



**EUROPEAN TRADE UNION INSTITUTE**

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**The Trade Union Movement  
in Turkey**

— 2nd expanded edition 1989 —

F O R E W O R D

"INFO" is a series of reports published by the European Trade Union Institute, the first issue of which dates back to October 1982.

Each booklet in this series consists of a short report covering subjects of topical relevance and information value. As such, the "INFO" series represents an additional source of information provided by the ETUI and at the same time serves as a support for educational work.

This report gives a concise description of the trade union movement in Turkey. It is the thirteenth report to cover a national trade union movement and has been prepared by Jean-Jacques Danis, a research officer at the ETUI, in collaboration with Yucel Top, director of the DISK legal department, and after consultation with the Türk-Is.

This "INFO" on the trade union movement in Turkey could not be structured along exactly the same lines as previous reports on trade union movements in various individual countries, insofar as the situation in Turkey differs fundamentally from that in other countries in a number of ways, as regards, for example, its historical development, the economic structure, and the restrictions placed on trade union activity by the Constitution and legislation.

In the coming months, further publications in this series will offer similar descriptions of trade union movements in other countries which have confederations affiliated to the European Trade Union Confederation. The reports will again be structured in the usual way, to facilitate comparison between the situation in different countries.

We hope that the "INFO" series will contribute towards a better understanding of trade union positions in Western Europe.

Brussels, May 1989

Günter Köpke  
Director of the ETUI

- 2nd expanded edition 1989 -

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P R E F A C E

Since Turkey's accession to the Council of Europe on 10 August 1949, a number of serious incidents have caused its Western partners to focus their attention on the discrepancies to be observed between the principles ostensibly upheld by Turkey and the circumstances actually prevailing in the country, particularly with regard to human rights and trade union freedom. A glance at Turkish history is a prerequisite for understanding this gap between the declaration of intent and the prevailing reality.

Democracy in Turkey in the 1970s underwent a period of major crisis, culminating in the military coup of 12 September 1980. The institutions set up in the wake of the coup engendered a state of affairs utterly at odds both with the standards accepted by Turkey's allies and also with the terms of the international treaties which Turkey had signed, including the European Convention on Human Rights, the conventions of the International Labour Organisation, and others. This post-coup situation has since become the continuing status quo.

In Turkey the statism which is such a marked feature of its society has repercussions extending far beyond state intervention in the economy. This statism is the natural legacy of the patrimonialism which characterised Ottoman society, and the cluster of beliefs and practices surrounding this notion have played an important role in the process of westernisation in Turkey.

Patrimonialism is a form of social organisation according to which the land and those living on it are held to constitute an integral part of the patrimony of a State which, in the case of the Ottoman empire, was indistinguishable from the person of the Sultan. This explains why, in Turkey, human rights, trade union freedom, etc. have always been "granted", on the basis of specific conditions and within the framework of the State structure. All trade union activity is thus subject to and governed by law. The Law is omnipresent and regulates all labour and industrial relations.

This explains why the dominant conception in the Constitution is not the democratic organisation of society, but rather the authoritarian omnipresence of the State throughout the organisation of society and within each social formation ; one is dealing, in other words, with a totalitarian conception of the State.

All in all, it is self-evident that a trade union organisation paralysed by a host of constraints and restrictions and subjected several times a year to State administrative and financial control is incapable of fulfilling the role which normally falls to such an organisation.

Industrial relations, moreover, are affected by the paternalist nature of the relations between workers and employers - a derivative of the patriarchy that is such a marked feature of the organisation of Turkish society. Alongside this, and on account of the long military tradition and of the need for strong discipline to maintain the Empire, those in power in Turkey are accustomed to employing authoritarian methods to impose

their will. The conjugated effects of patrimonialism, paternalism and authoritarianism militate against the emergence of trade unions.

## 1. BRIEF HISTORY OF THE TURKISH TRADE UNION MOVEMENT

### General historical survey and the organisation of society

The Republic of Turkey was grafted on to the economic and social structure of the Ottoman Empire. The doctrine of patrimonialism governed the organisation of society and the system of property ownership.

The 19th century constitutes a turning point in Ottoman history. Acknowledgement of the industrial superiority of the European nations compared with Ottoman society prompted reflection on the theme of change, and the new ideas gradually permeated the machinery of State, ultimately reaching the Sultan himself. Westernisation had come to be regarded as the means of regenerating the power of the State, weakened by the forces of rebellion in the far-flung reaches of the Empire itself and by the onslaught of the Western nations as they fought among themselves over distribution of the Ottoman Empire. When the Western nations became industrialised, the Ottoman economy was still primitive and governed by the forces of patriarchy. Lacking all resources to develop its industry, it was compelled to resort to foreign capital, provided initially by the French, British and Belgians, and subsequently by the Germans who, towards the end of the 19th century, began to invest in the areas of the Empire closest to Europe.

The Ottoman Empire, contrary to common belief, was at that time conducting an active foreign policy. However,

its principal endeavours were channelled into a policy of administrative reform designed to centralise its power. In the 19th century the Ottoman State - the only agent in a position to devise a strategy of change - did not perceive the economy as a dimension central to the possibility of development.

The Sultanate was abolished in 1922 and on 29 October 1923 the Republic was proclaimed, Mustafa Kemal having been elected President. The Kemalists embarked on a policy of protectionism, geared to fostering the development - albeit along fairly conservative lines - of Turkish businesses. As the industrialised countries of Europe, hard hit by the world recession, one by one closed their frontiers, there ensued a certain tendency towards dirigisme.

The post-war period constituted a decisive turning point in Turkish policy both at home and abroad. As from 1946 the country was involved in the rebuilding of a liberal economic area centred on the United States.

Faced with major economic crisis, which in 1958 gave rise to a substantial devaluation, the government, led by Menderes, decided on a change of political direction. Two factors significantly affected the course followed, on the one hand, the mechanisation of agriculture during the period of the Marshall Plan which had led to a rural exodus, and, on the other, the fact that industrialists wanted to see a broadening of the internal market.

In the 1970s Turkey's economic situation declined sharply. As a result of the international recession, currency shortages, the rise in the price of oil and other imported goods, and the Cypriot crisis in 1974,

most industrial plant was operating far below capacity, causing a fall in production accompanied by rising unemployment.

In view of the Turkish government's inability to repay its debts, in particular those contracted on a short-term basis, the Heads of State and Government of the OECD countries meeting in Guadeloupe in January 1979 decided to embark on a programme of assistance for Turkey.

The low level of competitiveness of Turkish products on the world market could be improved only by a significant reduction in production costs which, in the light of the structure of the Turkish economy, meant, first and foremost, wage cuts.

Because they were inherently anti-social, the measures decided could not be implemented in full until a series of obstacles had been removed. The decisions prompted a wave of protest against a social backcloth of economic stagnation and political violence.

It was at this point that the Turkish army staged a coup and seized power on 12 September 1980.

**The workers' movement under the ancien régime (until 1923)**

It was as a result of the penetration of Western capitalism into Turkey and the construction of the first factories in the second half of the nineteenth century that Turkish workers first demonstrated their class awareness. Initially, their attitude in this respect was one

of pure revolt but, as from 1872, they began to stage strikes, in spite of the continuing legal ban on any form of worker organisation. By the early twentieth century it was estimated that there were some quarter of a million industrial workers in Turkey.

The first organisational framework set up by the Turkish workers' movement was the Association of Ottoman Workers, founded in 1884, an organisation which was semi-trade union and semi-political insofar as it pursued the dual aim of grouping together the workers from the Istanbul armaments factories and calling on the people to revolt against despotism.

However, it was with a wave of strikes between July and October 1908, affecting all types of industry and all the towns and cities with any significant degree of industrialisation, that a genuine workers' movement first emerged..

The authorities' reaction was commensurate with the extent of the disturbances. Under pressure from foreign companies and governments, in October 1908 they issued a decree on "associations and work stoppages" which, a year later, was turned into a law banning the formation of trade unions in public service establishments and ordering the dissolution of trade unions set up prior to promulgation of the new law. At the same time, a law on association, and an amendment to the Constitution, introducing the right of association, were also adopted.

Paradoxically, it was on the basis of this restrictive legal framework that the trade union movement was to undergo significant development. Workers in establishments not covered by the decree began to organise in

trade unions, whereas those from the public service establishments set up associations. During this agitated period, the workers' movement manifested its existence by holding meetings to protest against the restrictions imposed on the right to strike and at the same time by attempts to set up a federation intended to strengthen relations among the existing workers' organisations. In 1909 1st of May celebrations were held for the first time.

Several organisations set up at this time survived in spite of the "Young Turks" regime and the First World War. Significant in this respect is the Association of Ottoman Typographers (1909) which, after undergoing a number of transformations, survived until 1967 when it became one of the five founder members of DISK (Confederation of Progressive Trade Unions in Turkey). Other organisations were formed soon after the War, some under the auspices of political parties, others quite independently of any party.

It must be stressed that this development of the workers' movement took place at a period when Turkish society was still predominantly rural. After the proclamation of the Republic in 1923, its leaders attempted to bring a new society into being and, to this end, organised an economic congress at Izmir in 1923.

At this congress the workers were represented by around a hundred delegates and the event provided workers from all parts of the country with their first opportunity to meet one another. At the end of the congress they decided to form a national workers' organisation, to have been known as the General Union of Turkish Workers, but the government took steps to ensure that the organisation never actually came into being.



### The workers' movement from 1924 to 1950

In the wake of a revolt in Eastern Turkey in 1925, a law designed to "maintain order" was promulgated on 4 March 1925. This put paid to any opposition, in spite of the fact that the first Republican Constitution, which had entered into force in 1924, acknowledged a number of democratic rights, such as the rights of association and demonstration and the right to set up trade unions. In 1933 strikes were outlawed by the Penal Code and in 1936 the Labour Code removed the right to strike in the workplace. Finally, the law on associations adopted in 1938 contained a series of provisions prohibiting strikes and the creation of class-based associations.

The first law devoted specifically to trade unions was adopted on 20 July 1947. According to the terms of this law, trade unions were national organisations and their aims or activities could not run counter to nationalism or impede the national interest. This was a means of preventing the expression of any divergent political opinion within the workers' movement. Furthermore, this law did not guarantee the right to strike, so that strikes remained illegal, while the trade unions were subjected to State control and deprived of the right to conduct any form of activity which the ruling authorities defined as public. Moreover, government authorisation was also required for a trade union to join an international organisation.

### The trade union movement after 1950

After the Democratic Party (DP) victory in 1950, attempts were made to unify the various trade union organisations existing at the time at city or regional

level. After lengthy discussion, an agreement to set up a national confederation was concluded among ten trade union federations and groupings. This organisation, which was officially founded on 31 July 1952, was named "Türk-İs : Confederation of Workers' Trade Unions in Turkey". It was the first national workers' confederation.

The purposes and principles enshrined in the founding declaration included :-

- the defence of workers' legitimate interests ;
- the struggle to secure new rights ;
- the struggle for a fair wage enabling workers to live decently ;
- the struggle to obtain unemployment benefit ;
- the struggle to remove wage discrimination against women ;
- independence of political parties.

The first congress, held in Izmir on 6 September 1952, elected the three members of the management committee, one of whom was a member of the CHP, previously the sole authorised political party and the big loser in the 1950 elections.

This choice was particularly distasteful to the federations close to the DP which expressed their disapproval by withholding their subscriptions. Thus, no sooner had the confederation been set up than it was faced with financial crisis.

In the fifties Turkish trade union legislation failed to conform with the ILO standards, on account, in particular, of the absence of the right to strike. What is more, until the overthrow of the DP government, Türk-İs

was refused authorisation to join an international organisation.

In 1957 official policy towards trade unions hardened once more. At the instigation of the political authorities, the courts began to order the dissolution of the trade union groupings, i.e. those trade union organisations whose membership was based in different workplaces.

Finally, in 1960 the government launched a dual operation which involved banning all activities normally coming under the trade union umbrella and at the same time turning the existing trade unions into sections of the "Fatherland Front", an institution set up by the DP with the unequivocal purpose of tightening its grip on society. Things had reached this pass when, on 27 May 1960, the army seized power.

#### The Constitution of 1961

The new constitution, promulgated in 1961 following the military coup d'état of 1960, finally recognised trade union freedom, the right to collective bargaining and the right to strike. This important milestone was followed in 1963 by the law on trade unions and the law covering collective agreements, the right to strike and the practice of lock-out. The most striking fact is that these new rights were granted without it being possible to say, as was the case in the Western countries, that this development took place as a result of a lengthy struggle and direct pressure by workers.

At its congress in Bursa in 1964, Türk-Is adopted a policy line known as "supra-party politics". This policy was regarded as vital for the unity of the trade union movement, given the bitter experiences of the period 1947-1960, during which time the two major parties, i.e. CHP and DP took the initiative to help establish trade unions which would serve party interests.

Within the Türk-Is membership there was a clash between two different conceptions of trade unionism and its relations with politics, i.e. between that adopted in 1964, and the critics of that approach who considered that it tended to erode workers' political awareness. In 1967 the increasing divergence led to the founding of a new confederation, the initiative for which came from five trade unions which had temporarily been suspended from Türk-Is membership on account of the supposedly unacceptable stance adopted by them during a series of strikes. The actual pretext for the split itself was the rejection by the workers of a collective agreement accepted by the trade union leaders. These were the events which led to the formation of DISK on 13 February 1967.

A further twelve federations, at the 9th Türk-Is general congress on 28 May 1973, proposed an alternative list of candidates for the officers' posts. The failure of this list led two national trade unions belonging to Türk-Is, the largest, Genel-Is (public services) and Oley-Is (hotels and catering sector), to leave the confederation. In 1977 these two trade unions joined DISK.

In the days following the military coup d'état of 12 September 1980, all trade union activity was banned and all trade unions suspended in accordance with a decree proclaimed by the National Security Council.

**THE ECONOMIC AND SOCIAL SITUATION OF TURKEY**

Turkey covers a total area of 780,000 km<sup>2</sup>, a little more than France and West Germany taken together. Its population is 51,000,000. The working population is 18,500,000, more than 3,100,000 of whom are registered unemployed. However, statistics provided by non-official sources estimate the number of unemployed to be up to twice this figure. The number of those employed in agriculture is 8,712,000.

**Table 1 : Distribution of the working population (1986)**

Agriculture	Industry	Services
57.3%	17.6%	25.1%

Source : OECD Economic Survey, June 1987

**Table 2 : Exports**

	Manufactured products	Agricultural products	Mining products
1986	71.4%	25.0%	3.3%
1981	48.7%	47.2%	4.1%

Source : OECD Economic Survey, June 1987

In the 1970s Turkish workers suffered a sharp drop in real earnings. In spite of an increase in nominal gross earnings, real earnings fell constantly. Between 1970 and the end of 1980 the cost of living index rose from level 100 to level 1789, while gross earnings rose from

level 100 to level 1061 and net earnings from level 100 to level 817. In other words, by the end of 1980, real earnings had fallen 54% since 1970. In 1986 the minimum wage was the approximate equivalent of £40 a month.

According to the results of a survey conducted by the various trade union organisations, by 1986 workers' real take-home earnings had fallen a further 50% since 1980. The following examples serve to illustrate this loss in purchasing power :- in 1980 18 minutes labour were required to purchase one kilo of bread while, by 1986, this figure had risen to 32 minutes ; in 1980 21 minutes labour were required to purchase one kilo of sugar and by 1986 this had risen to 54 minutes ; the cost of a pair of shoes in 1980 was equivalent to 32 hours of labour and, by 1986, to almost 60 hours.

The price of meat rose fourteenfold over this period, the price of dried beans (a staple item of food in Turkey) twenty-twofold, urban public transport thirtyfold. Meanwhile, on the basis of earnings and inflation levels in Istanbul, earnings rose sevenfold. In other words, the rise in earnings was, at best, only half of the rise in primary products.

Table 3 : Comparative trends in per capita GDP and per capita income between 1977 and 1986

Year	per capita GDP (base 100 in 1977)	Per capita income (base 100 in 1977)
1977	100,0	100,0
1978	100,7	87,7
1979	98.3	75.9
1980	95.3	56.6
1981	97.1	52.4
1982	99.6	50.2
1983	100.7	53.3
1984	104.1	50.7
1985	108.2	46.3
1986	113.9	44.1

Source : Petrol-Is Yearbook for 1986

Table 4 : Development of pay and price index

Year	Pay index	Price index	Real index of wages
1983	100.00	100.00	100.00
1984	135.48	148.40	91.30
1985	165.24	215.10	76.82
1986	204.95	289.56	70.78
1987	269.14	401.69	67.00
1988	398.32	702.95	56.66

Source : Türk-Is Research Department

Table 5 : Development of food expenditure for a family with two children (aged 15-19 and 4-6)

January 1984	29.609 Turkish pounds
December 1987	128.182 Turkish pounds
November 1988	205.508 Turkish pounds

Table 6 : Trends in labour required for purchase of selected items

	Monthly Rent	Bus Ticket	News- paper	Olives (1 kg)	Cheese (1kg)	Meat (1kg)
1951	3 d 7'19"	10"	---	2'35"	3'38"	3'57"
1963	12d 4'32"	13"	---	2'15"	3'16"	3'51"
1970	12d 14'	7"	3"	1'58"	2'31"	2'56"
1977	6 d 3'52"	6"	8"	2'36"	58"	3'51"
1979	6 d 6'25'	7"	8"	2'31"	1'36"	4'19"
1983	14d 6'36"	14"	20"	3'16"	2'49'	5'50"
1986	26d 0'53"	22"	22"	5'58"	4'14"	7'36"

Source : Petrol-Is Yearbook for 1986

Between 1980 and 1986 the value of the Turkish pound fell considerably as against the dollar. In 1980 \$1US was worth 60 Turkish pounds, while by 1986 it was worth 750 Turkish pounds, which means that the Turkish pound shrank to less than one twelfth of its value in that period.

According to the results of a survey conducted in 1981, 79.1% of GNP was at that time accounted for by non-agricultural sectors. By 1984 this share had risen to 81.6%. According to the same source, military expenditure has increased to the detriment of social spending. The budget of the ministry of youth, sport and national education accounted for 14% of the State budget in 1976, 11% in 1980 and 7% (provisional figures) in 1986, while the health and social insurance budget fell from 4% of the State budget in 1979 to 2.7% in 1986.

The unemployment figures provided by the State planning organisation are as follows :- 2,449,100 unemployed in 1979, 2,572,700 in 1980, 2,923,200 in 1981 and 3,100,000 in 1985. It should be borne in mind that there is no unemployment benefit in Turkey.

The government is seeking to get round existing legislation by means of measures to reintroduce a system permitting home work. This entails recruiting workers with a special status, different from that of manual and white-collar workers, but without any legal security for this work. Other measures include the creation of "free zones" where strikes can no longer take place and the abolition of the guaranteed minimum wage in some areas of work.

The outlook as far as employment is concerned is poor. The growth rate of the population is 2.1% a year, i.e. around 1 million additional inhabitants, and unemployment has already reached 18% (according to official figures).

Following a fall in exports both to the countries of the Middle East (-26.4% between January and October 1986 as compared with the same period in 1985) and to the OECD countries (-2.6%) - Western Europe remains Turkey's principal trading partner - and a rise in imports, in particular consumer and luxury goods, the balance of payments (which showed a surplus in 1982) gradually deteriorated until 1986.

### Emigration

As a result of this situation, Turkey has seen the largest scale emigration of all the European OECD countries. In 1971-72 there were 660,000 Turks in

Europe. In 1983 this figure had risen to 2,108,000 - equivalent to 4.5% of the population of Turkey - in spite of the fact that some 400,000 emigrants had returned home to Turkey in the early eighties.

Between 1973 and 1983, 1.4 million Turks went to West Germany, the preferred destination of emigrating Turkish workers. In 1982 there were in Germany a total of 1,580,000 Turks, 77% of the men and 95% of the women married and living with their spouse.

**Table 7 : Number of Turkish emigrants in different countries in 1987**

Country	F.R.G.	Netherlands	France	Austria	GB	Belgium
No. workers of which unemployed	611,000	78,000	77,000	34,000	5,000	32,000
No. nationals	99,000	26,000	14,000	1,700	--	8,000
	1,450,000	162,000	180,000	80,000	16,000	78,000
Country	Denmark	Sweden	Norway	Switz.	Other	Total
No. workers of which unemployed	11,000	10,000	1,200	25,000	219,000	1,102,000
No. nationals	3,900	-	-	-	-	
	22,000	22,000	3,600	50,000	288,000	2,350,000

Source : Bulletin of the Turkish ministry of labour and social security, December 1987

### 3. THE CONSTITUTION OF 1982 AND THE LAW ON TRADE UNIONS

#### Trade union freedom in Turkey today

Trade union freedom cannot, in fact, be said to exist in Turkey, for, in the legislation which, on the basis of the Turkish Constitution, provides for the existence of trade unions, the term "freedom" does not occur. Reference is made, rather, to "rights".

The Constitution stipulates that, in relations between workers and employers, the State is to act as the moderating force. The State, furthermore, is given the task of ensuring the preservation of social peace, and the Constitution therefore incorporates measures designed to guarantee that production takes place under appropriately peaceful conditions.

A series of prohibitions are placed on trade unions. Accordingly, they may not :-

- pursue political goals
- conduct political activities
- maintain relations with political parties
- receive support from political parties
- adopt joint positions with bodies such as the Bar.

These are blanket prohibitions. Yet the ILO's Freedom of Association Committee has frequently pointed out that "it is difficult to draw a clear distinction between what is political and what is, properly speaking, trade union in character" and has acknowledged that trade unions cannot be expected to restrict their activity to

purely occupational matters, insofar as broader policy options, particularly in the economic sphere, entail consequences which necessarily affect workers. The committee has observed that developments in the trade union movement have made it apparent that, alongside the promotion of better working conditions by the negotiation of collective agreements - which remains one of the unions' principal tasks - workers' organisations are increasingly involved in the bodies called upon to pronounce on general economic and social policy options. As a result, it is essential that trade unions be in a position to devote attention to more general issues - political issues, in the broadest sense of the term - and the committee regards it is quite appropriate for trade union organisations, should they so wish, "for example, to express publicly their opinion regarding the government's social and economic policy".

Though the Turkish Constitution presents a satisfactory catalogue of rights and freedoms, it then proceeds to empty them of all content by means of a series of prohibitions, exceptions and restrictions. Striking among its characteristics are its excessive zeal in defending, on the one hand, the State against society, and, on the other hand, the State and society against the individual. It authorises excessive restriction of the sphere of freedom by means of the powers of intervention granted to the legislature. A general clause allows the legislator to restrict basic rights and freedoms in order to protect the indivisible integrity of the State with its territory and nation, national sovereignty, the Republic, national security, public order, public peace, general interest, public morality and health. This provision is applicable to all rights and freedoms without distinction or exception.

Furthermore, rights and freedoms may be limited for "special reasons", for example when they are being used "to attack the indivisible integrity of the State with its territory and nation, to endanger the existence of the Turkish State and of the Republic, to abolish basic rights and freedoms, to entrust the state administration to a single person or a group of individuals, to ensure the domination of one social class over the others, to create distinctions between persons on the basis of their language, race, religion or sect, or to create the State on the basis of these same concepts or ideas".

The constitution also places restrictions on collective freedoms (meeting, assembly, association, etc.) and on the rights of political parties. For example, it prohibits the adoption of statutes and programmes incompatible with the indivisible integrity of the State, its territory and its nation, the preaching or advocacy of the domination of one class or social group over another, contact or political co-operation with associations, trade unions, foundations, co-operatives and occupational organisations of a public nature, and the receipt of material aid from such organisations, etc.

With regard to individual rights and freedoms, the Constitution is no better disposed. One finds, for example, an unjustifiable derogation from the right to life, in flagrant contradiction with Article 2 of the European Convention on Human Rights. Death is not considered as an act inflicted in infringement of the right to life in those cases where it is the outcome of carrying out orders given, under a state of siege or state of emergency, by the competent authorities.

The articles of the Constitution relating to the protection of secrecy in private life, the inviolable nature of the residence, and the freedom of correspondence allow the police to intervene against these freedoms, without judicial mandate, merely on an order from the administrative authorities.

Intellectual freedoms are also limited. For example, there is compulsory instruction in the Islamic religion in primary and secondary schools, a ban on expressing and disseminating ideas in languages prohibited by law, the possibility of banning circulation of foreign newspapers in the country, etc.

Judicial guarantees for the protection of basic rights and freedoms are fragile. For example, the executive has the power to intervene in the appointment of judges.

#### Special features of the law on trade unions

The preamble states explicitly in its first article that the purpose of this law is to "establish the principles governing the founding, organisation, activity and supervision of the trade unions set up by workers and employers in order to protect and develop their economic and social rights and interests in the framework of labour relations. Article 1 of the previous law stated, by contrast, under the title "occupational bodies of employers and workers" that, in the eyes of this law, "trade unions, national unions and confederations are occupational organisations set up to protect and develop the economic, social and cultural interests of workers and employers".

It thus emerges that the trade unions are no longer regarded as "occupational organisations protecting economic, social and cultural interests" but as "organisations protecting economic and social interests in the framework of labour relations". The additional phrase is obviously intended to make it clear that the trade unions' activities are to be restricted exclusively to this sphere.

Thus, as from the first article, the intention of the law is to restrict the trade unions' interlocutors to the partners in labour relations (workers and employers) and their broader nature as social class organisations is suppressed, together with their more specific characteristic as professional organisations of colleagues. Nothing remains but a set-up with a purely technical role.

Moreover, it is not a case of guaranteeing a right but of hedging it and controlling it. The law provides, among other things, that "to set up a trade union (..) a worker must be actually working in the activity in which the trade union is to be set up (...)". It is also laid down that trade unions must hold their first congress within six months of registering the documents founding the trade unions, this being the means of gaining legal corporative status.

It is also stipulated that "in order to be eligible for appointment to the compulsory bodies other than the congress, in addition to the conditions required to be a founder-member of the trade union, a worker must also have been effectively employed - for election to the central bodies - for at least ten years.

Therefore, according to the law, only those who are actually working may form a trade union. However, these founders may very well fail to fulfil the conditions necessary for election to an officers' post at the congress (which must necessarily be held within six months), since the same text states that a condition of eligibility for appointment to any of the mandatory bodies (executive committee, steering committee, disciplinary committee) is a ten year record of work as a blue-collar or a white-collar worker. This obligation is also included in the Constitution.

#### Other features of the legislation

##### Activities

Trade unions are required by law to restrict their activities exclusively to dealing with the range of issues arising in the context of the preparation and application of collective agreements. As such, they may act on behalf of their members during collective bargaining, conduct such bargaining, refer to the authorities in the event of failure to reach agreement, assist members with legal problems arising in connection with labour relations, etc. The trade unions are thus deprived of the means of expression they formerly enjoyed since they are no longer regarded as representatives of a genuine social and sociological entity with the right of expression - within the law - using all means, freely, on subjects of interest to the life of their members.

The essential point here is the suppression of the acquired right to legal personality. For this means that the trade unions are deprived of the constitutional and



legal rights enjoyed on the basis of such personality and may no longer freely express their opinions in the press, at meetings, demonstrations, etc. The law is formulated in such a way that trade unions and confederations are no longer allowed the means to constitute an effective social force.

To further reinforce this state of affairs, the Constitution introduces a whole series of restrictions :- "Trade unions may no longer pursue political goals, may not entertain relations with political parties or collaborate in their activities, may not support or receive support from any political party, may not grant assistance or give donations to, or receive such assistance or donations from, such parties. They may not act jointly for political motives with public associations, foundations and professional organisations. A trade union official is automatically disqualified from his trade union office if he is elected to a post of political leadership. The confederations, trade unions or sections may not organise meetings or demonstrations on any subject outside their own proper subjects and objectives". Since May 1988, the activities of the trade unions and confederations must be geared to pursuing the protection and promotion of their members' economic and social rights and statements issued in keeping with this goal are not regarded as a political activity.

Moreover, the law stipulates that trade union membership automatically ceases when a worker retires, provided he ceases all salaried activity.

Other prohibitions :- "Trade unions may not receive aid or donations from international organisations other than those of which they are members or of which the Republic

of Turkey is a member, except with authorisation from the government. Trade unions may not lend money to their members or to third parties. Trade unions may not use their resources to ends other than those associated with their purpose and activities as defined in law and may not make donations." All these prohibitions constitute direct and restrictive interference in the internal affairs, congress resolutions and sovereignty of the trade union members.

#### The State and the trade union finances

Unlike the former law which laid down that, in the event of dissolution by the courts, trade unions and confederations could donate their assets to other trade unions and confederations, the new legislation orders confiscation of their assets by a State-controlled body.

The State has powers of financial and administrative control over the trade unions and confederations which are required to undergo regular annual inspection by the ministries of finance and labour, severally and jointly, and to accept spot checks whenever necessary. On the occasion of each inspection the leaders are required to allow the inspectors access on demand to all ledgers, documents and papers.

#### Measures facilitating the dissolution of a trade union

One of the innumerable measures facilitating the dissolution of trade unions is that, if the trade union leaders, during their terms of office or on account of their office, are sentenced pursuant to certain articles

of the Turkish penal code (including for offences of opinion), the sentencing court will decide on the dissolution of the trade union or confederation of which they are a leader. If, for example, one member of a three-member executive committee is sentenced for one of these offences, an organisation consisting of hundreds of thousands of members will be dissolved as if it were the property of the leader in question.

Furthermore, since the notion of leader is not clearly defined, no one knows how far this measure can be taken. Hundreds of thousands of persons may be punished on account of an offence committed by a single leader. Moreover, it is not necessary that the offence have been committed in connection with the office of the leader. Any offence committed under any circumstances may be invoked to dissolve a trade union.

#### Trade union delegates

The law on trade unions states that the employer may terminate the employment contract of the trade union delegate provided that a clear reason is stated. The courts may rule that the dismissal took place without just cause and order the employer either to reinstate the delegate or to pay him heavy damages (at least one year's wages). But the trade union delegate's guarantee is illusory, for appeal to the courts is no more than discussion after the event.

The spirit of this law gives such power to the employer that it could lead to the suppression of all trade union activity in the workplace. Moreover, to be elected as a trade union delegate, it is necessary to fulfil the same

conditions as those required to be eligible for a post of trade union leadership.

This involves the same disadvantages, but here they are compounded by the fact that the employer possesses, in law, a tailor-made weapon for ensuring that he never has any trade union delegates among this workforce, especially, as is often the case, if his is a small undertaking with a limited number of employees. He merely needs to sack any members of the workforce likely to cause him trouble.

#### Membership of international organisations

It is stipulated that requests for membership of international organisations must be notified to the ministries of the interior and of labour, accompanied by the statutes of the organisation in question, three months in advance. If the government decides that the statutes are incompatible with the Constitution, it will, within three months, rule the impossibility of joining the organisation. If, even after the government has given its go-ahead, it should subsequently turn out that the international organisation in question has activities contrary to the principles enshrined in the Constitution, or if it should change its nature, the confederation's membership is terminated by government decision. Thus the sentence in the Constitution according to which "confederations are free to join international trade union organisations" is automatically annulled by the fact that the decision is not up to the confederation, but up to the government, and that there is no provision for appeal against an arbitrary decision on the part of the latter.

4. TRADE UNION PRACTICE AND ITS LEGAL FRAMEWORK

Collective agreements

The first law on collective agreements was approved in 1963.

Table 8 : number of collective agreements signed over the years

Year	no of agree-ments	no of wor-kers con-cerned	including	
			public	private
1963	96	9,462	3,394	5,968
1964	1,078	436,762	263,836	172,926
1969	1,419	234,836	98,105	136,381
1974	1,724	601,779	427,300	174,479
1980	2,247	279,327	215,443	63,884
1981	647	465,353	357,850	107,503
1985	2,721	919,810	647,582	272,228
1987	2,343	922,000	641,000	281,000
1988	1,179	251,000	141,000	110,000

Source : Petrol-Is, Yearbook for 1986  
Ministry of employment and social security

When studying table 8, it should be borne in mind that the system of collective agreements was suspended after the military coup of 1980 and that the power to conclude such agreements was handed over to a Supreme Arbitration Committee.

In around one third of cases the bargaining does not lead to agreement and disputes arise.

In view of the difficulties encountered by workers in holding a strike, the number of such strikes is relatively limited, as shown in table 9.

Table 9 : Strikes

Year	No of strikes	no of workers on strike	days work lost
1979	126	21,011	1,147,721
1980	220	84,832	1,303,253
1981	-	-	-
1982	-	-	-
1983	-	-	-
1984	4	561	4,947
1985	21	2,410	194,296
1986	21	7,926	234,940
1987	307	29,734	1,961,940
1988	155	28,369	1,521,794

Note : the prohibition on strikes issued on 12 September 1980 was lifted in 1984 and the first strike in 1984 took place on 2 October.

Source : Ministry of labour and social security

Table 10 : Lock-outs

Year	No of lock-outs	No of workers affected	No of days work lost
1979	15	968	141,848
1980	21	1,064	682,843
1984	-	-	-
1985	3	184	13,695
1986	-	-	-
1987	221	10,384	484,572
1988	113	14,382	602,338

Source : Ministry of labour and social security

### Collective bargaining

In order to negotiate a collective agreement, a trade union must group at least 10% of the workers in the industry in question, group more than half of the workers in the undertaking in question, prove that it indeed fulfils these two conditions, and obtain an official negotiating brief.

To obtain this negotiating brief, the trade union must state in writing to the ministry that it groups 10% of the workers in the industry in question and ask that the number of workers in the undertaking in question on the date of the application be established. The ministry is required to dispatch the result to the trade union in question, to the employer concerned and to the other trade unions in the same industry within six days. A further six days are allowed for the submission of objections. The ministry must send an official negotiating brief to the trade union within six days of the expiry of this latter period, if no objections have been received, or, if objections have been lodged, within six days of the ruling of the labour court or court of appeal. (If a complaint has been lodged within the period laid down, by another trade union or by the employer, the Labour tribunal has six days to issue a ruling. If an appeal is made against this ruling, a decision by the Court of Appeal can be expected to take between three and four months).

Upon receipt of the negotiating brief, the trade union must formally notify the employer of all its proposals within a fortnight. Within six days of this notification, the two sides must agree on the date, time and

venue for the negotiations and must inform the competent authority (i.e. the regional labour directorate). If they fail to reach agreement on this point, following appeal by one of the parties, the date is set within six days of this appeal by the competent authority and the parties are informed.

If the two sides agree to conclude the collective agreement, they dispatch the text of the agreement in writing to the authorities within six days. If one of the parties is not present at the collective bargaining, the party present informs the competent authority within six days. If the collective bargaining has not been completed after a maximum period of two months, the two sides inform the authorities. Within six days of this decision, the competent authorities appoint a mediator. If, after a fortnight, the mediator has not succeeded in bringing about agreement between the two sides, he draws up a report within three days and sends it to the tribunal with his own comments. The tribunal informs the two sides of the report within six days.

Thus the law is intended to offer guarantees for the practice of collective bargaining, but it imposes a lengthy and complex procedure, the effect of which is offputting. Moreover, an examination of what happens in practice shows that the deadlines fixed are rarely observed.

### The conditions governing strike and lock-out

The trade union may not decide to strike until six days have expired after receipt of the report. It must inform the employer within six days, whereupon the strike decision is to be displayed, by the employer, in

the workplace. After the strike motion has been displayed in the workplace by the employer (should he so choose - because in this instance there is no legal obligation nor deadline) or by the trade union, the strike may begin, except if a quarter of the workers in the undertaking on the date when the strike is announced request within six days of the announcement that a strike ballot should be taken and if the majority of the workers employed on the date the announcement is made votes against a strike.

It is interesting to observe that whereas the negotiating brief is given on the basis of the number of workers at the time of the collective bargaining proposal launched by the trade union, the strike vote is effected on the basis of the number of workers on the date when the strike notice is displayed. This may enable the employer either to sack those in favour of the strike, so as to have the strike motion rejected, or to recruit workers for a short period, in the knowledge that they will not vote to strike.

Furthermore, the law stipulates that the employer shall give no payment or social benefit to workers who have had their contracts suspended during strike and lock-outs, and that these periods will be discounted for the purposes of calculating retirement pensions. Accordingly, a worker on strike will receive neither pay nor other statutory benefit, for worker on strike no longer has the status of worker. No provisions contrary to these rules may be introduced into collective agreements or labour contracts.

In accordance with this law, even an employer who had accepted certain conditions would be penalised since the State grants itself the right to intervene directly in industrial relations.

There is no means of by-passing this laborious procedure since, according to this law, the employer may himself call for the conclusion of a collective agreement and thus set in motion this procedure, and even enforce a lock-out if agreement is not reached at the end of the procedure. For in all the situations where workers' right to strike is entailed, there is a parallel right of lock-out for the employers.

### The right to strike

The purpose of the law on the right to strike is to regulate the principles governing strikes and lock-outs and the way they are conducted in order to provide for the peaceful settlement of disputes, the conclusion of collective agreements, the establishment of working conditions and of the economic and social positions of both workers and employers. To this end, it states which strikes are lawful and which are unlawful.

The form of strike action formerly known as "strike for acquired rights", which covered disputes arising in connection with the application of collective agreements, is not included in the list of lawful strikes, becoming, as a result, henceforth unlawful. Accordingly it would no longer be possible, were an employer to refuse to implement a collective agreement, to force him to do so by threatening strike action.

Other forms of strike listed as unlawful include the go slow or reduction of productivity. Insofar as it is the employer who sets production levels, he may well decide that an "unlawful strike" is taking place every time these fall below the targets set. On this basis, he is

theoretically entitled to mete out penalties, to demand repayment of the damages thus caused, and to terminate the contracts of all his workers.

These provisions contain no measure of objectivity, the whole thing being left quite arbitrary. The workers, once they have been sacked, will have the right of appeal before the courts where they will have to prove the employer in the wrong.

The expression "the rights of strike and lock-out may not be used in ways which run counter to the rules of goodwill, which affect the interests of society, or cause deterioration of the National Heritage ..." in fact constitutes a blanket prohibition. According to this law, even a strike conducted in scrupulous observance of all this laborious procedure could still be considered unlawful insofar as an employer might well consider that a trade union's demands were excessive, that, as such, they ran counter to the rules of goodwill.

Furthermore, since the purpose of the strike is to force the employer to sign the collective agreement by subjecting him to economic pressure, this pressure could certainly be regarded in a more general context as deterioration of the national heritage and counter to the interests of society. A strike might thus be terminated at any time using this pretext.

Any strike action which places in jeopardy the indivisible integrity of the State, the country and the nation, the Republic or the national security, is unlawful. In a case such as this there is provision for postponement of a strike. This is one of the reasons for which trade unions hesitate to call a strike.

A lawful strike underway or recently agreed may be postponed for sixty days by the government if it is regarded as counter to public health or national security. Reference to past applications show that "counter to national security" is the equivalent of "counter to the wishes of the government".

There have been instances in the past of strikes being postponed by governments on the grounds that they were detrimental to national security, but the Council of State always quashed these decisions on the grounds that the concept was too vague and that it undermined the essence of the right to strike.

Now, however, the law no longer provides for mere postponement but for straightforward cancellation of the strike on the basis of these arbitrary pretexts. Furthermore, what counts is no longer the nature of the strike action at the time it begins, for it is henceforth possible for the Government to state that the strike, once underway, adopted prohibited purposes and hence turned itself into an unlawful strike. A labour court decision is required to that effect.

Strike action in the absence of the prerequisite conditions for a lawful strike is an unlawful strike. Political strikes, general strikes, solidarity strikes, occupation of the workplace, etc. constitute unlawful strikes. The important point here is that, even if a strike fulfils the requisite conditions, it can be considered unlawful at any time and will always be under threat and suspicion. The purpose, the deadlines, the economic effects, the demands, the details of implementation, in short, everything affecting the strike, is at

the mercy of arbitrary action by the employer or the government and can turn the strike into a catastrophe for the workers and the trade union. The worker can thus lose all in the attempt to improve his social and economic situation.

The law enables relations between workers and employers to be invariably transformed to the exclusive advantage of the latter. These mechanisms are designed to make the workers comply immediately with the employers' demands. Should these mechanisms prove inadequate, the principle of mandatory arbitration will take over. The Supreme Arbitration Commission is the open expression of this mandatory arbitration.

#### **Other provisions to limit strikes**

The law also incorporates a ban on strikes in certain services that may be regarded as essential or strategic and under certain specific circumstances (war, partial and general state of alert). The government also has the right to prohibit strikes in certain sectors and undertakings in exceptional circumstances. This governmental right to prohibit strikes affects 450,000 workers. In the event of postponement of a strike by the government or of a dispute breaking out in an enterprise where strikes are prohibited, the Supreme Arbitration Committee is required to step in. This body is composed of two members appointed by the government, one member from the Supreme Court, the Director General for Labour from the Ministry of Labour, two representatives of the employers and two members of the trade

union confederation. With two representatives against four from the State and two from the employers, the workers representation will not weigh heavily in the balance. By this means the government has the right to interfere in strike matters.

The trade unions in public enterprises where strikes are prohibited general avoid entering into open dispute, in the knowledge that there will be compulsory arbitration, and they therefore tend to accept the government's proposals. In the other sectors, where striking is lawful, the trade unions have a Damocles sword hanging constantly over them in the form of strike postponement.

Since 1984 the government has twice had recourse to this threat in the public sector, because such strikes are frequently in the government's interest. They may not take place in sensitive sectors and the rest of the public sector is not profitable. It also opens the door to imports, and importers support the government.

### **5. LEANINGS AND STRUCTURE OF THE TRADE UNIONS**

#### **LEANINGS**

The workers' confederations are the following :- Türk-Is, Hak-Is, Yurt-Is and DISK. After a long break in trade union activity, the trade unions - with the exception of DISK, whose activities are still suspended by the military power - were able to resume their role in 1982 after the adoption of the new trade union and strike legislation.

### Türk-Is

The Türk-Is is the largest of the recognised representative trade union confederations. It upholds and defends the principles of political, economic and industrial democracy and exists to promote the aims and objectives of free and democratic trade unionism in Turkey.

### Hak-Is

This confederation was set up with the support of the M.S.P. (National Salvation Party), an Islamic fundamentalist party.

### Yurt-Is

This is the confederation of the nationalist trade unions. It has links with the M.H.P. (Nationalist Movement Party) which, still today, is described as a neo-fascist party. This confederation, therefore, is invariably regarded as serving the interests of the neo-fascist movement.

### DISK

Although its activities are suspended, DISK defends the principles of progressive trade unionism, i.e. democratic trade unionism independent of the State and the employers.

### Other federations

In addition to the above, it is necessary to mention fifteen national trade unions which are affiliated to none of the confederations enumerated and which have among them a total membership of around half a million (1988).

There are also eight other national trade unions which have not succeeded in reaching the threshold of 10% representation in their sector.

### Membership

The figures available indicate that membership of the three legalised confederations is as follows :-

Türk-Is	1,450,000 members
Hak-Is	200,000 members
Yurt-Is	150,000 members

These are the latest figures provided by the Labour Ministry, which is the only body empowered to rule on the representative status of trade unions. The figures change every six months. Currently, the total number of unionised workers is around 2,300,000, out of a working population of 18.5 million.

Insofar as the agricultural sector has no trade union, while union membership is barred for the unemployed, it can be estimated that the rate of unionisation is approximately 25%.

No figures can be supplied for DISK, since all its affiliated federations, as well as the confederation itself, have been suspended by the military authorities. Before the 1980 coup, however, DISK had 550,000 members.



A large number of DISK members joined Türk-Is after the suspension of DISK, in order to remain unionised.

## STRUCTURE

### Structure of the confederations

The trade union legislation stipulates the mandatory bodies to be set up by the confederations, national trade unions and local trade union branches. These bodies are as follows :- general congress, executive committee, auditing and finance committee, disciplinary committee. The confederations and federations are entitled, if they so wish, to set up further bodies in addition to these four. Each body, apart from the general congress, must elect as many alternate members as full members. That the law should impose an organisational pattern is contrary to the ILO Conventions.

#### The general congress

The law stipulates that the general congress of the confederations must be composed of delegates elected by each federation. Under no circumstances may the total number of delegates exceed 500. The same limit applies to the general congress of the federations.

The general congress is the highest body of the trade union organisations and must be held at least once every three years, more frequently if the organisation's statutes so provide. There is provision for the government to delegate a representative to attend the proceedings.

The congress may begin in his absence, but in this case he must be informed immediately.

#### The executive committee

The executive committee of the local sections and the federations must comprise at least three and at most nine members, while the executive committee of the confederations must comprise at least five and at most twenty-nine members.

#### The auditing and finance committee

This committee consists of three auditors who are empowered to oversee the executive committee's work and to audit the organisation's accounts. This committee may convene an extraordinary congress should it deem it necessary.

#### The disciplinary committee

This committee is composed of three members. Its task is to ensure that trade union members observe the principles and goals enshrined in their organisation's statutes.

It is also to be noted that the names, addresses and occupations of the members of the different bodies, with the exception of the general congress, must be notified in writing to the competent authorities. The lists are published in three newspapers and posted up on an official building. With the exception of members of the general congress, no one may be elected more than four times to the same post.

## 5. TRADE UNION RELATIONS WITH POLITICAL PARTIES

The constitution prohibits all relations between trade unions and political parties. After the military intervention on 27 May 1960, the workers were represented in the Constituent Assembly by six trade unionists from Türk-Is, the only existing trade union confederation. However, the role played by them in drawing up the new constitutions was extremely limited. Following the elections in 1961, two trade unionists from Türk-Is were elected to the national assembly (617 seats), one on the AP (\*) list, the other being appointed senator by the President of the Republic.

Of the fifteen TIP members elected to parliament in 1965, three were trade unionists, while a further four trade unionists joined the AP parliamentary group. In 1966, as the centre-left tendency had become stronger in the CHP, this party decided it would also reserve places for trade unionists on its election lists, with the result that, in the 1969 elections, the CHP succeeded in having seven trade unionists elected, as against four on the AP lists and two on the TIP lists.

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(\* ) Explanation of acronyms occurring in the text is to be found in Annex I.

In 1973, five trade union candidates from the CHP were elected and two from the AP. Immediately after the coup of 12 September 1980, the general secretary of Türk-Is, Sadik Side, was appointed minister of social affairs by the National Security Council. Subsequently, three trade unionists from unions affiliated to Türk-Is were appointed to sit in the consultative assembly, one of the tasks of which was to prepare the basis for a new constitution. This assembly had around 400 members.

All the amendment proposals submitted by the trade unionists (a total of 45) were rejected. They finally voted against the draft constitution. All together there were seven such votes against it.

In the 1987 parliamentary elections, four trade unionists belonging to DISK, including the president and the general secretary, and to Genel-Is, the public service workers union affiliated to DISK, together with two trade unionists from Türk-Is, from the Petrol-Is (oil workers) and Yol-Is (construction workers) federations, were elected to parliament on the lists of the SHP.

## 7. INTERNATIONAL AFFILIATIONS

The Türk-Is confederation, set up in 1952, finally gained the authorisation of the Turkish government to join the International Confederation of Free Trade Unions (ICFTU) in 1960. Türk-Is is also affiliated to the Trade Union Advisory Committee of the OECD (TUAC). Almost all the Türk-Is federations belong to the international trade secretariats and the president of Türk-Is is a member of the ICFTU Executive Committee.

DISK, wishing to broaden its international horizons, was the first Turkish trade union organisation to apply to join the European Trade Union Confederation (ETUC).

In 1985 the ETUC Executive Committee unanimously accepted DISK's application and the DISK president was elected to the ETUC Executive Committee at its congress in Milan in the same year.

The two other Turkish confederations, Yurt-Is and Hak-Is belong to no international organisations.

In the development of relations between Turkey and the international trade union movement, the coup d'état of 12 September 1980 naturally marked a decisive phase.

The day after the coup, the international trade union movement immediately adopted a position unequivocally in favour of trade union freedom and rights and defending the trade unionists suffering oppression.

The ICFTU, the WCL (World Confederation of Labour) and the ETUC strongly condemned the ban on trade unions and the suppression of individual freedoms, human and trade union rights. The three organisations agreed to set up a joint fund to provide financial support for the detained trade unionists and their families and lawyers. Meanwhile, the ICFTU, the WFTU, the WCL and the Norwegian trade union confederation (LO-Norway) lodged complaints against Turkey with the ILO on account of the country's violation of the conventions on collective bargaining and trade union freedom. The ICFTU, between 1981 and 1983, suspended the membership of Türk-Is, on the grounds that it had allowed its general secretary to accept the post of minister for social affairs in the

military government. In 1983 relations between Türk-Is and the ICFTU returned to normal when the Türk-Is general secretary was given leave of absence by the Türk-Is executive committee, thus ending the duality of function to which the ICFTU had objected.

It is to be noted that the international and national organisations have on a number of occasions sent delegations of trade unionists and lawyers to Turkey to meet the detained trade unionists and their families. The first to receive permission to meet the trade unionists in prison was the members of the ILO direct-contact mission, followed by a mixed delegation of members of the ICFTU, the ETUC and the PSI. It is quite clear that the active support of the international trade union movement and the national trade union organisations has made an enormous contribution to improving the situation of the trade unionists and to their being released from prison. The DISK president, Abdullah Bastürk acknowledged no less when he attended the ETUC Executive Committee meeting in June 1987 : "Brothers, my presence here among you is thanks to your solidarity. My being here today is a token of international solidarity ...". This was indeed the first time that he had been able to attend an ETUC Executive meeting. Previously, he had always been either in prison or prevented from coming because the Turkish authorities had refused to issue him with a passport.

Türk-Is officially applied to join the ETUC in 1987 and its application was accepted by the ETUC Executive Committee at its meeting on 7 and 8 April 1988. Mr Sevket Yilmaz, President of Türk-Is, was elected to the ETUC Executive Committee at its Congress in Stockholm in May 1988.

## 8. THE DISK TRIAL

On 12 September 1980, the day of the military coup in Turkey, General Evren decreed on behalf of the National Security Council that all DISK trade union activity must cease. The same decree invited the leaders of DISK and the leaders of its affiliated trade unions to give themselves up to the military authorities. Some 5,000 individuals either gave themselves up in this way or were denounced.

The DISK leaders were arrested and all DISK activity came to a halt. After a long wait, the military general prosecutor for Istanbul called a press conference on 25 June 1981 at which it announced that the DISK leaders would be placed on trial, accused of violating article 146 of the Turkish penal code.

This meant that DISK was accused of having committed acts intended forcibly to overthrow the order established by the Constitution. DISK was thus considered to have been committing illegal acts, even if the organisation itself was not regarded as illegal.

The trial opened on 24 December 1981. Initially, it was a question of judging fifty-two of the confederation's leaders, the prosecutor having called for the death penalty against the leaders of the DISK national organisation. Subsequently, the military prosecution placed a number of DISK members on trial for a variety of different offences. Thirty-one trials thus took place, in the course of which 1,478 individuals were tried. Finally, the courts decided to merge the various trials underway into a single major trial of all the DISK leaders. This trial involved a total of 1,478 accused,

78 of whom risked the death penalty. The charges were based principally on evidence found in documents, resolutions issued by the various DISK congresses, 1st May activities, strikes, etc. The accused were held in custody throughout much of the duration of the trial, before being released while it was still running.

In the final indictments, the military prosecution charged DISK and its leadership with wishing to impose the social domination of one class on another and with having set up an organisation intended to overthrow the country's economic and social order.

On the basis of these new charges, DISK came to be regarded by the prosecution as a national trade union confederation forming, with its affiliated unions, a single organisation now deemed illegal.

The Istanbul military tribunal reached its verdict on 23 December 1986. The judgement issued was in accordance with the conclusions of the prosecution, in that DISK and its affiliated organisations were regarded as forming a single organisation which had been declared illegal. The court handed down heavy sentences, including ten years imprisonment for Abdullah Bastürk (President of DISK), Fehmi Isiklar (general secretary), Ali Riza Güven (vice-president), Mukbil Zirtiloglu (vice-president), and Tuncer Kocamanoglu (vice-president), thirty prison sentences of eight years, ten months and twenty days, one of them raised to fifteen years and eight months, for certain members of the DISK executive committee, and eighteen prison sentences of five years, six months and twenty days for other members of the executive committee.

In addition to these sentences, the military court decreed the dissolution of DISK and of thirty federations and the confiscation of their assets, in accordance with the trade union legislation, which provides for such confiscation following the dissolution of a trade union federation or confederation by the courts. In the case of DISK, the value of the confiscated assets was estimated at around £ 1.5 million. Moreover, those sentenced to prison were also deprived of certain of their civil and political rights, for instance the right to apply for employment in the civil service.

In the light of these developments, a complaint was lodged with the ILO for violation of trade union rights. The outcome is still awaited and the trade union organisations are keeping a close eye on developments in order to compel Turkey finally to adopt the standards set by the ILO.

Meanwhile, the ETUC has appealed several times to the Council of Europe to suspend Turkey's membership. So far, these appeals have gone unheeded.

It is to be noted that DISK and its members have not yet been able to appeal against the court rulings. Under Turkish law the grounds of the judgement must be made available to the parties concerned within seven days of the verdict being pronounced, and an appeal can only be issued on this basis. Yet a year after the verdict, in flagrant violation of the law, the necessary documents are not yet forthcoming.

## 9. SPECIFIC FEATURES OF THE TURKISH TRADE UNION MOVEMENT

Turkey, a country still in the process of industrialisation, in which 8.7 million of the total working population of 15.6 million are employed in agriculture, and where the organisation of society still exhibits the historical vestiges of patrimonialism, encounters some difficulty in incorporating certain concepts into its vision of the structure of society, one such concept being that of trade union freedom. For this notion is utterly incompatible with the State's habit, ingrained over the centuries, of wishing to legislate in all fields and to grant rights - frequently considered as privileges handed down - rather than acknowledge freedoms.

The State is at all times party to industrial relations. When collective bargaining is taking place, the State is required to be kept constantly informed of the progress. In the event of a labour dispute, whether manifesting itself in the form of a strike or a lock-out, the State is empowered to control relations between the two sides of industry. The role of the trade unions is restricted by law to matters pertaining directly to workplace relations, thus denying the broader social context in which the trade union movement operates.

Whether we look at the Constitution, or at the legislation dealing specifically with trade unions and industrial relations, the approach is always the same: it is a question of regulating and keeping tabs on developments in these areas. The Turkish trade unions, whose existence is recognised in law, are nonetheless deprived of their constitutional and legal rights, being denied the right to express their opinions fully and freely in the press, at meetings, by means of demonstrations, etc.

The law also places an upper limit on the level of trade union dues - currently equivalent to one day's pay per month - thus interfering in relations between workers and their trade unions.

The State also has the power to control the internal running of the confederations and individual trade unions by means of checks on their financial and administrative affairs. It has also ensured that it is in a position to dissolve or ban trade unions on a perfectly arbitrary basis. Furthermore, the law contains no guarantee regarding freedom of trade union activity in the workplace. For example, it authorises dismissal of a shop steward, providing the reason is stated, the range of acceptable reasons being such that it is invariably possible to find one which fits the bill.

Membership of an international organisation is subject to government authorisation and control. The State has thus provided itself with the means of retaining control of the trade unions' international relations.

In the light of the State's negative attitude towards trade unionism, it is, in the final analysis, remarkable that in a country with such a high number of unemployed denied the right to join trade unions, where the agricultural sector still weighs so heavily in the balance, and where society has always been organised along such coercive lines, the number of unionised workers is as high as it is. This level of trade unionism may be interpreted as the workers' desire to live in a more democratic society in which trade union rights would be recognised.

On all these counts, the Turkish authorities certainly exhibit a lack of tolerance. They did not appear to think twice about suspending a free trade union movement, arresting its leaders and sentencing them after a trial which puts to shame a country whose government is, at the same time, contemplating applying for membership of the European Community, an indication that it considers that it has reached the level of democracy required for such membership.

Finally, Turkey fails to abide by the obligations deriving from the international treaties which it has signed, for example the European Convention on Human Rights and the conventions of the International Labour Organisation.

EXPLANATION OF ACRONYMS USED IN TEXT

Trade union confederations

- DISK            Confederation of progressive trade unions in Turkey
- Türk-Is        Confederation of workers' trade unions in Turkey

Political parties prior to the coup d'etat of 1980

- AP             Justice Party (centre right)
- CHP            Republican People's Party (social democrat)
- DP             Democratic Party (centre right)
- MDP            Nationalist Democratic Party (nationalist right wing)
- MHP            Nationalist Movement Party (neo-fascist)
- MSP            National Salvation Party (Islam fundamentalist)
- TIP            Turkish Workers' Party (Socialist)

Current political parties (% votes gained in 1987 elections in brackets)

SHP Peoples' Social Democratic Party (24.8%)  
(centre left)

DSP Left Democratic Party (8.5%) (centre left)

ANAP Motherland Party (36.3% - but 64.9% seats)  
(centre right)

DYP Right Way Party (19.2%) (centre right)

RP Wellbeing party (7.1%) (Islamic extreme  
right)

IDP Democratic Reform Party (0.8%) (Islamic  
extreme right)

MCP Nationalist Labour Party (2.9%)  
(extreme-right neo-fascist)

International Trade Union Organisations

ICFTU International Confederation of Free Trade  
Unions

WCL World Confederation of Labour

WFTU World Federation of Trade Unions

ETUC European Trade Union Confederation

PSI Public Services International

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(\*) A more extensive bibliography is included in the Turkish edition of this Info



TOPICAL MOTION ON TURKEY  
ADOPTED BY THE ETUC CONGRESS IN STOCKHOLM  
(9 -13 May 1988)

At its sixth Congress, held in Stockholm from 9 to 13 May 1988, the ETUC, at the proposal of the trade union confederations DISK and Türk-Is, unanimously adopted the following topical motion :-

This sixth ETUC Congress assembled in Stockholm :

- concerned at the non-respect of trade union freedom and human rights in Turkey,
- having observed that the Constitution and trade union legislation have not yet been amended to comply with the ILO standards despite the promises made by the Turkish government at the ILO Annual Conference in June 1987 ;
- having established that the discussions held between the social partners and the government were unsuccessful ;
- considering the resolutions previously adopted by ETUC Congresses and those adopted by the ETUC Executive Committee,
- condemns the brutal action taken by the Turkish security forces against workers and their representatives during the Labour Day demonstrations ;
- protests against the arrests of workers on that occasion and calls for their immediate and unconditional release ;
- demands that trade union freedom be fully established and that the trade union confederation DISK be recognised again ;
- urges the Turkish government to keep its promises and to honour its commitments, particularly those which it undertook at the ILO Conference in June 1987 ;

- declares that as long as fundamental freedoms are not guaranteed for all in Turkey, Turkey will not have a place among western democracies ;
- opposes any move to promote Turkey's accession to the European Community as long as democracy and trade union freedoms have not been restored ;
- instructs the ETUC Executive Committee to pursue its action along these lines.

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**STATEMENT ADOPTED BY THE EXECUTIVE COMMITTEE  
OF THE EUROPEAN TRADE UNION CONFEDERATION  
IN JUNE 1988**

In 1987 the Turkish government promised to amend the legislation on the trade unions along the lines demanded by the International Labour Organisation's Freedom of Association Committee. Amendments were accordingly adopted by the Turkish Parliament in May 1988, but these fall far short of satisfying the trade unions' and the ILO's demands.

At its meeting in Geneva on 10 June 1988, the ETUC Executive Committee therefore adopted the following statement, both as a reaffirmation of its own stance and in order to voice its displeasure.

"The ETUC Executive Committee assembled in Geneva on 9th and 10th June 1988 declares that the situation of trade union freedom in Turkey still causes concern. Despite pledges made on several occasions by the Turkish Government, there are still severe restrictions on basic trade union rights and liberties. The Government continues to turn a deaf ear to the demands of both the Turkish trade union organisations and the international organisations and is thus continuing to defend the values which are the legacy of the military regime of 12th September 1980.

The National Constitution of 1982 and the provisions of Act n° 2821 on trade unions and Act n° 2822 concerning collective bargaining and strikes violate basic ILO principles, namely,

- the right of all workers, without any discrimination whatsoever, to establish organisations,
- the right of organisations to draw up their constitutions and rules and to elect their representatives in absolute freedom;
- the right of organisations to organise their administration and activities and to formulate their programmes,
- the right of organisations to affiliate with international organisations.

The public authorities are interfering in the trade unions' activities in such a way as to impede their action. The organisations are subject to suspension

or dissolution by administrative measures. Workers do not enjoy adequate protection against discriminatory acts which are intended to strike a blow at trade union freedom. Trade union membership or participation in trade union activities can be an obstacle to a worker's engagement or a reason for dismissal.

There are severe restrictions on the right to strike, namely,

- the prohibition of the right to strike in several sectors which cannot be considered to be essential services,
- the authority granted to the Government to postpone a strike leading to compulsory arbitration (as is the case in sectors where strikes are prohibited) through a Board controlled by the Government,
- the requirement to implement a strike decision within a specified period,
- the condition that the right to strike may not be exercised contrary to the "rules of good faith", or in such a manner as to damage society or destroy national wealth.

What is more, the activities of the ETUC affiliate DISK are still outlawed. The DISK leaders are being prosecuted by military authorities. The DISK trial has been going on for eight years. DISK's assets are in the hands of administrators who have been managing them for the past eight years. This situation, which aims to destroy a trade union organisation by administrative means, is in itself a violation of the conventions which protect trade union freedom, collective bargaining freedom and the right to strike.

Referring to the resolution on Turkey adopted by the ETUC Congress in Stockholm (9th-13th May 1988), the ETUC Executive Committee calls once again upon the international bodies of which Turkey is a member to urge Turkey to honour its commitments. The ETUC Executive Committee demands that Turkey implement the recommendations of the ILO Committee on Freedom of Association and observe the claims of the ETUC and its Turkish affiliates, TÜRK-İS and DISK."

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D/1989/3163/6