

# Report on the Massacre of Roboski - 03 January 2012

## Report on the Massacre of the Villagers of Gülyazı (Bujeh) and Ortasu (Roboski) Villages of Uludere (Qileban) District of Şırnak Province

**Incident:** 35 people-all of the males, 17 of them juveniles- were killed and another one was wounded and two other survived without wounding in the air attack of the Turkish Air Force to the group that had trespassed the border between Turkey and Iraq and returning back to Turkey in the vicinity of Gülyazı (Bujeh) and Ortasu (Roboski) Villages of Uludere (Qileban) District of Şırnak Province on 28 December 2011 at 21:30-22:30.

**Aim:** The aims of the human rights commission are to interview with the survivors, relatives of the deceased, witnesses if any, and with the authorities on the massacre; to prepare a report in the light of the information gathered with the research and investigation; to contribute to reveal out the material reality by sending the report to the authorised institutions and offices; to enable the public opinion to access the real information; and to demand an effective investigation to ascertain the perpetrators.

**The Constitution of the Commission:** As soon as the news concerning the incident reached at 9 am on 29 December 2011, the General Centres of the Human Rights Association (IHD) and the Organisation of Human Rights and Solidarity for Oppressed People (MAZLUMDER) decided to constitute the first commission with consulting their local branches and the commission arrived the scene of the incident in the afternoon of the same day.

Consultations with NGOs and civil society organisations were made for the constitution of another commission and the commission organised by IHD, MAZLUMDER, Confederation of Public Employees Trade Unions (KESK), Turkish Medical Association (TTB), Human Rights Foundation of Turkey (HRFT), Contemporary Lawyers Association (ÇHD), Peace Assembly of Turkey and General Work Trade Union (DİSK Genel İş) arrived to Diyarbakır Province the same day in the afternoon.

**The constitution of the first commission that made the preliminary research and investigation:**

First Commission was composed of following persons, MAZLUMDER Vice General Chairperson Selahattin ÇOBAN; MAZLUMDER Diyarbakır Branch Chairperson Abdurrahim AY; MAZLUMDER Diyarbakır Branch Executive Deniz ÇAVUŞ; MAZLUMDER Diyarbakır Branch Executive Nurettin BOZKURT; MAZLUMDER Hakkari Branch Chairperson Cengiz ŞEN; MAZLUMDER Hakkari Branch Executive Nihat GÜR; MAZLUMDER Hakkari Branch Executive Çetin CAN; IHD's Diyarbakır Branch Executive and IHD Executive Board Member Serdar ÇELEBİ; IHD Executive Board Member Haşim USLU; IHD Siirt Branch Chairperson Vetha AYDIN; IHD Mardin Branch Chairperson Erdal KUZU; IHD Mardin Branch Executive Hüseyin

CANGİR; IHD Van Branch Secretary Sami GÖRENDAĞ; IHD Van Branch Member Arşad NARÇİN; IHD Hakkari Branch Secretary Sait ÇAĞLAYAN, IHD Hakkari Branch Accountant Ferzende TAŞ; IHD Hakkari Branch Executive Garip GAZİOĞLU; IHD Yüksekova Representative Bedirhan ALKAN.

Second Commission composed of NGOs and civil society organisations: IHD General Chairperson Öztürk Türkdöğen; MAZLUMDER General Chairperson A. Faruk Ünsal; MAZLUMDER Executive Board Member Nurcan Aktay; KESK General Chairperson Lami Özgen; TTB's Central Council Members Osman Öztürk, Halis Yerlikaya and Zülfikar Cebe; ÇHD's General Chairperson Selçuk Kozağaçlı, HRFT's Executive Board Member Hürriyet Şener; Selma Güngör and İmam Canpolat from the Secretariat of the Peace Assembly of Turkey; DİSK Genel İş Executive Board Member Remzi Çalışkan and writer Temel Demirer.

Eğitim-Sen Diyarbakır Branch Chairperson Kasım Birtek, KESK Diyarbakır Branch Platformu Dönem Sözcüsü BTS Branch Secretary Veysel Özhekti, BES Diyarbakır Branch Chairperson Edip Binbir, SES Diyarbakır Branch Executive Ramazan Kaval, Diyarbakır Medical Chamber Chairperson Şemsettin Koç were accompanied to the Commission from Diyarbakır Province.

Executives and members of the local branches of the organisations from Batman, Mardin, Siirt, Şırnak, Hakkari and Van Provinces were joined the commission.

Attempts of the Commission: The First Commission reached Uludere (Qileban) District of Şırnak Province on 29 December 2011 at 5.00 p.m. and examined the corpses one by one at the State Hospital and the place and conditions of the autopsies and took photographs. At 7 p.m. published the preliminary examination report. The First Commission waited for the completion of the autopsies in the morning of 30 December 2011 and following the post-mortem procedures moved to Gülyazı (Bujeh) and Ortasu (Roboski) Villages. An investigation was conducted where the incident occurred and interviewed with many villagers and relatives of the deceased, and took their opinions and statements. A large part of the investigation and research by members of the commission was recorded with photographs and camera footages.

MAZLUMDER General Centre made written applications to facilitate the activities of the commission and requested an appointment Sirnak Governorate, Uludere District Governorate, Sirnak Chief Public Prosecution Office and Uludere District Gendarmerie Command Office on 30 December 2011.

The Central Commission (the Second Commission) 04.30 a.m. on 30 December 2011 started out with a bus from Diyarbakır, and reached Uludere around 11.00 a.m. where set off with the funeral convoy and continued until Ortasu and Gülyazı Villages. The commission attended the beginning of the funeral in Gülyazı Village and then went to the scene without delay. The army unit hindered the commission to reach the scene of incident just 200 metres away and forced the commission return back by deploying troops to the scene with helicopters as soon as the commission moved to the scene. The commission interviewed with the witnesses of the incident and performed condolence visits to three families in their houses and applied to their information about the incident.

The delegation went to the scene to the scene saw a military union (border line) by making shipments of military helicopters to turn back 200 meters to the scene, forced the delegation had left, returned to the scene, event and met with the delegation, visited the

three-family homes condolence to found incident with the right-dried headman and other villagers After interviewing with the head of Ortasu Village, the two survivors and the villager the commission left the village at 08.00 p.m.

***Arrival and the Interviews of the Commission:***

The First Commission reached Uludere (Qileban) District of Şırnak Province on 29 December 2011 at around 05.00 p.m. The presence of the several foreign-plated vehicles and foreigners were observed from the entrance of Uludere (Qileban) District of Şırnak Province. The commission learned that the corpses of the 35 people were in Uludere (Qileban) State Hospital, and one of the wounded person was taken to Şırnak State Hospital and another survivors is in shock and unable to speak and the last survivor Hacı ENCÜ could speak. Commission then stated the aims of their visit to the ones at the entrance of the hospital and as human rights defenders conveyed condolences. The commission observed that there wasn't any preparation to meet the needs of the crowd outside the hospital and some people were eating their own food and people outside the hospital were standing or sitting on the ground. The Commission was unable to find an officer or correspondent in the hospital and informed by the relatives of the deceased that the majority of corpses were in the above floors and autopsy procedures were done in the basement floor. Thereupon the commission went to the place of autopsy. The hall in the basement was divided with a screen and several bed covers were thrown on the screen. Down the stairs on the right side was central heating system and the place in which the autopsy procedures were conducted was on the left. The smell of diesel fuel inside the hall was very dense. The number of the officers was few and there were only the forensic medicine experts. It is determined that only one lawyer from the Şırnak Bar association was allowed to be present in the autopsy procedure on behalf of the families and two prosecutors have been conducting the procedures and six autopsies were finalised until 6.30 p.m.

Later the commission noted that the women have been mourning in the entrance so that their voices could be heard all over the hospital and later photographed the corpses one by one.

The Commission tried to gather information from the waiting families during the autopsies. Interviews with Hacı Encü (one of the survivors) and relatives of the victims were conducted in the hospital. In the beginning there were not any security officers but later during the pencilling of the preliminary report two minibuses full of riot police officers and an armour police vehicle came to the hospital, police officers left their vehicles and formed a single file and crossed the dooryard of the hospital with their vehicles escorting them.

On 30 December 2011 the commission left the hospital in the morning and went to the village of the deceased and investigated the scene of the incident. The "smugglers' road" which was used to go to the scene that was approximately 4-5 kilometres away from the village has been covered with ice and although it was recently cleaned by the bulldozers - their marks could be seen- it was still muddy. The mountainous scene of incident was under snow and blood, dead mules and things that were blown were scattered around in the scene of bombing.

First Commission made investigations for approximately one hour in the scene of incident and two hours in the village.

The interviews were kept comprehensive and everything that could be evidence were photographed and taken under record.

The members of the Commission did not see any soldier or a member of the security forces. No public officer including the gendarmerie was seen in the mourning place of the villagers, inside and around the village.

The observations of the second commission are as follows: Neither public officer nor the member of the security forces was seen in mass burial place and inside Gülyazı Village. A very large crowd was gathered in the burial place from the villagers of Ortasu and Gülyazı Villages and from the people living in the vicinity. Diyarbakır Metropolitan Mayor Chairperson Osman Baydemir and other province and district mayors, BDP Group Chairperson Selahattin Demirtaş, BDP Group Deputy Chairperson Şırnak Deputy Hasip Kaplan and other deputies of the BDP, independent deputy Ahmet Türk and CHP İstanbul Deputy Sezgin Tanrikulu were seen and were condoled.

The army unit and the army helicopters in the unit were seen on the slope of the hill in vicinity of Gülyazı Village.

Although Gülyazı Village has a dense population was kept under the village status.

The distance between the scene of the incident and the nearest army unit (border brigade) was 6,7 kilometres on the map.

The Second Commission was harassed by deploying a fully-equipped army unit on the borderline and on the road to Ortasu Village by helicopters and by circling helicopters on the commission. The commission forced to stop by soldiers 200 metres before the scene of incident and told that they could not go to the scene on the grounds that it was banned. The Commission insisted to go to the place of the incident and had to return back after the army officer told them that they would be force to return back with the order from the army radio. But the commission could observe the borderline and the bombing area with bare eyes.

***Interviews with the above mentioned persons by our Commissions are as follows:***

1- Hacı Encü (19) who had survived from the incident and whom we interviewed with in the hospital on 29 December 2011 (abridged):

On 28 December 2011 at 4.00 p.m. we crossed the border to Iraq with a group of 40-50 people and with same number of mules to bring diesel oil and food to bring together. We intentionally did not inform the gendarmerie headquarters but they already knew that we come and go. Our goal was to bring sugar and diesel. In fact, even on the way we heard the sound of unmanned aerial vehicle, but we continued our way because we always come and go. At night at 7.00 p.m. we started to return back after loading the mules. At 9.00 p.m. we approached the border. We reached the plateau of our village; our plateau is just on the border. First there was lighting flares and subsequently salvos of artillery-howitzer. We left the load on the other side of the border. Immediately after the salvos aircrafts came and started bombing. We were two groups; there was a distance of 300-400 meters

between the front of group and the one behind it. Immediately after the artillery salvos the aircrafts came. There is not any other way to pass to the other side of the border because the soldiers held our plateau. So the groups are squeezed and had to come together, at the end we became two large groups. With the first air bombardment the group of about 20 people which was on the zero-point of the border was destroyed. Immediately we started to flee back; bombs began to rain on ones between the rocks. The group that I have been part of was consisting of 6 persons and 3 from the group survived. We have plain clothes on us, no one had guns. The event lasted for approximately 1 hour or something. We two people with 3 mules entered the water in the creek. After waiting an hour we took refuge under a rock and we could not hear anything from our friends. Between 11.00 and 11.30 p.m. we understood that villagers were coming from the lights and sounds. The soldiers began to leave the plateau that they held as the peasants began to wail. We have been doing this business for a very long time. Two of us were married; others were high-school or primary school students. No one has yet called me to give testimony. After the event, I did not see any soldier. The other survivors are Davut Encü (22 year-old) and Servet Encü (wounded, Şırnak State Hospital).”

2- Servet ENCÜ who had survived from the incident and whom we interviewed with after the funeral on 30 December 2011 (abridged):

“Our fathers, grandfathers also did this job (cross-border trade). We also did. There is no factory here. We are earning our lives with this business. Everyone in this village, in this border, is doing the job.

On the night of the incident 7- 8 people from each of the 2 or 3 villages, up to a total of nearly 40 people with our mules and crossed the border approximately two kilometres. There we bought diesel oil, sugar and food from Iraqis. We did not go to Haftanin and Sinat. The way back, the soldiers stopped us. Every time they did. However they gave permission to pass. This time did not allow. They made us to wait at the border. At last they poured bombs on us. 37 people, including students whose ages ranging between 10 and 20, were shot for doing this job for 50, 60 or 100-TL.

Selam ENCÜ, one of the dead, was a student of engineering. Şivan was 15, Orhan was 10, Mehmet was 11 year-old. There was no anyone from PKK (member of the organization).

The PKK does not deal with bringing diesel oil with 40-50 mules. The soldiers who stopped us at the border never spoke with us. After the incident no military officials came to help. After the bombing several wounded people froze to death on the grounds that no one had not shown up to help. We the three people from the 38 have survived. They did not see me because I was hiding buried in snow.

Previously soldiers had been stopping us however after a while they gave permission to us to pass. This time they did not let us go by closing all sides. The soldiers went away with their cars as soon as the bombing began.

If I were not survived the corpses would wait there for 1-2 days. We were in three separate groups that one of them in the border and others away from it. We thought to leave with leaving our load when they did not allow us to pass. After the bombing I walked approximately 100 metres and asked for help by telephone. After 2-3 hours, they came to help. Soldiers or an authorized person did not come, just our people came. We had left the

village at 5 p.m. and at 9.30 p.m. we reached the border. At 9.40 p.m. was the bombing. The students among us were doing this work for their pocket money.

Our village is five kilometres inside from the border. The first group informed us after reaching border that the soldiers took measures. We thought to leave our load and pass the border as such because of the cold weather. At that moment four aircrafts came and bombed for 1,5 hours. We informed the headquarters by phone and they did not come. At 3 a.m. we carried the wounded and the dead to the half way to the village. Half of the wounded died on the road. Two or three of them could survive with timely medical intervention. The soldiers on the border knew that we were villagers and we have been doing this business. Before the incident time to time they waited on the border. They closed the road and left the others open. Our friends informed that the border was held by the soldiers.

I flew into the air due to explosions and then fell and I was buried in the snow. We will do this job as long as we are allowed to do. A clash was not occurred in his route so far. Until today when the soldiers caught us they shot our mules, burn the saddles and the goods we brought. This time, they shot us.

The first group informed us when they could not cross the border. We stayed where we were. As we were waiting on the grounds that the soldiers would allow us to pass or we could find another way to pass we as two separate groups were bombed. We were bombed separately.

I saw that some of the wounded died due to loss of blood and neither the security forces nor the ambulance arrive”.

3-From another village not a witness but one of the first people that arrived the scene (who does not want to give his name):

Two days before the incident a clash took place in the road junction of Uludere. Soldiers told to our friend who buys the goods we bring during the border trade and sells the shops that “Tonight is the last one. You will not be able to do this job again”.

4-The father of Ferhat ENCÜ whose right to life was violated:

In last one month the soldiers did not give trouble as we did our job.

5- Another villager (who does not want to give his name)

Health personnel tried to reach the scene of the incident with ambulances from Şırnak Province at 3 a.m. Soldiers hindered them saying you cannot go there with ambulances. After the reaction of the villagers whom the health personnel met they went to the headquarters and said that they would like to go to the scene. But in the headquarters they told the health personnel that only the paths could be used and the road was not safe. A friend of mine who is a health personnel working in Şırnak Province told me these.

6-Another villager (who does not want to give his name)

I was also once a smuggler. There is an unwritten contract between us and the soldiers. The State could save the wounded with the helicopters in Şırnak Province as the ministers

who carried the wounded from Libya with private ambulance airplanes and as the ones who had wounded in Mavi Marmara attack from Israel. Some of the wounded frozen to dead.

7- Şükrü UYSAL, the brother of Özcan UYSAL whose right to life was violated:

“I have been living in Ortasu village. I was in the village when the incident took place. A lot of people from our village provide their living with the border trade. Border trade has been going on for many years. Border trade has been conducted with the information of the gendarmerie headquarters in our village for a long time. My brother's group moved from the village to the Iraqi border on 28 December 2011 at 2 p.m. As they were returning approximately at 9 in the evening they divided into two groups after seeing the soldiers who had closed the road. The pioneering group waited in the border and watched the soldiers while the other one informed the others about the soldiers. As they were doing this they were attacked. The rear group took refuge in a rocky area. The first group was killed in a flat place, and there is still snow everywhere. Lightning flares fired by the soldiers illuminated everywhere as the daylight. Thanks to this lighting soldiers could see clearly everyone. The route was a continuously used route and there was a road on the route. There were mines on the road. 35 villagers have been killed and 3 people were wounded in the incident. ”

8- The head of Ortasu Village we talked in the mourning house:

We have been doing border trade in this route, I mean this job, since the English had drawn this border. Soldiers and the state officials know that we have been doing smuggling. I think that this incident is a movement like Ergenekon or Balyoz because it took place just after Bülent Arınç told that they will give the rights of Kurds. Moreover the villages in the surrounding voted for the [pro-Kurdish] Peace and Democracy Party (BDP). I have been thinking why this incident took place. The region is not the route of PKK because the Iraq side is flat; it is impossible to make a surprise attack from that side to the Turkish border. Everyone approaching from that side would be noticed by the Turkish soldiers. There was not a clash in this route until now. Generally during the operation the head of the village and the temporary village guards were warned before in order to prevent the smugglers not to go to the region or not to return back. Our place, Gülyazı Village could not be a municipality although it has a high population. We want the border gate to be open here. We made official applications. But...”

9- Another villager who talked in the mourning house in Ortasu Village:

“Herons detect everything. Our children were not carrying guns. Herons should have detected this. Instead why did they bomb our children...”

10- Hacı Encü who talked in the mourning house in Ortasu Village:

“We reached the border at 7 p.m. We loaded petrol and sugar from a place 2,5 or 3 kilometres inside the border and returned back. Servet Encü from the pioneers came to us just 200-300 metres before the border and told us that the soldiers had closed the border. Later they lighted the border. We heard the salvos of the artillery. Then the fighters bombed. Half an hour later they bombed our place. The first group was completely burned down. Our place did not get blacked”

11- Another villager who talked in the mourning house in Ortasu Village:

“No one came to help after the incident although we informed. They did not reply our calls. We brought our dead. Our children could be saved if they interfered on time”.

**Official interviews made in Uludere and Şırnak Province:**

1- Şırnak Chief Public Prosecution Office: On 30 December 2011 a fax message had been sent from MAZLUMDER General Centre and called on 02 January 2012. As a reply the office told the commission that their programme was full for two days and they could not meet with the commission.

2- Uludere District Governorate Naif Yavuz: On 30 December 2011 a fax message had been sent from MAZLUMDER General Centre and called on 02 January 2012. As a reply the governorate gave a negative reply on the grounds that the governor was attacked and has been resting in the hotel.

3-Uludere District Gendarmerie Headquarters: On 30 December 2011 a fax message had been sent from MAZLUMDER General Centre and called on 02 January 2012. As a reply they told the commission that they won't meet with the commission.

4-Şırnak Governorate: The members of the commission also made written application to Şırnak Governorate as in the relations with other official institutions, with a fax message sent from the General Centre of the MAZLUMDER on 30 December 2011. Also an authorised correspondent could not be found in the Governorate when called from the MAZLUMDER's General Centre.

**Claims on the case:**

- There are many claims on the case. Statements by the official authorities are one of the most significant examples. For example; **the Turkish General Staff's first official statement No: BA-33/11 on 29.12.2011 at 11: 45** as follows:

*“1. The Turkish Armed Forces conducts cross-border operations within the framework of the authority given by the Turkish Grand National Assembly or TBMM on 17 October 2007. The authority in question has been renewed once in a year.*

*2. The Turkish Armed Forces was informed that leaders of the terrorist organization had ordered groups to retaliate for their loss in recent period and many terrorists had been sent to Sinat-Haftanin area located in cross-border as reinforcing units.*

*3. In the light of this information obtained through intelligence from several sources and technical analysis; it was understood that terrorist groups including some leaders came together and were in preparation for attacks against patrols, bases located in the border line. Then, relevant units were informed about that development.*

4. In the light of testimonies by surrendered terrorist members; it is known that the subversive terrorist organization brought artillery and arsenal from Iraq to our territory with draught animals in previous attacks.

5. There was an increase in intelligence regarding potential attacks against our patrols and bases located in near to the border of the Northern Iraq as a result there was an increase also in reconnaissance and surveillance in the border line. In this regard, it was determined [by means of Unmanned Aerial Vehicles] that there was a terrorist group moving to the border from Iraq territory at 18.39 on 28 December 2011.

6. As the area was a route often used by terrorists and it was night time, there was a discussion that an air force operation should be launched. The operation was launched from 21.37 to 22.24 on that day.

7. The incident scene is Sinat-Haftanin (Northern Iraq) area where subversive terrorist organization's main bases are located and no civilian settlement.

8. Administrative and judicial investigation and procedures are going on.

With our best regards.”

- Mr. Hüseyin Çelik's, the Vice-President of the Justice and Development Party or AKP, first statement as follows:

“A sorrowful incident left its mark on our EC meeting today. The incident in Şırnak [where the incident happened] was extremely sorrowful. There was an attack by air forces in the Sinat-Haftanin area. As a result, 35 citizens lost their lives. May God their souls and I offer my condolences to the families. The operation was started by thinking that they were terrorists. However, local authorities and official authorities, who went there, determined that they were mostly cigarette smuggler without revealing their identities. The details of those people would be obtained through investigation.

I offer my condolences to the families. If there was a fault, it would be determined. According to preliminary information, they were smugglers not terrorists. It is sure that they do not deserve such an end even they are smugglers. There is no deliberate action. Those, who make similarity 33 Bullets incident, are serious mistaken. If the preliminary information were accurate, it was an operation accident. If there was a fault, it would never be covered.

I carefully read the statement by the Turkish General Staff. Please do remember that arsenals were carried by hinnies. There were criticisms against officials that why measurements had not been taken. There is no contradiction between my speech and the Turkish General Staff's statement. The air force operation was launched by thinking that they were terrorists.

### ***Lack of intelligence, an operation accident...***

*If there was no terror in Turkey, the sorrowful incident would have not happened today. We told that we were eagle against terrorists and dove regarding citizens. There cannot be such an action against smugglers. We wish that there would not be a similar incident in the future. There cannot be a deliberate action; it can be operation accident resulted from lack of intelligence.*

*Relatives of the 35 citizens suffered from that incident. There is no need further an intentional. It won't serve to anyone. There might be protests in streets or it is normal that BDP (Peace and Democracy Party) declares mourning yet encouraging people to organize protests, it won't serve to anyone.*

*Tradesmen were sick and tired of closing up shops in the South and Southeast. People are already in a difficult condition.*

### ***Questions-Answers***

*- An administrative investigation was already launched. We will do what needed to be done. No one can put himself/herself into a judge's shoes.*

*- There is no contradiction between my speech and the Turkish General Staff's statement. The Turkish General Staff made a statement based on thinking those people as terrorists. Please do remember the Hantepe attack; the arsenals were carried by hinnies. There were criticisms against officials that why measurements had not been taken. The statement says that the operation was launched in an area which used often by terrorists. However, identities of these people were determined after the statement.*

*- Detailed identity information and why they were there will be learned through an extensive investigation. This unfortunate accident does not mean that we will not fight against terrorism. We will continue to fight until that problem ends.*

*- The Turkish Armed Forces must be an eagle against terrorists and a dove for citizens. Legal sanctions on smugglers are written in our legislation.*

*- A soldier, who gives his coat to a terrorist when he is caught alive in a cave, does not want to kill smugglers. According to our preliminary information, there cannot be a deliberate action. Investigation will determine whether there is a weakness or fault.*

*- The Prime Minister has obtained information from all relevant authorities such as the Turkish General Staff and the Minister of Interior Affairs."*

- First statements by the media;

As a result, the claims are:

- They were PKK members
- Wrong intelligence

- They were PKK couriers
- They were smugglers

## POINTS BY THE MISSION:

### A) Regarding the Incident Scene

A group from the delegation departed from the Ortasu villave at 07.00 in the morning to go the incident scene on 31.12.2011. They set off with their own cars and after a while they continued with a tractor. The incident scene is about 4-5 kilometres from the Ortasu Village. The group arrived in the incident scene, where is called as “Yıldıztepe” or “Yıldız Yaylası” by villagers, at about 10.30. There were also a group of journalist and villagers, who accompanied the group, in the incident scene. The mission has determined that:

- 1- The incident scene is about 4-5 kilometres away from the Ortasu Village,
- 2- Vehicles can be used until a certain location, about 1,5 kilometres is pathway,
- 3- There are cultivated area and coal mines on the way to the incident scene,
- 4- There is an evicted building, which is very old and as the villagers accompanied the mission told it was a patrol in the past, on the way,
- 5- There is a skull of a hinny in the area that is about 300 meters away from the bombing location,
- 6- The incident happened in the 0 point of the border of Iraq-Turkey, there is a boundary stone which fragmented and some remnants are in Turkey while some in Iraq,
- 7- There is a crater, which is 50 meters away from the boundary stone and in the Southwest direction within Iraq territory, with 5 meters size and half meter depth. It is possible that it occurred after the air force bombing,
- 8- There is another crater, which is similar to the former one, located in the south direction of the boundary stone and about 500 meters towards the valley,
- 9- There are remnants of bombs next to the boundary stone. There is no strike on the boundary stone and fuel drums are spread yet not fragmented. People, animal and flora, which is considered as living organism, were damaged and limited with size of the bombing yet stone, drum etc... were not damaged,
- 10- There are tarnishing, snowmelt and woods were burnt in north and south sides in a 5 decares area around the crater,
- 11- There is a bag, which people put olive and bread, next to the boundary stone. There is no damage to the bag,
- 12- There are still soft tissues, which not fragmented, and pieces of bones in the incident scene. Although it is understood that some of them belong to hinnies, some of them are not clear whether belong to animals or people,
- 13- Top of the hill is flat not rough or hilly,
- 14- There are observation towers, which located in dominant parts of the northern part of the incident scene and see the scene clearly,
- 15- There are clothes belong to those who lost their lives as well as an active mobile phone,
- 16- There are GSM networks and mobile phone can be used actively,
- 17- Public prosecutor or another security forces have not arrived in the incident scene, evidences were not collected and no barrier tape by the time the group was there.

**B) Regarding the Incident:**

- 35 individuals' right to life were violated in the attack. The following is the list of people whose right to life were violated (the list was prepared based on interviews and autopsy reports):

<b>Name:</b>	<b>Date of Birth and Place</b>
1. Özcan UYSAL	30/12/1993 Şırnak/Uludere.
2. Seyithan ENÇ	30/12/1993 Şırnak/Uludere.
3. Cemal ENCU	1994 Şırnak/Uludere.
4. Vedat ENCU	1994 Şırnak/Uludere.
5. Selim ENCU	1973 Şırnak/Uludere.
6. Selahattin ENCU	1995 Şırnak/Uludere.
7. Nadir ALMA	1986 Şırnak/Uludere.
8. Celal ENCU	1986 Şırnak/Uludere.
9. Bilal ENCU	
10. Şirvan ENCU	1992 Şırnak/Uludere.
11. Nevzat ENCU	1992 Şırnak/Uludere.
12. Salih ENCU	1993 Şırnak/Uludere.
13. Osman KAPLAN	1980.
14. Mahsun ENCU	1994 Şırnak/Uludere.
15. Muhammet ENCU	1998 Şırnak/Uludere.
16. Hüsnü ENCU	1981 Şırnak/Uludere.
17. Savaş ENCU	1997 Şırnak/Uludere.
18. Erkan ENCU	1998 Şırnak/Uludere.
19. Cihan ENCU	1992 Şırnak/Uludere.
20. Fadıl ENCU	1991 Şırnak/Uludere.
21. Şerafettin ENCU	1994 Şırnak/Uludere.
22. Hamza ENCU	1990 Şırnak/Uludere.
23. Aslan ENCU	1994 Şırnak/Uludere.
24. M. Ali TOSUN	1987 Şırnak/Uludere.
25. Identity details are same with number 21.	
26. Orhan ENCU	1992 Şırnak/Uludere.
27. Salih ÜREK	1995 Şırnak/Uludere.
28. Yüksel ÜREK	1995 Şırnak/Uludere.
29. Adem ANT	1992 Şırnak/Uludere.
30. Hüseyin ENCU	1991 Şırnak/Uludere.
31. Bedran ENCU	1996 Şırnak/Uludere.
32. Serhat ENCU	1995 Şırnak/Uludere.
33. Şivan ENCU	
34. Abdulselam ENCU	Şırnak/Uludere.
35. An arm and a leg: no information about the identity.	

- All of them are civilians and according to the autopsy reports: 17 of them are children, 14 of them are mature and 4 of them do not have any indication about their age,
- Age of those, who are considered as mature, vary from 19 to 25,

- There was no warning to STOP and people were not warned by security forces. There was no counter fire by those who lost their lives or individual fire by soldiers. It is only the aircrafts that bombed and killed civilians,
- The civilians were known by security forces that have also information about movement of those people as a part of border trade,
- According to witnesses and villagers the route is continuously used by people. Everyone including security forces knows the route. Most of the way is not pathway and there are coal mines on the way,
- Contrary to the official statements, the incident scene is far away from the area named Sinat-Haftanin and civilians were attacked on Iraq-Turkey border,
- There was no attempt by the official institutions to take dead or injured people, therefore; villagers arrived late in the incident scene with their own means. As a result, some injured lost their lives for blood lose and freeze. Soldiers left the incident scene when villagers went there to take the corpses. The corpses were brought to the Gülyazı village by the villagers with their own means,
- The hospital lacks of equipment and staff for autopsy. Even, as far as we observed there is almost no staff in the hospital. The corpses were negligently put into rooms. The corpses were covered with blankets by their relatives. The corpses were taken to autopsy and funeral vehicle by the families,
- Due to the lack of technical capacity, it is not possible to collect evidence as it should be done. Therefore, there is a high probability of spoliation of evidences,
- Some of the corpses seen by the mission were burnt and some internal organs at outside of the body, most of the skulls were shattered, unity of the body was deformed as a result of the scatter,
- High explosive bombs and artillery, which have burning capacity, were used in the attack,
- No suspicious were arrested or detained,
- The incident happened in the zero point of the Turkey-Iraq border,
- People, who lost their lives, were dealing with border trade (fuel, cigarette and food) that has been conducted for long years. The patrol knows that people deal with such a border trade and made it easy and allowed much more than past during the last month.

#### **Points Need to be Clarified:**

1. Why didn't any officers or officials go to the incident scene considering that the patrol and observation towers are close to the incident scene and they were informed and it is certain that villagers and village guards informed the soldiers about it?
2. Why were ambulances or health officers from Şırnak and other places not allowed to go to the incident scene?
3. Some seriously injured people lost their lives as there was no medical intervention and were freeze to death. What are the reasons for not going to the incident scene and detailed information about these deaths?
4. Considering that villagers have been dealing with border trade for long years; is there any similar attack against people in the past? Furthermore, does the patrol have any deliberate or negligence in this incident? There should be a special investigation about these issues.

5. In the past, village guards and mukhtar (head of a village) were warned “to go *smuggling*” when there would be operation. However, soldiers did not inform the villagers though they saw smugglers in daytime. Why did they not inform these villagers?
6. There were rumours that “it would be the last smuggling” and similar information given to the smuggler wholesaler and distributors. What were the aims of information? Did officials know that there would be an attack or not?
7. Unmanned Aerial Vehicles (Heron) can take image that gives an idea about shape and content of loading and whether there is any weapon or not. Did unmanned aerial vehicles give data regarding the group’s loading and whether they have weapon or not? Furthermore, did the unmanned aerial vehicles report or not that they were civilians?
8. Quantity, target and aim of the arsenal and explosives used in the attack? How long did the operation take? There is a claim that aircraft flares and cannon shootings were used. The claim needs to be proved. Content of the bombing needs to be determined.
9. All walky-talky conversations during and after the attack including between aircrafts and command centre as well as phone conversations between village guards, mukhtar and the patrol or third parties needs to be investigated in terms of location and distances.
10. It is told that villagers, who attempted to go to the incident scene after the incident, came across soldiers on the way and soldiers left there as soon as the villagers left. It needs to be investigated.
11. According the statement by the Turkish General Staff, the unmanned aerial vehicles took the first image at 18.39 and the bombardment was started at 21.37. Did officials confirm the intelligence or obtain additional information from local units during that 3 hours period\_ If not, why they did not need to do so?
12. The official authorities made the statement according to which “they were attacked by thinking that they were members of the [terrorist] organization”. Even the concerned group was the one composed of “members of the organization”, can their extrajudicial execution through high explosive bombs from fighter aircrafts be legal and justified?
13. Do bomb contain any chemical substance? It is a key question since some of the corpses were burned and charred.
14. Have any air force or land force operation been launched in the location of the incident scene until now? If yes, the dates and results of them need to be publicized?
15. What was the aim of the helicopter, which was active while the villagers were taking the corpses with their own means? Why didn’t it land to help people there?
16. Did local military and civilian officials call each family and suggest entombing the corpses separately?
17. Why didn’t local officials and the Government representatives make any statement to the public on the first though they knew the incident?

### Opinions and Recommendations:

- 1- It is an extrajudicial killing. Regarding the number of people, it is a “*massacre*”
- 2- It is a continuation of extrajudicial and massacre that have been conducting under the name of “fight against terrorism” and not brought to account,
- 3- National and international civil society organizations and democratic institutions should show awareness to organize fact-finding missions there,
- 4- Turkish Grand National Assembly and the Human Rights Inquiry Committee of the Turkish Grand National Assembly must put the massacre, which has caused public

resentment and have points to be clarified, into its agenda and investigate it immediately,

- 5- United Nations and the Council of Europe should investigate the incident,
- 6- All relevant institutions should do what they should do in order to take people, who are perpetrators and responsible for the massacre, before the court. In order to have an effective investigation all military and civilian officials (including those who commanded to bomb), who have responsibility for the incident, should be laid from their jobs until the investigation ends. Public prosecution office and administrative units must conduct an effective investigation against those who are responsible. The public prosecution must bring justice and clear public's conscience,
- 7- The State must accept that it is a massacre and apologize for it. The Government must take its political responsibility, the Minister of Interior Affairs must resign from his position, the Chief of General Staff and responsible chief/s of force must be laid from their positions,
- 8- The State must pay satisfactory pecuniary and non-pecuniary damages to the families alleviate their suffering. It should be done as a part of the State's responsibility not as a gift or gratefulness,
- 9- Media and other mass communication networks must leave its biased approach and creating "guilty people" that lead to "extrajudicial killing" yet based on ethical principles,
- 10- People work in this field called as "smuggling" as there is no chance of income (such as industry, livestock or agriculture) other than border-trade and no border gate and restrictive legislation. It should be taken into consideration and necessary legislative steps need to be taken immediately. Administrative status of the area, whose population is high, should be promoted to town,
- 11- Violence based policies regarding the Kurdish Question provide a suitable atmosphere for such dark actions. Therefore, it is vital that the Government must change its existing policies and democracy and peace should be developed.

**The Association of Human Rights and Solidarity for Oppressed People (MAZLUMDER)**

**Human Rights Association (IHD)**

**Confederation of Public Employees Trade Unions (KESK)**

**Turkish Medical Association (TTB)**

**The Contemporary Lawyers Association (ÇHD)**

**Human Rights Foundation of Turkey (HRFT)**

**Peace Assembly Of Turkey (TBM)**

**DISK Genel-İş Trade Union (Genel İş)**

**ANNEX**

- 1- A photo that shows transfer of the corpses by the villagers
- 2- A photo that shows the road and pathway to the incident scene
- 3- A photo that shows situation of the corpses at the hospital
- 4- A photo that shows conditions of the autopsy
- 5- The Autopsy reports (71 pages)
- 6- Photos that show remnants in the incident scene and the boundary stone