



February 13, 1986 marked the 19th anniversary of the foundation of DİSK. But the anti-union trial against DİSK has been underway since December 24, 1981.

The trial began with 52 trade-unionists with the demand of capital punishment for all. Then with the additional indictments about 2000 pages, the number of people facing charges rose to 1473, including DİSK affiliated union leaders.

On January 15th, 1986, the Military Prosecutor made his last accusations (General Statement), reading his 809 charge-sheet. Although he withdrew requests for the death penalty, he demanded heavy sentences for the trade union leaders, on the basis of the famous article 141 of the Turkish Criminal (Penal) Code. The Prosecutor also demanded the dissolution of DİSK and its affiliated unions.

The new requests of the Military Prosecutor are such:

- prison sentences ranging from 10 years and 8 months up to 20 years for 232 people including Abdullah Bağtürk and 61 leaders and two of the staff of DİSK.
- Prison sentences ranging from 6 years and 8 months up to 16 years, for 549 people.
- dissolution of DİSK and 29 of its affiliated unions, plus an ex-affiliated union ou DİSK.

Members of Executive Board have been released on bail, after spending nearly 4 years in prison without sentences.

The trade union activities of DİSK and its affiliated unions had been suspended since September 12, 1980 and the administration of their funds and assets had been handed over "trustees" nominated by the Commander of the Martial Law.

All the problems concerning DİSK and its affiliates have been put down by the Committee of Freedom of Association of the Governing Body of ILO in its reports

TO THE MILITARY COURT NO:2 OF THE MATERIAL LAW COMMANDMENT
OF ISTANBUL AND THE FIRST ARMY



Submitted by: ABDULLAH BASTURK

1. President of DISK (Confederation of the
Progressive Trade
Unions of Turkey)
2. President of GENEL-IS (General Workers'
Union of Turkey)
3. Member of the Executive Committee of the
European Trade Union Confederation
(ETUC)
4. Honorary Member of the Executive Committee
of the Public Services International (PSI)

Subject: My defence.

" Extracts"

Messrs President and the Judges,

In this lawsuit which can be considered as one of the widest and the longest of the world with its indictment of 1473 people and 257 sessions prior to defence in 50 months, at last we reached the stage of defence hearings.

Although the state of war conditions declared by the court in the beginning were resolved with a pretext of accelerating the trial, we are to defend ourselves 50 months, after the beginning of the lawsuit.

The DISK-1 Indictment consisting of 861 pages with photographed supplement of 47 pages whole of which were composed by the Martial Law Military Prosecutor had been able to be read in 67 days and the examinations could begin 42 days later than the completion of the reading of the indictment. Only my examination as the president of DISK took 109 days and finished in 21 sessions. This, I guess, is the longest examination in the world.

With more than 160 supplementary indictments, the number of the trialed trade unionists in this lawsuit reached up to 1473. The examinations of the trade-unionists, 78 of whom were trialed by death penalty, with DISK-1 indictment, could be done in 16 months and just the evaluation of the evidence related to DISK- apart from the evidence of the 160-odd supplementary indictments- took another 13.5 months. Meanwhile, the lawsuits against the affiliate trade unions of DISK were combined with the DISK trial and the examinations and evaluation of evidences took 16 more months.



- the falsity and unlawfulness of the claims in the indictment,
- The wide range of "date of crime"
- The crowd of the real and juristic persons accused in this indictment,
- the combining of the lawsuits against the affiliate trade unions of DİSK with this trial
- the accusation of many events, persons, institutions, many documents, terms and words in this indictment,
- the political polemic nature of indictments and the General Statement (GS) rather than being the documents of lawsuit and the accusation of democracy, freedom of trade union activities and the social and civil rights in essence,
- the rejection of the mot-a-mot inclusion of the answers of the trialed persons during the examinations in the lawsuit minutes, especially in the DİSK-I lawsuit,
- and because I am accused for all the claims stated in the 315-317th pages of the GS,

my defence will be wide in content. This, I believe, is my natural, primary and unrefutable right.

I think the presidents and the board members of the affiliate trade unions will focus on the indictments against their unions and the accusations against them in the GS and evaluate the evidence in related matters. For this reason, my defence will cover mainly the DİSK-I Indictment, supplements of this indictment, GS and DİSK Evidence Files as I consider the other claims in general as being the President of DİSK.



In the beginning of my defence I want to put forth this as the essence of my defence:

DİSK remained loyal to 1961 Constitution, the laws of this country and the principles of the International Labour Organization (ILO) and

has been an independent, democratic organization. For this reason, I REJECT as a whole all the accusations made for DISK and its affiliate trade unions as juristic persons and for all trade unionists who are tried here. [...]

1. THIS IS AN UNLAWFULL TRIAL

As we tried to make it clear during our examinations and the evaluation of evidences and as we will continue to reveal during our defense in detail, THIS TRIAL IS AN UNLAWFUL ONE. DISK-I INDICTMENT, SUPPLEMENTARY INDICTMENTS, INDICTMENTS AGAINST THE AFFILIATE TRADE UNIONS AND THE GENERAL STATEMENT WHICH THIS LAWSUIT IS BASED UPON ARE ALL UNLAWFUL DOCUMENTS HAVING NO LEGALITY AT ALL.

The basic features of these documents which are totally incompatible with the basic principles of the modern law and the logic of law can be stated as thus:

I. With the indictments in this lawsuit and the ^{CGS} legislation execution and judgment system in Turkey, the principle of "continuity of the state", Constitution of 1961 and the democratic institutions brought by this Constitution, movement of democratic trade-unionism, all the social and civil rights and the freedom of trade union activities are put under accusation. With these documents it is declared in written from that all these mentioned institutions and rights are not recognized and will not be recognized.

In these documents, the legislative system, i.e. the Parliament, of our country is blamed. The laws passed by the legislative body are either recognized invalid or found defected or new interpretations contradicting with the essence of them brought forth. One third of the members of parliament elected by the people of this country before September 12, 1980 are accused of "adopting Marxist-Leninist principles (DISK-I Indictment, page 774), the relations of members of

parliament with various persons and institutions are tried.

- In these documents, the executive system of our country is tried, too. No courts, no court of appeal is recognized in these documents; the decisions of such courts are accused to be either wrong or defective. Apart from this, the accepted principles of law, the conditions of trial and court are all rejected.

- In these documents, "the continuity of the state" concept is rejected, too, by accusing the 13,5 years of activities of DISK which were carried on within the context of 1961 Constitution and the continuous state order represented by the legal governments and the parliaments elected by the people.

- In these documents, the social legal state principles of 1961 Constitution, the democratic institutions of 1961 Constitution and democratic accumulation and developments are tried; basic human rights and freedoms, freedom of organizing in trade unions and civil rights are rejected, too. Thus, in the first place the Universal Declaration of Human Rights of United Nations and then all the international agreements, ILO and its principles which were all signed by Turkey before are totally rejected.

II. The Military Prosecutor spent his last words with the General Statement. Before revealing the characteristics of the accusations complied in the GS, I want to assert my own views on the accusations not as an expert in law but as a trade unionist who served for 8 years as a member of parliament.

A. In the 784-817th pages of the DISK-I Indictment which was introduced to the press in 25 June 1981 before it was completed, the legal description made was accusing DISK by trying to abolish the Constitutional order by force and proposed to sentence the trade unionists according to the article 146 of Turkish Criminal Code (TCC). However, the GS dated 15 January 1985 argues that DISK has

violated the Article 141 of TCC.

How can the same incidents described with the same sentences and the same pseudo-evidences be subjected to Article 146 in 1981 but to Article 141 in 1985? What kind of a legal approach is that?

B. With a modification made by law nr.3531 in Article 141 of TCC, this article is made elastic enough accuse even the governments to come to the office by elections with the attempt of trying to abolish the constitutional social and economic orders. According to this modification, the exertion of force is not necessary to accuse anybody with Article 141.

But the Military Prosecutor obstructed this way to himself either. As stated in indictments and in pp 106,133,134 and 145 of GS, DISK is accused of trying to abolish the constitutional order by REVOLUTION.

On the other hand, affiliate trade unions of DISK tried to abolish the law and order by REVOLUTION, or UPRISING or by STRIKE, according to the pp 165, 170, 178,191, 199, 204, 207, 211, 214, 232, 240, 244, 260, 269, 281, 295 and 309 of GS.

Although the accusation is made with the same sentences of DISK-I Indictments pp 784 817 where the "material and moral force" argument took place, on the 314th page of GS it is said that:

"For the application of Article 146 of TCC there could not be found any evidence or sign of employment of force element."

Those explanations reveal that the accusations have no legal supports so far as the Articles 141 and 146 are concerned.

III. The indictments related to the DISK trial and the GS strongly oppose to the accepted basic principles of criminal law, to the



conditions of trial and court regulations and the related articles of the Constitution and other laws. As follows:

- In these documents, the principle of privacy of crimes that takes place in the Constitution and other laws is violated and all the suspecteds are accused with collective and successive crimes against principle.
- In these documents, the accused activities are not defined legally.

The crimes imputed to us in these documents are not clear where as the first article of Turkish ^{penal} Criminal Code obviously states that "nobody can be punished for any action which is not described as a crime clearly in the code."

- In these documents, the legal elements of crime are not stated.

In these documents, the events where the abortion of right and/or the prescription exists, the incidents for which the public prosecutors or the courts decided there was no need for prosecutions or there were no appeal of public prosecutors against such decisions of the courts, tried and ended or still being tried, or the subjects which were cancelled by the previous amnesties are all brought into trial and used for accusations.

- The second article of TCC states that "nobody can be tried and punished for any action which was done." In these documents, this article is also violated.

- In these documents there are no evidence of accusation. the accusations do not have material bases. This is essential characteristic of the whole trial: The trial itself has no single concrete evidence.

- The accusations in these documents are based on the methods of COMPARISON and DEDUCTION which are both forbidden by the criminal law.

- These documents are manipulative texts.

- The accusations in these documents are based on subjective rather than objective judgments.
- the accusations in these documents are based on suspicions, hypothesis, guesses, allusions and implications.
- These documents are enlarged in vain with unrelated material and eclectic and distorted excerpts.
- In these documents, the texts prepared by DİSK are either falsified or distorted.
- These documents are based on hiding and distorting the realities.
- These documents are full of material faults, information errors and confusion of concepts.
- These documents are also full of self-contradictions.
- The legal descriptions in these documents change continuously. For instance the same event is named as crime, evidence, force, favorable means, attempt and practice in various pages of the same document.
- In these documents the rules and regulations of DİSK which were ratified and supervised up to date, all the official declarations and considerations, all the activities of DİSK are accused in a manner completely opposing to the laws and rules of procedure.
- The papers which they forced us to sign under torture but which rejected by showing eye-witnesses in the presence of the Military Prosecutor and the Military Court are still accepted as the preparatory statements and some accusations are based on these obviously invalid papers. The Military Prosecutor seemed to accept these facts in the 781st page of DİSK-I Indictment and in his provisional statements implicitly. In the minutes of the hearings of June 1982 and 30 June 1982 it is clearly recorded that we introduced to the Military Court our petitions about the tortures we experienced but now it appears that our ^{requests} petitions about the tortures were taken out of the lawsuit files and destroyed.

These characteristics of the documents including the accusations were submitted to your Court in the petitions of the accused trade

unionists on various occasions; especially during the evaluation of the evidence they were made clear and based on concrete facts and several examples were introduced.

On the other hand, the defence lawyers skillfully described the place of these documents against the modern democratic law uncovering the unlawful essence of these documents which I tried to summarize up to now.

IV. In these documents which give the impression of a prejudiced political polemic documents, unbelievable, irrational accusations expressed without any real evidence; these documents are arranged with opinions, ideas, texts, speeches and events none of which belonging to the DİSK trade unionists.

For example the DİSK-I Indictment includes the following documents, speeches, events, diapositives, films and recorded tapes none of which were belonging to either DİSK or any one of the boards members:

- a) The book titled "6th Congress Report of DİSK"
- b) The book titled "DİSK Educational Notes" (DİSK-I Indictment pp 98-102, 593-612)
- c) Democratic Movement Central Committee draft (Indictment pp. 427-436)
- d) "National Democratic Front" booklet (Indictment, pp 449-471)
- e) publication with the title of "Textiles Educational Notes" (Indictment, pp 622-625)
- f) diapositives and related texts about German Democratic Republic (Indictment pp 629-636)
- g) recorded tape of "Voice of Communist Party of Turkey"
- h) Speeches at the Conferences of Regional Representatives (Indictment pp 698-707)
- i) the speeches of the guests at the solidarity meeting in Chile (Indictment pp 721-731)

j) May Day celebration messages received from abroad
(Indictment pp 741-750)

k) letter of the secretary general of CPT dated February 1, 1979
(Indictment p. 753)

l) the assertions of Parliament members of CHP (Indictment pp
766-776)

m) the majority of the photographs in the supplement of the
Indictment (47 pages)

n) the occupation of Taris incidents (Indictment p 775)

o) the slogans apart from the ones determined by DİSK used in
the May Day Celebrations (Indictment pp 662-693).

These documents, speeches and events which have nothing to do with
DİSK and members of the board cover almost one-third of the whole
Indictment. And the Military Prosecutor accuses DİSK by using those
pseudo-evidence which do not belong to DİSK. The DİSK-1 Indictment is
once more unlawful and violating the accepted general principles of
modern law for these reasons...

4. WE ARE ACCUSED OF USING OUR RIGHTS STATED IN 1961 CONSTITUTION AND OTHER LAWS.

If we are seated in the suspecteds' chair today, this is because we defended the basic human rights, especially the freedom of thought and speech with much devotedness. Because we urged and succeeded in putting into effect our rights stated in the 1961 Constitution and other laws.

The right to live, the right to work, freedom of thought and belief, the right of meeting, the right of collective bargaining and strike... These were what we the trade unionists fought for.

We fought for the principle of equality, freedom of thought and speech, right of organization, freedom of press, right of education, right to work, trade union rights and right of meeting and these were what the International documents that Turkey also signed and the 1961 Constitution secured.

Trade unions are the products of democratic establishment of the societies, and today trade unions are considered as essential elements of democratic social life.

But unfortunately the freedom of thought and organization could not be achieved easily. In this process we never forget Galileo who had the courage to say that "the world still rotates" in spite of all the pressures. We never forget our trade unionist colleagues who sacrificed their food, their work and even their lives, who spent years in the dark dungeons throughout the world in the last two centuries.

... tried to save one of the most basic human rights, the freedom of organization, from being the privilege of a small minority. ... tried to show that the democracy in Turkey can assume its full meaning just and only when all the workers, all the working people take their place in the administration of the country, as it was in other democratic countries.

Because we knew by heart that both the democracy and the freedom can be established robustly merely by the participation of the conscious citizens- conscious of his existence in the political life as crowd masses.

Today if we committed a crime, it is that we defended the Constitution of 1961 bearing in mind and heart those approaches. That we faced anarchism, terrorism, and supporters of fascism decidedly. That we defended the rights of the workers till the last point.

We, the trade unionists, defended the Constitution of 1961 and the basic rights and freedoms which forms its essence under the worst conditions with an unshaken confidence. we still defend. To defend the Constitution is the must of the patriotic duty for us. I and my friends are proud of our nature as uncompromising real democrats.

I, Abdullah Baştürk in all my life as a citizen, and during my presidency both in Genel-İş and DİSK, defended 1961 Constitution, defended the democracy, defended the freedom of trade unionism. I never accept these as crimes. And I will fight for the freedom of trade unionism and the social rights till the very end of my life.

Human rights are universal. And these rights are secured by the international agreements tying the states. According to the Article 65 of 1961 Constitution, "The international agreements that are put into effect in accordance with the procedure gains the power of law"

and are superior to the other codes in the domestic law.

When there were numerous significant problems in our country should we shut up and look on? As the representatives of half of million worker could be shut up and just look on? No, not. And we didn't. We did OUR DUTY AS WAS STATED IN THE FIRST ARTICLE OF THE CODE OF TRADE UNIONS. To recall it, we asserted our views in order to save the ECONOMIC, SOCIAL AND CULTUREL interests of working people. We argued for our views. we fought by the means the 1961 Constitution provided us, we fought by our votes in the elections.

As the real patriots and also believing in the international solidarity of the workers, conserving our national cultural heritage and defending our national pride we fought for the realization of the rights stated in the 1961 Constitution.

We the trade unionists are well aware of that we can not be the suspected of such a trial. Because it is not us, but the democratic rights and freedoms are what tried here in this Court.

This trial is the trial of the future of the democracy, trade unionist rights and freedoms and the future of the social rights.

For this reason, all the democrats of the world, my trade unionists brothers, colleagues are interested in this trial inevitably as their notion of democracy necessitates. I thank them here once more for the solidarity they extended.

This lawsuit was not started for an illegal decision, action or an illegal plan of DISK or its members or the trade unionists of DISK were found and unearthed.

Neither it was started for the accusation of any action. This lawsuit



was started for the ideas and beliefs of the DISK leaders and members which were very well known by the public prosecutors, governors, ministers, by all the authorities since they were asserted publicly in all the meetings and conferences, for the clear minutes written in the officially ratified agenda, for the leaders and the members of DISK persuaded the defence of all interests of our country, for they defended the rights and freedoms of the workers as a whole; and their views and actions were accused later.

We did what we did for all of them were legal, for we were sure that they were all legal. We are still sure that they were. We clearly state once more that neither our ideas nor our activities can be considered as crimes.

To consider our ideas many years later than we spell them publicly as crimes is never compatible with democracy, social order, continuity of the state of Turkish Republic, principles of judiciary state and the accepted principles of law.

The ordinary associations such as Aydınlar Ocağı (organization of the right wing intellectuals), TUSIAD (Association of the Turkish Industrialists and Businessmen) and their members as well as Türkiye İşveren Sendikaları Konfederasyonu (Employers' Trade Unions Confederation of Turkey) board members everyday participate in politics with their declarations and activities in today's Turkey; but only DISK and its affiliate trade unions are accused of participating in politics. If this is not an obvious hostility against the workers and their trade unions, it is a disgrace of humanity.

We neither drafted any constitutions against the existing 1961 Constitution as some employers and politicians did, nor said "This

Constitution is a luxury."

We merely and only argued for the realization of the 1961 Constitution in its essence.

If we are accused for being and fighting against robbery, exploitation and oppression, and smuggling,

If we are accused for demanding higher wages,

If we are accused for obtaining higher bonus and seniority payments,

If we are accused for fighting against imperialism and fascism,

If we are accused for fighting to reach that bright future when nobody will exploit anybody, nobody will be the slave of anybody,

If we are accused for being real democrats and patriots,

If we are accused for defending 1961 Constitution,

we admit them. If these are considered as crimes, yes, we committed them.

We already struggled for the democratic rights and freedoms under death threats everyday before September 12, 1980. We defended them by risking our lives.

Humanity fights for the better, for the finer. The basic human rights constitute the unshandonable fraction of this cause of humanity. No organization, nobody, and especially no trade unionist can give up this struggle.

Everybody who wants to be acquitted in the Court of History should show respect to the basic human rights, to the basic principles of the International Declaration of Human Rights, and especially to the freedom of thought and organization.

I believe that the esteemed members of this Court should observe



These considerations, too.

What type of a democracy in Turkey will be in the future will emerge with this lawsuit. For this reason, this trial will serve as a criterion for the "democratization process" in Turkey...

In the General Statement it is claimed that DISK has violated the article 141 of the Turkish Criminal Code since its foundation in 1967, by attempting to set up a proletarian dictatorship through revaluation and by employing terror as being an illegal Marxist Leninist political organisation.

The crimes stated in the Article 141 of TCC are:

1. the establishment of the domination of a social class on other social classes,
2. the abolition of a social class,
3. to form an illegal organization to realize the above mentioned aims.

DISK has never had any conception or any action which may be considered within this context.

1. In the report to the 2nd Congress, DISK has stated that "We never permit any class dictatorship"; in the report to the 4th Congress: "Democracy does not permit the dictatorship of a family, a group or a class"; and in its appeal to all types of dictatorship or any tendency towards dictatorship." These are all the official declarations of DISK which reveals clearly that leave aside chasing for a class dictatorship, it firmly stands against any such dictatorship or tendencies towards any dictatorship.

2. On other hand, the Declaration of Establishment of DISK has described being a revolutionary as "To fight for achieving to make

everybody a possessor and to benefit from the favors of civilisation equally." The Statute of DISK states in paragraph (c) of its article 3 that the Confederation will demand the state to control the basic sectors of manufacturing and the private sector to assist the state. In other words, DISK does not argue to abolish a social class but on the contrary it recognizes the existence of the private sector.

3. DISK has never been a political organisation, neither legal nor illegal. DISK has carried all its activities in front of the public opinion preserving its loyalty to the laws of the country and always remained as an independent and democratic CONFEDERATION OF TRADE UNIONS.

And, DISK has always argued for the parties to come to the office through general elections, and always asked its members to participate in every elections...

EPITLOGUE

The accusation in this lawsuit is based on the hypothesis that DISK and its affiliate trade unions are illegal political organisations. All other events and documents in the indictments are evaluated according to this hypothesis. In other words, the accusation that DISK to violate the Article 111 of TCC is not stated inductively after the investigation of what DISK has done, but on the contrary, DISK is considered as an illegal organisation in advance by producing what then what DISK has done and indeed in many cases, what DISK has not done- is investigated and accused in order to prove that DISK is an illegal organisation. Thus the claims are made without relying on any evidence, the accusations are not proven by evidence, on the contrary the trade unionists are forced to prove the falsity of all the claims and accusations.

In my examination, during the evaluation of the written evidence and in this defence word of mine I have proven by the documents of DISK and official evidence that DISK and its affiliate trade unions have never had any intention, material or moral compulsion, illegality or illegal organisation elements that are necessary for the application of the Articles 141 or 146 or 142; and I stress that strongly once more. DISK and its members never aimed the domination or the abolition of any social classes. DISK, its affiliate trade unions and everybody who are tried in this lawsuit are all innocent.

In my whole life as a worker and a trade unionist I merely and only fought for democracy and freedoms with the consciousness of my responsibility I bear for the society, the workers and all laborers. I struggled for a peaceful future, for love and friendship, for this PURPOSE I took my place in the struggle for independence, democracy and socialism.

I am proud of being a member of working class.* I have a deep respect and confidence in the minds and hearts of the hands weaving the future, my brothers. I am very glad and content that I participated in the fight for democracy and freedom, through all my years both in the Parliament and in the democratic meetings of the workers; I am very happy that I had my share in the last 25 years of the trade-unionist struggle of Turkey. I have the honour of presiding both Genel İş and DISK.

I also bear the great honour of being the members of the boards of the PSI and ETUC side by side with my esteemed friends, the European trade unionists who showed the best examples of international solidarity and never left us alone in the days we were subject to the most unlawful accusations.

The iron and stone dungeons, the unlawful treatments and tortures we experienced, all the things we suffered were not the first and not last, as well. The clash between the people who fight for the better, for the happiness and the ones who are the supporters of exploitation and oppression will continue further. But I am sure that one day, certainly and absolutely, our children will expect a better future, all the workers will smile, the songs of freedom, fraternity and peace will be sung in my country and all over the world. And then the struggle of DISK and the things we suffered will be recalled and conceived once more and illuminate the future.

DISK has functioned within the context of 1961 Constitution, the principles of ILO which were signed and accepted by the Turkish Republic and Codes numbered 274 and 275 as an independent and democratic confederation of trade unions; and will function in the same way.

DISK has always struggled for the rights of labour, the bread and work of the labourers, the development of democracy and the freedoms, the realization of the basic human rights and freedoms, freedom of organizing in trade unions, and the social rights, friendship and brotherhood, liberty, peace, preventing exploitation and oppression, the happiness of all labourers.

DISK means the full application of 1961 Constitution.

DISK means the realization of basic human rights and freedoms.

DISK means the right to organize in trade unions, to strike, to carry on collective bargaining.

DISK means the freedom of thought and freedom of living.

DISK means democracy and freedom.

DISK means legality and lawabiding.

We did what we did for we believed in the democracy in Turkey and in order to strenghten this democracy.

The invariable law of history ord^es to support what is right and just.

DISK has always supported and struggled for everything just and right.

Our greatest eye-witnesses are the history and the social realities.

Time will acquit DISK and us.

Our share in the struggle for democracy and the freedom and for words of defence, the words of whom are seated in the rows of suspected in this Court, will leave profound traces in the making of the real democracy.

With the deepest belief in that I request from your Court to acquit the persons accused here, to acquit DISK and its affiliate trade unions and to acquit all of their activities.*

respectfully, Abdullah Başturk

President of DISK