branch at the relevant time. He presented an 8-page petition, substituting his declarations at the Court. In his petition, dated 26.12.2001 (in Folder 17-B), he said in summary that he had been on the board, and at Zafer AKTAŞ's office. Ersan DALMAN stated they would reveal the structures of the Gülen organization within the security forces. He set a limit of one week; but, since this is an issue of conscious, one week was too short; and it was said that the order has been done. The work they did was not considered, but the lists given by Osman AK, Zafer AKTAŞ and Ersan DALMAN, were released. The list was created based on considerations of each person's school years. The work was not performed by a commission, but by a few senior staff members, and did not comply with standard information techniques and methods. While he was at the office of Osman AK's private secretary, he overheard him swearing, "I will cause trouble for those who have put us in trouble, and I am going to put a stamp on them that they are supporters of F. Gülen and will send them to TEM (Terror Branch)." He heard this conversation because the door was slightly open. The personnel of the technical Branch of the Information Office Directorate, who were responsible for revealing Osman AK's involvement with the wiretapping controversy, were also included in the list of names. The report, which was prepared about the personnel, was torn and thrown away by Zafer AKTAŞ.

The witness Taner S YERLİKAYA stated that, at the relevant time he was the Assistant Commander of the Administration Office at the Ankara Information Branch. Their work was a preliminary investigation. He performed secretarial work together with Sedat ÖZTÜRK, but only recorded incoming information. The other information and documents were outside the scope of his duties.

The witness Lütfullah Uğur PEKCAN, regarding the report of Ankara Provincial Security Directorate (ordered statement in KI.17-Ba), stated he had been the Chief Commissioner at the Ankara Information Branch at the time. He worked on the team for about a month, but they could not reach any conclusions related to the allegations published in *Aydınlık*. The purpose of the working board was to determine if F. Gülen had any structures in the security forces. In the determinations they made, they generally tried to come to a conclusion based on the lifestyles and the intellectual opinions of their colleagues. It is correct that there have been conflicts among the working group in naming certain persons as suspicious, because the list was compiled without any evidence. The colleagues were comfortable about that. However, the work did not reach a conclusion; and the list was not sent to any authorities or made official.

The witness Cavit ÇEVİK stated he had been the Branch Director of TEM (Terror Branch) in Ankara at that relevant time. Under the circumstance, when the Court asked if the Gülen organization was structured like a terror organization, the Terror Struggle Office Directorate of the General Directorate of Security responded that the information branch was not authorized on this issue. Based on the report of the Provincial Security Directorate of Ankara, the work was performed by the Information Branch Directorate of Ankara. During his term of duty, he did not know of any terror acts by the Gülen group.

It is observed that, regarding the report of the Provincial Security Directorate of Ankara, information techniques and solid objective working principles were not complied with, as in the record, dated 24.04.2004, No. 20/2000 of the General Directorate of Security, in Folder 15-A.

The Transcript Analysis of the Conversation Belonging to Gülseven Yaşer, Which Also Concerns the Other Evidence

The cassette recording of the Işık TV program on 04.05.2002 was presented as evidence by the defense in the Folder 15-G on 01.07.2002, Gülseven YAŞER, who requested attendance against their client, has attempted to make up unrealistic evidence. The CDs and cassettes which form the basis of the case are a product of conspiracy, and a video cassette and the transcript alleging that were presented to the Court.

In the cassette transcript, published on Işık TV and presented to the Court by the defense, a conversation occurs between two persons. One of the speakers is Gülseven YAŞER, and the other one is a man. Gülseven YAŞER says, as she hands the cassettes to her friend by making some gestures with her hand “You will handle these, and we will make a ‘Best of F. Gülen.’ “and in the previous one it is written ÇEV, and when they attend the court hearings they will not be writing that in order not to make a crime announcement, a meeting to be done with Osman AK, and at the security it must be posed as if the military is behind that; and it should also be informed to the Ministry of Domestic Affairs, Serhat has cried that money should be sent as he has children; there has been himself and Haşmet in Istanbul, and that it has been necessary to gather with the directors in Ankara for this issue, and to give statements that support that of Osman AK, the student must be sent among them, they should benefit from them by making them work for long durations, or otherwise it will be against themselves, Ramazan which is of the PKK of whom they stopped the scholarship is not around anymore, The money which will be paid to Serhat should not be neglected; there should be found a job to Eyüp; Eyüp’s mother has told about them that they are also useless, and that from the children which they supported too much there are such ones who talk negatively about them; İsmail has done so; the two children on hand from the PKK may also be like Eyüp and Serhat in the future, they will be arranged, they bought a computer to Eyüp, they are glad about the statements of Osman AK; and that is also necessary to organize the Great Assembly and Supreme Court, the weak side of the persons who will be earned should be observed, money is always being sent to Eyüp are the things they talked about.”

In the explanatory statements of the defense on 18.10.2002, upon the complaints of the families of the martyrs about the cassette program on Işık TV about the ÇEV, the No. 3 State Security Court started a case against Gülseven YAŞER and the members of her management board (Base No. 2002/246). The transcript of the CD of the program on Işık TV in the file was made by the Police Anti-Terror Branch Office, and its content was not denied by Gülseven YAŞER. Only the person performing the recording is in question.

It is observed that Gülseven YAŞER requested to intervene in the case; but, at the hearing on 16.10.2002, this request is rejected.

Other Evidence

The Suspicions Introduced by the Century, The Axis of İrşad, İla-yı Kelimetullah-Cihat- Era and Generation, Prism, Measurements and the Lights on the Road, and From Chapter to Chapter are all books written by F. Gülen from which some passages were extracted in the indictment. Also, the book *My Little World* was offered as evidence. Additionally, the books *Hodja's Schools, The Cops of Fethullah, Portrait of the Enemy of the Republic, and The Deep Mission of Fethullah Gülen Efendi*, all written against F. Gülen, are included along with some published articles and broadcast video cassettes containing comments against F. Gülen

The books related to the Abant meetings, the book which contains the speech by Prime Minister Bülent Ecevit, the interviews and the statements of Gülen as given to various press and publication institutions, and some statements of intellectuals and people from the government regarding the activities of the accused, are presented as rebuttal evidence. The legal comments of Prof. Dr. Çetin ÖZEK state that, from the point of the accused, the excerpts from the book that were shown as a basis for the allegations do not constitute a crime within the scope of the Law No. 3712.

Many written and visual publications and documents were presented during the trial by the alleging and defending parties. Most of which, rather than being material evidence, were presented as a totality, rather than separately and in detail.

The Evaluation Notes of Institutions; Response Letters and Reports

The assessment letter of the Information Office Directorate related to the Gülen group in Folder 5, (Series 128), as belonging to the General Directorate of Security with the date 05.05.19999 and No. 5124, was sent upon the request of the Chief Prosecutor of Ankara State Security Court, and the number of the attached pages are.... The response states that in Turkey, Islam does not target the state itself but aims to raise intellectually integral human persons. This understanding of Islam is called Traditional Islam, Tasavvuf Islam, Anatolian Islam, and Turkish Islam. Traditional Islamic society in Turkey takes the form of cults and currents, including the Nakşibendi, Kadiri, Süleymani, Nur F. Gülen group, New Asian group etc. Apart from such traditional groups, there are radical terrorist groups, and these include Hezbollah, İBDA/C, Islamic Act organization, Vasat, Aczmendis, etc. The F. Gülen group is defined among those that do not target the state, but attempt to edify human persons instead.

The formation of schools, boarding houses, and étude schools have been executed within the scope of the Private Education Institutions Law No. 625. The education activities abroad are audited by the Ministry of Education and by the institutions of the related country, and they have been established by the support of companies and businesses. To resolve problems that are encountered domestically and abroad, there is a consultation board made up of his trusted friends. They have not been holding meetings in the recent years, and F. Gülen has kept himself from using such words as "Shari'a," "sheikh," and "imam." There is no confirmation that he has used such terms as "world imam" or "country imam." Instead, members and leaders of this group use words such as "coordinator," etc.

In Folder 5, Series 155, the assessment letter of the Ankara Provincial Security Directorate, dated 21.04.1999 and No.2456-99, states that, upon the news published in *Aydınlık*'s 559th issue, the auditor board started an investigation. The Provincial Directorate requested information, documents, and certificates related to the investigation, so an assessment was made. In the assessment, F. Gülen was found to be far different from typical religious leaders. Some claims about him were: due to his deceptive methods, in which he sometimes talks good about Atatürk; sometimes supports the primary education limit of eight years; sometimes attends meetings with the Pope; the sufficiency of his religious information is suspect. His target is to establish a theocratic regime in which a certain class holds the power, and his work frequently mentions terms such as Işık (Light) Houses, ışık bases, and ışık cavaliers, which suggest a certain amount of organizational structuring. Eyüp KAYAR, the student who spoke to the Ceviz Kabuğu TV program, confirmed the existence of these structures. This religious society has a hierarchic structure: world imams, consultation boards, regional imams, and city imams are all included in the Gülen organization. The name of the group means the "cult of light," and the Police College and Academy are among the many educational institutions that this group has infiltrated. In 1992, the audit group began an investigation of this group, but there was insufficient evidence, and a non-suit decision (No. 1998/24) was issued by the prosecution of the State Security Court's Chief. In KI.15 A, a certificate from the General Directorate of Security, dated 24.04.2005 and No. 20/22, states in summary that the report prepared by Osman AK, Ersan DALMAN, and Zafer AKTAŞ about the Gülen group did not comply with the working methods required in information studies. The report was apparently prepared in a very short time, between April and May 5, and as it does not include adequate information. Its accuracy is in doubt. The personnel assigned to conduct the report were not expert in this field, and therefore abused their duties. It is stated they should be disciplined for the irresponsibility of their investigation, and in the future administrative and legal requirements should be fulfilled. The conclusion report in Folder 1, dated 22.07.2002 by the General Directorate of Security, states that, within the framework of an investigation performed in compliance with the legal methods and techniques, hierarchical structures within the Fethullah Gülen organization could not be detected.

In the Folder 6 series, the assessment letter with no heading and an illegible signature, attributed to the Directorate of the General Staff in the indictment, states in summary that, compared to the other Nur groups, the Gülen group is less clear as to whether or not it supports the secular government. The Gülen group emphasizes the compatibility of Islam and Turkish identity, operates within contemporary legal structures, and complies with the rules of democracy. They emphasize through their leaders that they are on the side of the state, which has gained them large public acceptance. In 1997, King Fahd of Saudi Arabia offered the group financial support in exchange for its services, but his offer was rejected. About the claims of their intention is to establish a theocratic Islamic dictatorship, and are establishing cadres for this purpose. They present a moderate public image as a branch of the Nur cult, and with their Turan identity they have earned the sympathy of average Turkish citizens. They look as if they have adopted Atatürk's principles and are on the side of the Republic. Yet, their leaders do not wear ties because it conflicts with the Islamic style. This poses a danger to the democratic secularism of Turkey, and they should always be kept under control. The image they are supported by the state should be rebutted.

Folder 6 (Series 158-191), has an article related to Gülen in the 98th issue of *Middle East Quarterly* is attached. This article is of the opinion that Gülen is not on the side of the Shari'a state and does not wish to use the government to implement Islamic law. Instead, he believes that most of the Islamic regulations relate to the private life, and only a small portion is to be adopted by the government. This understanding has made Gülen an opponent of the

regimes in Saudi Arabia and Iran. His opinion is that Turkish nationalism should be Islamic, and that Islam should be interpreted from the Turkish perspective. He considers the clothing of women to be just a detail of tradition, and supports Turkey's membership in the EU. As a movement, he intends to create a loyal Muslim society that will stand up against political Islam, and his followers are opening schools in many places across the world. Islamists believe that the supporters of Refah are using the Gülen society in order to extend secular regulations, and he is very careful not to provoke the army. Yet, in the political arena, a significant number of intellectuals accuse him of seeking to achieve the same goals as the Islamists. Some of the secular parties view Gülen as an alternative to Refah, and some liberal and conservative intellectuals support him. Gülen's difference lies in his efforts to revitalize traditional values through the official modernization efforts of the state. His project resembles the Sufi tradition, which addresses the spiritual need of individuals and intends to educate communities and provide stability during times of upheaval. However, the movement is suspected of seeking to become a political power because of its relationship with the military and elite class and its emphasis on the conversion to an open-minded, flexible, and democratic society.

Additionally, Folder 6 (Series 196-201), has letters from Turkish embassies abroad. Some of these letters state the opinion that it would be appropriate to suspend the obligations to military service for the teachers at the Gülen schools abroad because of their contributions to Turkish culture. But some letters express suspicion about such schools.

In Folder 8, there is documentation that the Chief Prosecutor of the State Security Court submitted his conclusions relating to the F. Gülen group investigation in response to the request for information. In Folder 8 (Series 224-225) and Folder 13 (Attachment 7), the response letter, dated 21.09.2000 and No. 130413 of the General Directorate indicates that the information relating to the étude schools, schools, companies abroad and foundation, etc. was sent on a city-by-city basis.

In Folder 8 (Series 226), the response of the General Directorate of Security, dated 20.07.1999 No. 1999/2402, provides information about the activities of F. Gülen group in the city of Uşak.

In Folder 8 (Series 227), the response letter, dated 06.08.1999, No. 2715, provides information about the activities of F. Gülen group in the city of Rize.

In Folder 8 (Series 227), the response letter of the General Directorate of Security, dated 28.07.1999 and No. 2568, provides information regarding the private schools, étude schools, educational institutions and activities related to the society of F. Gülen in the cities of Erzurum, Çankırı, and Çorum.

In Folder 8 (Series 263), the response letter of the General Directorate of Security, dated 07.07.1999 and No. 3244, contains information about the boarding houses for student and educational institutions related to F. Gülen's group in the city of Erzincan.

The Folder 13 (Attachment 8), the response letter of the General Directorate of Security, dated 07.10.2000 and No. 139100, includes the unofficial translation of a booklet written about the group in Istanbul and the breakdown of its companies, etude schools, and educational institutions.

In Folder 11 (Series 851-979), the assessment notes that are allegedly attributed to the general Command of gendarme state that F. Gülen intends to reject the principles of Atatürk, establish a republic based on Shari'a (Islamic law), and establish Turkish-Islamic unity. These notes claim that, since the group's strategy is to establish cadres, precautions are required to prevent their achievement; and they should be followed and audited frequently.

The report of the General Directorate of Security that is in Folder 13, Attachment 8, dated 13.10.2000 and No. 6894, was submitted upon request of the Court. The report states that the Nur religious society found it inappropriate for F. Gülen to deal with the daily politics, which was active among the New Asia group, and Gülen separated from that group in 1970 and started to act on his own. He opened étude schools and boarding houses for young people by means of the companies, foundations, and businessmen who supported him.

The aim of the F. Gülen group is to achieve economic and political power in Turkey, although they do not directly disrupt the power balances of the country and avoid an expressly political approach.

Gülen's strategy is to inculcate a young generation with his Islamist teachings through his works of propaganda.

The organization is made up of students, friends, and sympathizers. Problems, which the students cannot solve on their own, are resolved by district, city, and regional imams.

The activities are conducted through legal institutions and establishments. At the educational level, Gülen has established etude schools, private colleges, boarding houses, and student houses. In addition to education, the group also acts through businessmen and through the broadcast media. The student houses are called Houses of Işık (Light).

The group is engaged in many educational activities abroad. It has been observed that they are trying to present a more moderate Islam, one that emphasizes compromise and dialogue, to the secular and democratic community, rather than the radical Islamic approach which coincides the same term with the efforts they paid to open themselves to the community which in fact is qualified as becoming transparent among themselves in 1990s. No armed activities of the group have been detected as of the present time.

The last report of the General Directorate of Security, dated 03.03.2006 and No. 43178, includes the evaluation made upon request of the attorneys. It is observed that F. Gülen has no criminal record; nor do any of the persons related to him. The activities of religious dialogue organized by Gülen and his supporters are considered to be purely missionary activities. F. Gülen does not have a relationship with any legal body except as the Honorary President of the Journalists and Writers Foundations. Gülen's intense reaction against terror and his advocacy for dialogue between religions have been criticized by some groups, and he has received death threats from radical terror groups such as Hizbullah, El-Kaide, and İBDA/C. The Ministry of Domestic Affairs decided to give him protection between 1996-1999 because of threats from these groups.

Fethullah Gülen rejects terror and opposes the use of violence. The legal persons and institutions related to Gülen are not the sort of organizations mentioned in Law No. 3713; they have not convened to disrupt the constitutional order by means of violence and force, and there are no documents which could indicate that this is in any way intended. Therefore, these groups cannot be evaluated within the scope of Law No. 3713.

PREVIOUS INVESTIGATIONS AND PROSECUTIONS

In Folder 19, in the series of allegations made against the accused, the file relating to the legality of the structuring of the F. Gülen organization was separated out, and from which this investigation still continues. That investigation was conducted during the preparations No. 2000/507 of the Ankara State Security Court, and nineteen consultation board members and supporters accused of illegally organizing received a non-suit decision on 15.09.2003 (No. 2003/87). That investigation was concluded.

This decision states there is no evidence that the accused committed the alleged crime. Further, even if the allegations of organization were valid, there is no evidence of violence, force, or intimidation on the part of the accused that would constitute a criminal action. Thus, the non-suit decision was issued as to article 1 of the Law No. 3713, as amended by Law No. 4928.

In Folder 19, the decision of the No. 1 Adana State Security Court, dated 11.12.2001 and No. 2001/263-2814 E.K., acquitted the 26 persons accused of membership in a F. Gülen terror group. The case alleged violation of Article 7/1-2 of the Law No. 3713.

In Folder 17-B, the Chief Prosecutor of the Ankara State Security Court, dated 20.11.1995 and No. 1995/334-2, decided to non-suit the case of F. Gülen's declaration that in some sections of the Army, preparations are being made for a Memorandum.

In Folder 19, the decision, dated 29.12.199 and No. 1999/146-191 E.K., of the 2nd State Security Court of Ankara acquitted members of the Gülen group of the indictment that they convened at a House in Eskişehir, read books of Said-i Nursi, and discussed religious matters.

In Folder 19, the decision of the 2nd State Security Court in Ankara, dated 23.10.2000 and No. 2000/36-140 E.K., acquitted the accused of charges against them. They were accused of establishing a criminal organization and for reading the books of Said-İ Nursi in meetings in the Çamlıyazı Village in Samsun. The acquittal determined that no criminality for their actions had been established before the court.

In Folder 19, the public decision of the 2nd State Security Court in Ankara, dated 18.06.2001, Base No. 2000/106 and Decision No. 2001/106, acquitted those in Samsun involved with the Cult of Nur who were accused of forming propaganda meetings against the unitary status of the state.

In Folder 17-B, the non-suit decision of the Chief Prosecution of the State Security Court in Ankara, dated 20.03.1998 and No. 1998/124, states that sufficient evidence could not be found against the persons at the Police Academy accused of attempting to establish the "Illegal Fethullah Hodja's Students" organization.

In Folder 17-B, the Chief prosecutor of Uskudar, on 01.10.2001 and No. 2001/6713-1074, issued a non-suit decision regarding the allegations of kidnapping made by witness Sedat ÖZKAN and his friend İsmail ÖZDEMİR.

In Folder 15-B, dated 15.06.1987 and No. 1987/60-2, a non-suit decision was issued by the Chief Prosecutor of Konya State Security Court regarding the student at the Afyon City Çay District boarding house.

In Folder 15-B, the Chief Prosecutor of the İzmir State Security Court issued a non-suit decision, dated 20.05.19787 and No. 1986/51, relating to the accusations of propaganda made against F. Gülen.

In Folder 15-B, the Chief Prosecutor of the Istanbul State Security Court, dated 25.06.1998 and No. 1998/1283-209, decided in the investigation against F. Gülen that no organization has been established that conflicts with the Law No. 3713, and the accusations made in the *Hodja's Schools* book are unfounded. Therefore, a non-suit decision was issued.

In Folder 15 B, twelve non-pecuniary cases awarded on behalf of Gülen are included along with the 70 refutation court decisions related to publications against Gülen.

In Folder 19, the decision of the Chief Prosecution of State Security Court in Izmir, dated 20.04.1999 and No. 1999/16443-4717, states that the activities of going to a home from time to time, eating, having conversations and listening to religious cassettes do not constitute a crime, so a non-suit decision was given.

EVALUATION

Judgment Procedure

Alleging the accused had violated Law No. 3713, a public case was filed in court on 31.08.2000.

Law No. 4616, which applies to crimes committed before 23.04.1999 and covers this case, put in force the regulation for suspension of cases.

Again, as per the first article of Law No. 4758, passed on 23.5.2002, and amended Law No. 4616, if the accused requests to continue the judgment in three months, then the case will carry on and shall be concluded. If no request is submitted, suspension shall be issued.

The public case began in court within the scope of Law No. 4616. The accused left to go abroad on 21.03.1999, due to health problems, and his relations with the alleged activities ceased. Therefore, the date of the crime must be assumed as coming before 23.04.1999. Additionally, in the three months between the execution date of Law No. 4758 and 23.05.2002, there were no applications to continue the judgment. So, it was decided that the public case should be suspended as per the Article 1/4 of Law No. 4616.

The Court decided to suspend trial, despite the objection of the attorneys for the accused. It was thought that the case would be concluded from the record, and they stated they were not asked by the Court if they requested a suspension. In its justification, the Court, stated that, when Law No. 4616 went into effect, the continuation of the judgment was done and the suspension decision was taken in order to determine the exact date of the crime. The request of the attorneys for the accused related to the conclusion of the case from the base as the date of the crime was after 21.03.1999, and as the crime continued afterwards. The 1ST State Security Court in Ankara rejected the request.

The attorneys for the accused, in a petition dated 7.03.2006, stated that Article 1 of Law No. 3713, as amended by Law No. 4928 on 15.07.2003, relates to the definition and the content of the crime, and, if a law is amended to the advantage of the accused, the case should be tried again. They requested acquittal of their client. As it is necessary to re-evaluate a case upon request, the amendment to the law was considered as a reason to reconsider on the case. Therefore, a hearing was initiated to determine whether or not there existed the possibility of reopening the case, and judgment issued accordingly.

With Law No. 4616, the Court decided to suspend the conclusion of the case. The law indicates that, if the accused commits no crimes in five years, the present suit will be dismissed. Before deciding on the case on its merits, the case was suspended in whole. In the file, there are no decisions about the accused's relation to elements of the case. It is clear that, if any crime is committed in the five-year interim or if the file is considered for any reason, the case will continue from where it was suspended. The passage of amendments related to the laws which have been alleged against the accused is a reason for reconsidering a crime, according to the practices of the Supreme Court. Therefore, our Court reconsidered the suspended file, held a hearing; and, at the end of the trial, the Court evaluated the essential evidence.

While the court was deciding the suspension issue, an evaluation was done related to the date of the crime, the result of which indicates that the date of the crime must be before April 23, 1999. Apart from the determination and evaluation of the date of the alleged crime date, whether or not a crime was committed was not taken into consideration. Yet, under the prevailing provision of Law No. 4616, the case was suspended without considering if the crime had ever been committed or if the accusations had any validity. According to the file, there can be no restrictions to the comments, evaluations, and disposals of the Court. According to the criminal law, for an act to be established as a crime, it should typically be defined in relation to a law that establishes illegality. Then, evidence must be gathered that demonstrated that the accused acted intentionally to commit the crime. These are considered as the legal, material, and intentional aspects of the crime. The alleged crime must be investigated if it is committed according to the typical definitions in the law, and it must be determined whether or not these material aspects are realized. In investigating the material aspects, discussions of evidentiary materials must inevitably be conducted. And the decision about the base allegations must be determined initially. Therefore, since our Court has not judged the essentials until now, the decisions and evaluations made up to this point about the case have not considered any of these components.

Statutory Law

The indictment alleges a violation of the first article of Law No. 3713, Article 7/1. To that article, Law No. 4928 made amendments, which became effective on 19.07.2003. Article 7 of the law states that those who establish and command the organizations defined by Article 1 are to be punished. The original definition of the criminal organization is in article 1 of the Law.

The first article of the Law, before amendment, read as:

Terror acts are all kinds of acts that include pressure, force and violence, intimidation, frightening, terrorization, suppression with the aim to alter the qualities of the republic given in the constitution, political, social,

secular, economical order, the integral unitary being of the state with its country and people, to jeopardize the existence of Turkish state and republic, to weaken the authority of the state or to abolish it or to seize it; to abolish the fundamental rights and the freedoms, all kinds of acts done by a person or persons as a member of a group in order to distort the domestic and international security, public order or general health of the state.

The organization defined by this law must have been established by the gathering of two or more persons with the same goals and intentions.

Following amendment by Law No. 4928, the first article was revised to read:

Terror acts are all kinds of acts that include pressure, force and violence, intimidation, frightening, terrorization, suppression with the aim to alter the qualities of the republic given in the constitution, political, social, secular, economical order, the integral unitary being of the state with its country and people, to jeopardize the existence of Turkish state and republic, to weaken the authority of the state or to abolish it or to seize it; to abolish the fundamental rights and the freedoms, all kinds of acts constituting crime that are done by a person or persons as a member of a group in order to distort the domestic and international security, public order or general health of the state.

The requirement that two or more persons convene in order for a terror crime to be committed, as written in paragraph 1, is an essential component for a terror organization defined in this law.

Both forms of the article forbid adopting methods of pressure, force and violence, intimidation, frightening, terrorization, suppression and acting to realize such goals. Before the amendment, for an act which tends toward the mentioned goals to constitute a crime, it had to have first adopted one of the methods of pressure or force mentioned in the law, and all acts which use such force or occur in parallel to such acts were defined as terror crimes. After the amendment, an act of crime which employs force and violence is defined as a terror crime. The distinguishing difference of the amended article regards the use of force and violence; it requires that the act itself constitute a crime instead of including all acts, regardless of whether they are a crime, as terrorist.

Again, in the second paragraph: for the organization mentioned in the law to be able to be established, the convention of two or more persons around the same goal is sufficient. But following the amendment, for the organization to be deemed as established two or more persons must have convened, aiming to commit the terror crime as mentioned in paragraph 1. That is to say, before the amendment it was sufficient to have convened around the same purpose; but, after the amendment, convening around the same purpose does not in itself constitute a crime. Instead, crime can only be investigated if there was the aim of committing terror acts. The amendment introduces a different component regarding the elements required for the establishment of such an organization.

When the legal amendments are analyzed closely, the definition of terror crime in paragraph 1 of article 1 requires that methods of intimidation be adopted to achieve that goal and that there must also be criminal acts that are individually attributed as crimes.

The definition of organized crime in paragraph 2 requires that two or more persons must have gathered with the aim of committing the terror crime in paragraph 1.

In conclusion, for an act to be defined as a terror act and for the organization performing such actions to be a terror organization, at least two persons must use the methods of force and violence mentioned in the law, and the act must constitute an act of crime in its individual aspects.

In the article, such terms as force, violence, and intimidation, are defined as aspects which mean force, forcing, to have a thing done by force, being rigid, to use force against the opponents instead of compromise or convincing, but defined as brute force.

The previous legal requirements related to the alleged crime and its articles, as well as the amendments which were put in force later and concern the aspects of the crime, were considered by the Court, as outlined below.

Evidence Analysis and Evaluation

After touching upon the requirements above and the aspects of the crime, in the evaluation of the entire file:

The charges of Mustafa Sosysal, Murat Yanık and Hasan Yakup Kemertaş, the students of the military school at a house affiliated with F. Gülen in Izmir on 13.03.1999, had been non-suited by the Chief Prosecutor of Izmir; and they refused to relate their statements to this Court.

The witness Eyüp KAYAR, who claimed to have been among this group for a certain time, gave up his declarations and withdrew his allegations. The Court decided to dismiss his intervention. The witness Serhat ÖZKAN attended the case at a certain phase of the trial, but then decided not to intervene, declaring he had been deceived. It was also decided to dismiss his intervention. Within the scope of an investigation by the Chief prosecution of Fatih, he stated that the book *Hodja's Schools*, which is attributed to him and Eyüp Kayar, was not written by them. Despite testifying to the contrary, he and his brother Suat ÖZKAN have been financially supported by Gülseven.

Yasar and his brother Suat ÖZKAN verified this statement at the office of the prosecution. Additionally, copies of the checks verifying the financial support are included in the case file.

Metin SARIASLAN, who claimed to have worked for five years at the Merter Fatih Primary School related to F. Gülen, has given some unverified statements related to the school. Other witnesses from the school denied the accuracy of these statements; and it has been revealed that the witness has had disputes with the school in the past related his indemnification and withdrawal from his obligations. The bases for his criminal accusations have no merit.

The witness Rafet YILMAZ, who was suspended from the police academy and mentioned in the book *Cops of Fethullah* by Zübeyir Kandıra, stated in his declarations that he was suspended due to issues of discipline. He abused his position because of his troubles with the school, and what is written in the book is not correct.

The Vatican's Istanbul representative, Msgr. George MOROVITCH, stated that Gülen did not meet with the Pope as the leader of world Islam. The meeting was simply an act of dialogue between religions.

The witness Serpil GENÇ stated that a foundation related to Gülen is trying, through her uncle and some friends, to attain the assignation of some of her inheritance. The witness Yalçın Esen lived for a time in houses that belonged to this group. These declarations were determined to lack criminality.

Witness Ergüm POYRAZ, who claimed to have been studying the reactionary actions of the movement, made some declarations against F. Gülen. It is considered that such declarations were not related to any material information regarding criminal activity and are merely comments and considerations.

In the report of the Provincial Directorate of Security of Ankara, the witnesses Cevdet SARAK, Osman AK, Ersan DALMAN, Zafetr AKTAŞ, Selat ÖZTÜRK, Ayhan ÖZTÜRK, Aydın BATU, Zeki GÜVEN, Taner S. YERLIKAYA, Lütfullah Uğur PEKCAN and Cavit ÇEVİK, who were all members of the commissioned investigation board, were heard as witnesses. Cevdet SARAK, Osman AK, Ersan DALMAN, and Zafer AKTAŞ stated that their investigation was only a preliminary work. Selat ÖZTÜRK, Ayhan ÖZTÜRK, Aydın BATU, and Zeki GÜVEN, who had been members of the same board, declared that proper methods and techniques had not been applied to the investigation. The need of proper material evidence and data was not accepted, and it was attempted to exclude them from this study. Taner S YERLIKAYA and Lütfullah Uğur PEKCAN verified that "information methods and techniques were not used in the study; it was prepared in a rush." Still, the investigation conducted of those who prepared the report and the concluding report prepared by the Audit Board of the General Directorate of Security revealed that no structures related to F. Gülen had been ascertained by the security forces.

Witness Cavit ÇEVİK, who had been the commander of the Anti-Terror Branch, stated that the General Directorate of Security had determined that this structuring did not constitute a terror organization. The report of the Provincial Security Directorate at that time was prepared by the Information Branch, which had no authority on such issues. During his term of duty, he did not know about any terror acts related to the Gülen group; and no such information was submitted to the branch.

In the conversation between a man and Gülseven YAŞER, who wanted to intervene the hearing but was rejected there are statements which cast suspicion on the other witness's statements and cassette evidence, it is suggested that witnesses Eyüp KAYAR, Serhat ÖZKAN, and ERGÜN are financially supported, and that the witness Ersan Dalman should be supported by the other commanders. The conversation also mentions that the two boys from the PKK, who were supported with scholarships, could be arranged like the witnesses Eyüp and Serhat. The Parliament and the Supreme Court should have been organized. During this conversation, Yaser gives the cassettes to him, saying to create the "best" of Fethullah from them.

The indictment presents some comments and excerpts from the books of Fethullah Gülen and conversations on cassettes as evidence. Also, some of the books which comment on the accused are given as evidence, but these books hold the comments and considerations. In the conversations on video cassettes, the cassettes are not identically the same. In some parts of the conversations, additions and extractions are obvious, which change the original

meaning. Nor do they contain any explicit aspects of crime. In the conversation between Ms. Gülseven YAŞER and a man, as published on Işık TV and a copy of which is in the file, one can observe that Gülseven YAŞER puts the cassettes down and makes a “cutting” sign with her hand when she mentions making a “best” of Fethullah tape. Thus, the integrity of this cassette is suspicious.

There are information notes and evaluation letters from different institutions in the file:

In the evaluation letter prepared by the General Directorate of Security, dated 05.05.1999, the F. Gülen group is considered to be one of the classical Islamic groups that does not target the state but rather teaches absolute human moral values. The letter indicated that this group is not covered in the scope of the Law No. 3713. The evaluation letter of the Provincial General Directorate of Security in Ankara, dated 21.04.1999, states that the intention of the Gülen group is to establish theocratic regime, aiming at the rule of a certain class. However, there is no explanation regarding the alleged methods in the information. Furthermore, this note is without letterhead or signature, and although the indictment attributes it to the Directorate of the General Staff, there is no evidence that this is the case. There is no explanation regarding the group’s method and path. It simply states that the group interprets Islam in light of its Turkish consciousness and that the group’s leaders should be kept under control due to the fact that they have earned the sympathy of the public. Again, the evaluation letter, without letterhead or signature, mentions that the aim of the accused is to establish a theocratic regime by means of establishing cadres by democratic means. However, the method of this political establishment is not explained.

In the report, dated 13.10.2000, the following information was provided to the Court by the General Directorate of Security. F. Gülen separated from the Nur cult in 1970 and started to act on his own. He opened boarding houses, schools, and étude schools for youth with the support of companies, foundations, and businessmen. The aim of the group is to increase their own power in the economic and the political power balance. They do not take an explicit attitude against current power balances. Gülen distances himself from radical Islamic groups. His group has not been involved in any armed activities. No criminal methods have been detected.

In response to the note prepared by the General Directorate of Security (dated 03.03.2006 and No. 43178), the attorneys of the accused claimed that F. Gülen does not have a relationship with any legal bodies except as the Honorary President of the Journalists and Writers Foundation. He denounces the use of force and violence; and, because of his strong reaction against terror and his promotion of dialogue among religions, he has been the target of radical Islamic groups such as Hizbullah and ibda-c. For this reason, he was taken under protection between 1996-1999. His works and studies are not considered to be proselytizing works. There is no documentary evidence against any of the organizations related to F. Gülen that indicates an intention to change the constitutional order through force or violence. Since they have never acted in this way, they cannot be evaluated under the scope of the Law No. 3713.

The question of whether the organizational structure can be defined as terrorist was addressed to the General Directorate of Security. The General Directorate, after gathering information from across the whole country under authorization by article 7/1 in Law No. 2559, sent a prepared opinion to the Court. The information takes into account notes attributed to the other units as evaluations and data in the Court’s file. The original expert

opinion on this matter is accepted to be the General Directorate of Security. Because the evaluation made by the Ankara Provincial General Security Directorate, which mentioned the investigation, did not comply with procedures and because contradicting reports exist at the General Directorate, the local report of the General Directorate was not considered. In principle, the opinions of the General Directorates of Security are not binding from the perspective of the Court. They are presented only as opinions and supportive information. However, as it is an agency struggling against the terror organizations, the presented opinions are significant data and information, which deserve attention. The General Security reported that the F. Gülen group has not convened to commit crimes and thus is not covered under Law No. 3713.

Other investigations and prosecutions against the accused have been carried out previously and have all ended in non-suit or acquittal decisions. At the 1st State Security Court in Adana, two persons accused of being members of the Fethullah Gülen Terror Organization were acquitted on 11.12.2001. In 1992 and 1998, the Chief Prosecutor of the Ankara State Security Court issued a non-suit regarding the accusation that an organization of the students of Fethullah Hodja existed in the Police Academy. Many similar non-suit and acquittal decisions can be observed.

The accused claims his activity is simply to explain religion to people and that his teachings are just recommendations. The people, who gather together and are impressed by his recommendations, are in compliance with the law; and their establishments are in no way illegal. Also, he does not have any formal function in these gatherings. He does not have an organic connection to any established group. The relation of the people of the country to him consists of mutual respect, moral values, and culture. He is wrongly perceived to be hierarchic and disciplinary. Their activities are not crimes or organizations covered by the Criminal Code.

In the definition of the crime attributed to the accused, two or more persons would have to have convened with the purpose of changing the law through force and violence. They would also have to have adopted similar methods with the intention of committing the terror crime indicated in article 1. Furthermore, they would have to have carried out activities, which could be considered individually as crimes. In the indictment, even though the aim of the accused is alleged to be the establishment of a theocratic Islamic state, the method and the path he adopts does not employ force or violence. On the contrary, in the evaluation of the allegations against the accused, there are phrases indicating that he uses democratic means and acts in accordance with the law.

The indictment has no declaration regarding the use of force or violent methods. The Gülen groups are instead accused of exerting moral pressure on the public through the ubiquitous presence of their legal and illegal structures, including companies, schools, and foundations.

It has been determined that the accused does not have any relationship to any official organization other than the Journalists and Writers Foundation. It has been shown that the schools, companies, and foundations, etc., that are allegedly related to him are all separate establishments, which have their own by-laws and are subject to audits. There is no record indicating that any of these organizational structures have been involved in criminal activities.

In the allegations of illegal organizing, it is stated that the investigation continued after separation. In the preliminary investigation by the Ankara Chief Prosecution of the State Security Court, the alleged crime was not detected. The persons accused of being members of the consultation board and supporters of F. Gülen engaged in no criminal activities, as defined by article 1 of Law No. 3713, and amended by 49. It was not detected that the accused used methods of force, intimidation, violence, pressure, or threats, etc., to realize their goals, and it is not detected that they ever acted in ways which would individually constitute a crime. Therefore, a non-suit decision was given about them.

The alleged crime is “a crime with multiple offenders” as per legal definition, and cannot be committed by one single offender. The law requires that two or more persons must have gathered to commit such a crime as Gülen is accused of, and non suit decision is given related to the existence of illegal structure as mentioned in the footnote on the information note. The alleged act attributed to the accused appears baseless. Cases were not initiated against the persons, who were included in the separated investigation since a non-suit decision was given. The accused, who is still being judged for the alleged organization, was judged individually. One person cannot be charged with a crime that requires multiple offenders; it is legally impossible to accuse an individual person with being an organization.

It is inarguable that intellectual freedom is one on the fundamental elements of democracy. This freedom includes the declaration of intellectual opinions and considerations and the freedom to organize freely around such ideas within a legal framework. For the expression of ideas to enjoy such freedom, these ideas do not necessarily have to be accepted or held by everyone. This is where in fact freedom gains significance. Undoubtedly, the rights and the freedoms in the specified fields are not limitless. From the perspective of this case, the protection offered by these rights and freedoms should extend to all expressions that do not promote force, violence, or threat in such a manner that would jeopardize the security of the nation or the public, damage the integrity of the country, or infringe upon the rights and freedoms of others.

In the first article of Law No. 3713, this crime is defined. The use of religious, intellectual, and organizational freedoms in a democratic country is laid down in its ideal scale and distinguished from the practices of terror organizations. According to this distinction, the change of the legal qualities and the values are mentioned in article 1, and attempts to carry on with the styles and the methods mentioned in the same article are terror acts. But the use of rights and freedoms in a democratic society cannot be defined as terrorist actions.

Regardless of how the establishments related to the accused are named, it is a reality that there are similar sociological and social facts existing in the country. In addition to the fact that there are negative publications, opinions, and comments, objecting to the accused and his surrounding, it can also be seen in the file that many other publications see the accused as harmless and praise the positive aspects of his work. Opinions of government authorities appear within these positive evaluations. There is a distinction between these kinds of public, individual considerations and considerations made by the Criminal Code. The criterion and the enforcement of both are different. This is the point where the prevailing status of democracy and law will step forward. The legal sensitivity and attention in judgment of them with the definitions of law will provide the simultaneous protection of the prevailing status of law and also the fundamental aspects of the republic.

As a conclusion:

With Law No. 4928 (15.07.2003), article 1 of Law No. 3713 was changed. Under the new law, force and violence are necessary for an act to be defined as criminal. Again, the criterion for criminal assembly is not simply the gathering around a similar goal, but a gathering with the intention of committing a crime.

According to the amended form of the article, a crime is established by first identifying the use of force and violence.

In order to consider the formation of organized crime, at least two of more people should have convened intending to commit the above-noted terror crimes.

And according to the information in the file, the accused and the establishments related to him do not have any intention to change the constitutional order. The accused has not made any express declarations or affirmations regarding this subject. Even if such an intention could be found, none of these organizations have ever adopted forceful or violent methods. On the contrary, due to their democratic attitude, they have been threatened repeatedly by radical Islamic groups. Additionally, for an organized structure to exist, Law No. 3713 requires at least two persons should convene. As per Law No. 5271 and the Criminal Code of Procedure, it is a prerequisite that there must be at least three persons. But since there are no other offenders in this file, non-suit decision is given regarding the accusations of organizational structuring. In the security reports, F. Gülen and those related to him do not fall under Law No. 3713 because at present no terror act or terror organization exists as defined in the first article of Law No. 3713 (Anti-Terror Law). Consequently, it is impossible for him to establish and to manage an organization as mentioned in article 7/1 of the law.

As a result, when the law and the content of the file are considered as a whole, and the legal consideration includes the above explained justifications and evidences, it is necessary to acquit the accused of the alleged crime because no acts constituting crimes have been detected. Nor has material evidence been given, or appropriate elements established. The judgment is given below.

JUDGMENT: According to justifications explained above:

A public case was initiated against the accused Fethullah Gülen, alleging his actions violated Law No. 3713. It was decided to suspend the final decision in this case, as per Law No. 4616 on suspension of lawsuits and sentences;

At the request of the attorneys of the accused, the case file was reconsidered in light of the amendment made in Law No. 3713 and article 7 of the new Turkish Criminal Code Law No. 5237.

As a result of the hearing, the decision of the 2nd State Security Court in Ankara that "the final judgment of the public case shall be suspended" shall be annulled.

Considering Law No. 3713 and the amendment made by Law No. 4928, as a result of the content of the file and held judgment, the Court finds the accused Fethullah GÜLEN ACQUITTED from the alleged crime and that no crime had occurred or was established.

The supplementary decision receipt issued to the accused shall be requested back after the finalization of the decision;

The judgment costs shall be paid by the Treasury.

The above decision, which was given unanimously, was read personally to attorneys Abdülkadir AKSOY and Orhan ERDEMLİ in the absence of the accused, and before the Republic Prosecutor Salim DEMİRCİ, being against the request and being subject to appeal in 7 days.

(Signatures and seal)

PRESIDENT-20156 MEMBER-29196 MEMBER-30025 REGISTRAR- 86