

Violations of Rights of the Child Due to Armored Vehicles, Mines and Unexploded Ordnances

(From the Viewpoint of the Rights to Live in a Healthy Environment and to Play)





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Prepared By

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Work Group for Children Affected by Armed Conflict**



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Introduction and Acknowledgments...

The process of armed conflict that continued for years at Eastern and Southeastern Turkey significantly increases the volume of the armored vehicles, mines and unexploded ordnances in the region. This circumstance, which severely affects the daily life and the lives of people, concomitantly results in numerous rights violations. Although this problem is discussed in Turkey with respect to loss of lives and injuries, it is a consistently ignored fact that the children's right to live in a healthy environment and right to play are also violated. While emphasizing the importance of right to life, this report was penned also to make visible the violations of right to live in a healthy environment and right to play that the children suffered, and to reveal a very important problem related with children in all its parts.

In the period between 2011 and present day, the policies of the State regarding the Kurdish problem were varied, and the intensity of the conflicts fluctuated. Therefore, the report covers the current statistical data for the time interval between 2011 and 2021. For the said interval, it was aimed to cover the experiences during the periods before the solution process, and the during the conflict period that restarted in 2015 after the solution process, and during and after the State of Emergency process.

The data in the report were obtained by chronologically scanning and comparing the press sources. Considering the fact that some incidents were probably not covered by the press, the data in the report were indicated as "minimum". In order to protect the personal data and the privacy of the children who survived the incidents, only the initials of their names were given. While collecting the data about the children who died or were injured due to hits by armored vehicles, mine explosions and explosion of unexploded ordnances, it was noted that the incidents that killed or injured these children happened while the children were playing in the street or near playgrounds, or within the vicinity of the area they lived. On the course of these findings, the assessments related with the data obtained are included in the report. The report also contains the context-specific assessments of the prohibition of discrimination and policy of impunity, since the collected data largely pertained to a certain region of the country.

This report aims primarily at identifying and assessing the problem by means of concrete data, and also at establishing a ground for solution by making suggestions for the solution of the problem.

We hereby thank Özlem ENDER, Şoreş Deniz TUĞRUL, Ömer SANSARKAN and Murat ABA, members of the Center for Rights of the Child of Diyarbakır Bar Association, for their efforts in preparing the report.

Chairperson of Center for Rights of the Child
of Diyarbakır Bar Association

Mehmet Emin GÜN



OVERVIEW



11. A Look at the Right to Life

The human is a biological, sociological and legal being. Therefore, the human has a complex structure. The emergence of the human rights and freedoms is the consequence of a similarly complex (sophisticated) and cumulative process. All the national and international legal instruments acknowledge that all human beings are free and have equal rights, without any discrimination. In this context, the human being has personal, inviolable, non-assignable and inalienable rights and freedoms.

The first one of these rights is the right to life. The right to life is the fundamental right. Although the right to life is not above the other rights with respect to its value and hierarchically, it is important since it is prioritized with respect to exercising other rights. It is a key right for the existence and exercising all other rights and freedoms, yet the existence of this right is not sufficient by itself for the human being. Granting the right to life to people as if it is a favor and ignoring the other rights and freedoms is unacceptable. The rights and freedoms are holistic, and they are meaningful for people only if they are fulfilled together and thoroughly.

Article 17 "Personal inviolability, physical and spiritual entity of the individual" of the Constitution contains the provision "Everyone has the right to life and the right to protect and improve his/her physical and spiritual entity. The physical integrity of the individual shall not be violated except under medical necessity and in cases prescribed by law; and shall not be subjected to scientific or medical experiments without his/her consent".

Article 2 "Right to Life" of European Convention on Human Rights stipulates "Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law".

While the Constitution, the European Convention on Human Rights and the United Nations Covenant on Civil and Political Rights are the instruments that secure the right to life, the United Nations Convention on the Rights of the Child is the most important instrument to rely on in this matter since it is an instrument that identifies children as the subject of rights.

Pursuant to Article 6 of the United Nations Convention on the Rights of the Child, "States Parties recognize that every child has the inherent right to life. States Parties shall ensure to the maximum extent possible the survival and development of the child."

The State is responsible for ensuring the rights of the people in the scope of its positive obligations, and for protecting the rights of people and preventing the obstruction of exercising such rights in the scope of its negative obligations. In this context, the State has both positive and negative obligations in the protection of the right to life. The right to life, which is a fundamental right among human rights and freedoms, covers the right to not to be killed by an intervention of public power, and also the right to be protected again by the public authorities against life-threatening hazards and risks. In brief, the right to life is the right to not to be killed.



The State is responsible for taking protection measures to protect life against concrete hazards. The State shall take efficient prevention measures against unnatural death of child, whose life must be protected. The State is responsible to take necessary steps to efficiently protect the life of the child, to take necessary measures in this scope for protecting the child against the life-threatening actions of third parties, to include the necessary sanctions in the laws for punishing the life-threatening actions deterrently and efficiently, to effectively conduct the criminal investigation and prosecution procedures aimed at preventing and punishing the violation of such provisions, and to carry out the execution of these sentences. The State is not only bound with respecting the right to life of the child and with a negative obligation in the sense of prohibition of ending life, but it is also under a positive obligation to effectively protect the life of the child, to execute efficient and deterrent criminal sentences in case of violation of this right, and to carry out the criminal proceedings.

The institutions and persons that use the public power of the State shall not cause the death of a child, and primarily the State itself shall fulfill the obligation to not to kill. The negative obligation covers not only acts of intentional killing, but also acts of reckless killing. The prohibition of killing also covers the duty of abstaining from imperiling the life of a person. In the scope of the positive obligation, the State shall conduct the legal and administrative regulations that provide effective deterrence against killings. In addition, the rules concerning use of force by public officers shall be clearly defined and harmonized with ECHR standards. The professional competency of law enforcement officers in potential life-threatening cases and their other activities shall be supervised.

The presence of regulations protecting the right to live is not sufficient to deem that the State has fulfilled its positive obligation. The State is also required to have established an effective judicial system that implements the said regulations, punishes the violations and prevents and punishes the potential violations. The State shall effectively investigate the death cases that resulted from unnatural causes, especially from the actions of public officers. The procedural obligation of the State (obligation to conduct an effective investigation) is cumulative and it is not an obligation of outcome, but a behavioral obligation.

There shall not be a priority or hierarchy among the rights. As well as the right to life, the existence of all other rights and freedoms is also required for the child to enjoy a healthy and ideal childhood period. Every child has the right to be a child, to live and to develop. The ideal childhood is the circumstances in which the rights of the child under the Convention on the Rights of the Child are fully respected and implemented.



1.2. A Look at the Right to Live in a Healthy Environment

After the concept of human rights began to be identified in the historic process, it began to be discussed, to evolve and to diversify as the result of social, economic and political changes. Following the first generation "classical rights" that emerged and began to be discussed in 17th and 18th centuries and the second generation "social rights" that emerged in 19th and 20th centuries, the third-generation human rights, also known as "solidarity rights", came to the fore after World War Two. In this period, the human rights were no more seen merely as the domestic issues of states, but became an issue for the international community, and they were considered in the scope of supranational meaning, protection and guarantee mechanisms.

These rights are the right to a healthy environment, the right to peace, the right to development and the right to respect to the common heritage of mankind. The universal values constitute the subject of these rights, and they express the "solidarity" among all people, beyond national frontiers. Different from the first- and second-generation rights, the third-generation solidarity rights require all the members of the community to consolidate their efforts, and the active contribution of the public institutions, individuals, communities and the state.



The right to a healthy environment, which is one of the solidarity rights, is directly linked with the fundamental human right to life, and with the people's right to develop their physical and spiritual entity. Therefore, the physical, mental and social health of a person is directly proportional with living in a proper and balanced environment. The environmental problems consistently increase as the result of the technological advancements, wars, and the increasing urbanization. The restriction of living spaces by these ever-increasing problems required the regulation of the right to a healthy environment as a separate right in the historic process.

The development of the first- and second-generation rights contributed significantly to the acknowledgment of the demand to live in a healthy environment as a separate right. As "environment" stands for the habitat where all the rights can be exercised, the right to a healthy environment is a condition of existence and validity for all the rights and freedoms despite all these distinctions. This is because the rights can be exercised only in a livable environment.

Article 56 of the Constitution stipulates "Everyone has the right to live in a healthy and balanced environment. It is the duty of the State and citizens to improve the natural environment, to protect the environmental health and to prevent environmental pollution." This provision states that the right to life can be exercised only in a healthy and balanced environment. The wastes are a problem for the environment and the public health.

There is no reference to the concept of "environment" in the European Convention on Human Rights (ECHR) and in the additional protocols to the Convention. This can be explained with the teleological examination of the ECHR. As the result of this examination, it is obvious that the primary objective of this instrument, which was prepared within European Commission in the wake of the great destruction caused by World War Two, was to guarantee the physical and spiritual integrity and the freedom of people. Therefore, it is clear that the right to environment, or the right to live in a healthy environment, was ignored by those who drafted the Convention under the conditions of that period. The violation or negligence of the right to environment in situations of war or conflict is a problem that still prevails.

The war and conflict processes are among the circumstances that destroy the ecological balance the most and that extend the scope of the violation of the right to environment. The war is a human-made environment and public health problem that destroys the nature and humankind and threatens the social life and the environment.



1.3. A Look at the Right to Play

The right to play is a children's right, which is among the basic needs of the child such as nutrition, health, housing and education and which is guaranteed also by laws. Despite the perception on the contrary, playing is not a luxury, but one of the basic needs of every child. Just as every human being has the right to develop his/her physical and spiritual entity, every child also has the right to develop his/her physical and spiritual entity. Although the contents of the concept of play vary according to age, period or era; playing is an activity that enhances the skills and intelligence, that has specific rules, and is recreational.

Playing enables the child to develop his/her interpersonal intelligence, to link with his/her surroundings as a social being and individual, and to strengthen his/her self-expression skills. In addition, playing can be used as a useful method of therapy (play therapy) for protecting the mental health of the children and for treating the children in necessary cases. In this respect, one of the most important tools for the child to develop his/her physical and spiritual entity is playing.



Article 31 of the United Nations Convention on the Rights of the Child defines the children's right to play. Article 31 of the United Nations Convention on the Rights of the Child is as follows:

'Article 31:

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.'

With this article, it is undertaken that the children's right to play will be protected and improved in compliance with the policies, programs and services of the country. In this context, it is noted that the right to play is a basic right for the children.

As well as the role of the governments in providing playing opportunities for children and improving such opportunities, all the stakeholders that the children are in contact with, such as various public servants, urban planners, educators, employees of non-governmental organizations and local governments, have important roles. Playing is an indispensable element of the physical, social, cognitive and emotional development of the children and also a basic right of the children; however, many children around the world do not have the safe playgrounds and toys that will promote their development. Children's deprivation of the right to play may have serious consequences. Although playing is guaranteed and granted as a right to children by the law, various researches revealed that the children do not have sufficient access to play and to right to play.

According to the United Nations International Children's Emergency Fund (UNICEF), there are at least 41 million children around the world in need of humanitarian aid, who are forced to live under war, conflict, disaster and other extraordinary conditions. The issue of children's right to play is neglected in situations of conflicts and natural and humanitarian disasters, whereas the situations of natural and humanitarian disasters and existence of conflicts are the circumstances that the children feel the need to play the most.

While many humanitarian aid organizations make efforts to provide the basic needs such as housing and nutrition, they push the basic rights such as play and education, which should not be neglected, into the background. The share of the right to play in humanitarian aid funds is infinitesimal. Although the children are the most gravely affected by the situations of war, conflict and crisis, they do not get sufficient support to cope with such circumstances. International Play Association (IPA) is one of the institutions that advocate the children's right to play and it carries out activities for the children's right to play during the periods following crises and disasters. With the report published in 2013, IPA pointed out to the need to play of the children under difficult conditions in the General Comment of the United Nations Committee on the Rights of Child. The Comment states "Opportunities for play, recreation and cultural activity can play a significant therapeutic and rehabilitative role in helping children recover a sense of normality and joy after their experience of loss, dislocation and trauma."

As the conflict processes also restrict and destroy the playgrounds for children, it is nearly impossible for the children, who will continue to live in the same destroyed environment, to recover the sense of normality after the trauma created by the conflicts.

This section of the report investigates how the mines, war wastes and armored vehicles, which are the outcomes of war and conflict processes, systemically violate the children's rights to life, environment and play in situations of war and conflict and during the periods after the conflict processes.





VIOLATIONS OF RIGHTS OF THE

CHILD DUE TO ARMORED VEHICLES

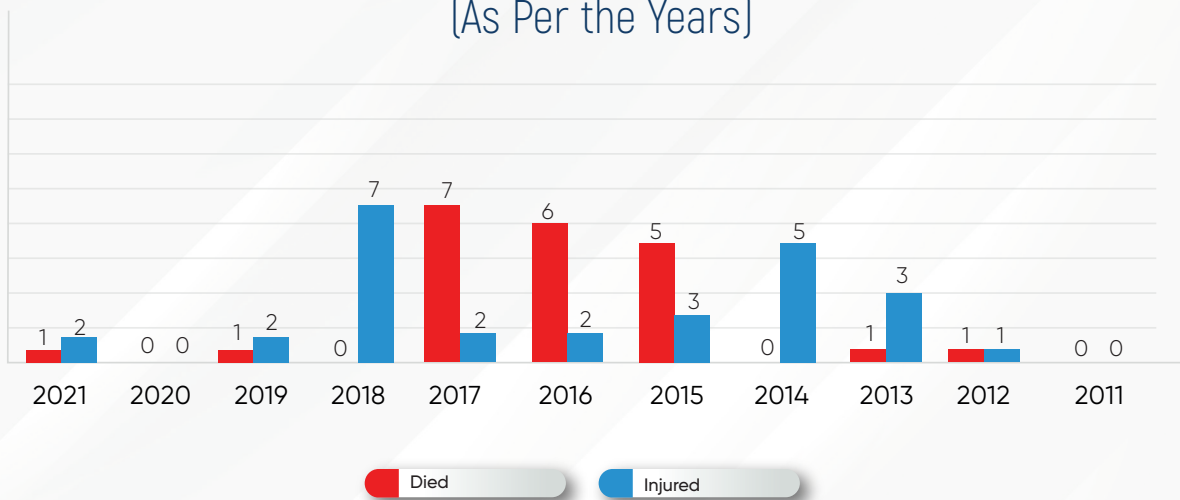


Violations of Rights of the Child Due to Armored Vehicles

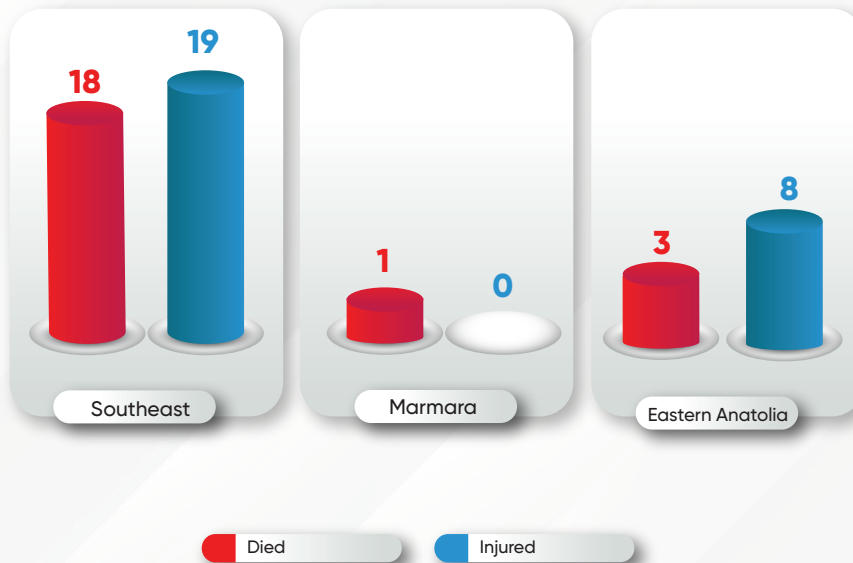
The number of the armored vehicles appearing in urban traffic, in alleys and in neighborhoods continuously increases as a result of the conflicts in cities and the State of Emergency processes, and these vehicles, which do not comply with the specified legal speed limits, restrict the living and playing areas for the children. As a result of this restriction, the presence of the armored vehicles inside cities violates the children's basic rights to play and to life. The children die or sustain permanent disability as the result of the hits by or fire from the armored vehicles stationed at the living and playing areas of the children. The armored vehicles' occupation of the already limited social life and playing areas of the children living in cities results in the children's inability to carry out even the most basic activities. Similarly, the armored vehicles in the cities increase the level of fear and anxiety of the children and separate them from their social life and playing areas, depriving the children of their right to play, which is necessary for a healthy development. Aside from being directly affected by armored vehicles, even merely witnessing these effects leads to traumatic results on the children.

The Regulations on Highway Traffic define the armored vehicles as "the motorized vehicles designed for the protection of the transported passengers and/or cargo and having SB code in compliance with the requirements of bulletproof armor plating". According to the Regulations on Highway Traffic, the speed limit of the armored vehicles in cities is 30 km/h. The armored vehicle is much bulkier than the regular vehicles with respect to its size and weight, its braking distance is much longer, and it has the necessary mechanisms for firing projectiles. Therefore, the use of armored vehicles in urban traffic, in alleys and in neighborhoods pose a danger in itself. According to Article 76 of the Regulations on Highway Traffic (Additional paragraph: Official Gazette 30164 dated 8/24/2017), the personnel authorized to drive the armored vehicles are selected from among the Security Services Class personnel appointed at the central and provincial organizations of the General Directorate of Security and from among the commissioned and non-commissioned officers, specialist gendarmes and specialist sergeants appointed at the central and provincial organizations of General Command Of Gendarme and Coast Guard Command, who possess at least Class B driver's license and who successfully complete the Armored Vehicle Driver Training organized by their units and qualify to get armored vehicle driver competence certificate, and they can drive the armored vehicles with this competence certificate.

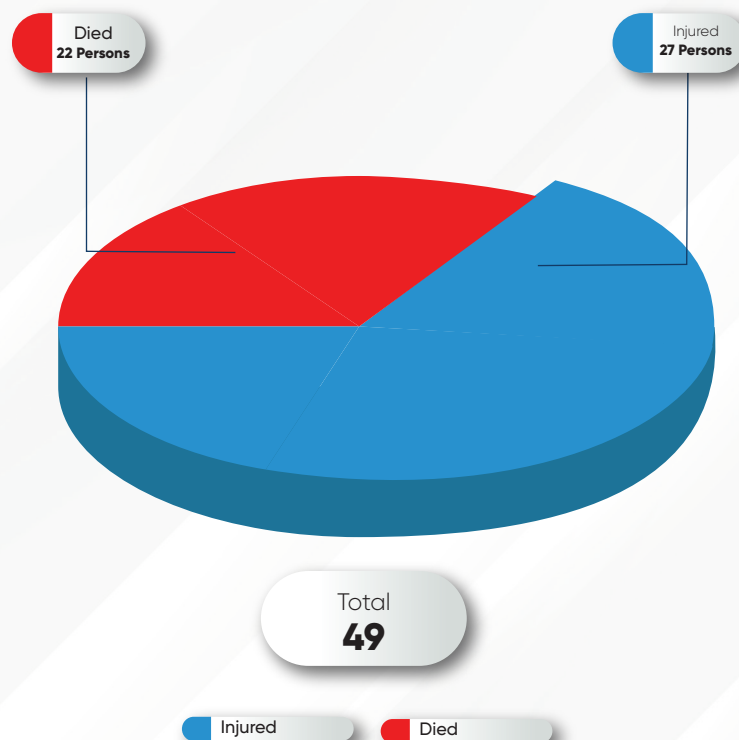
Rights Violations Due to Armored Vehicles (As Per the Years)



Rights Violations Due to Armored Vehicles (As Per the Regions)



Rights Violations Due to Armored Vehicles (Death/Injury)



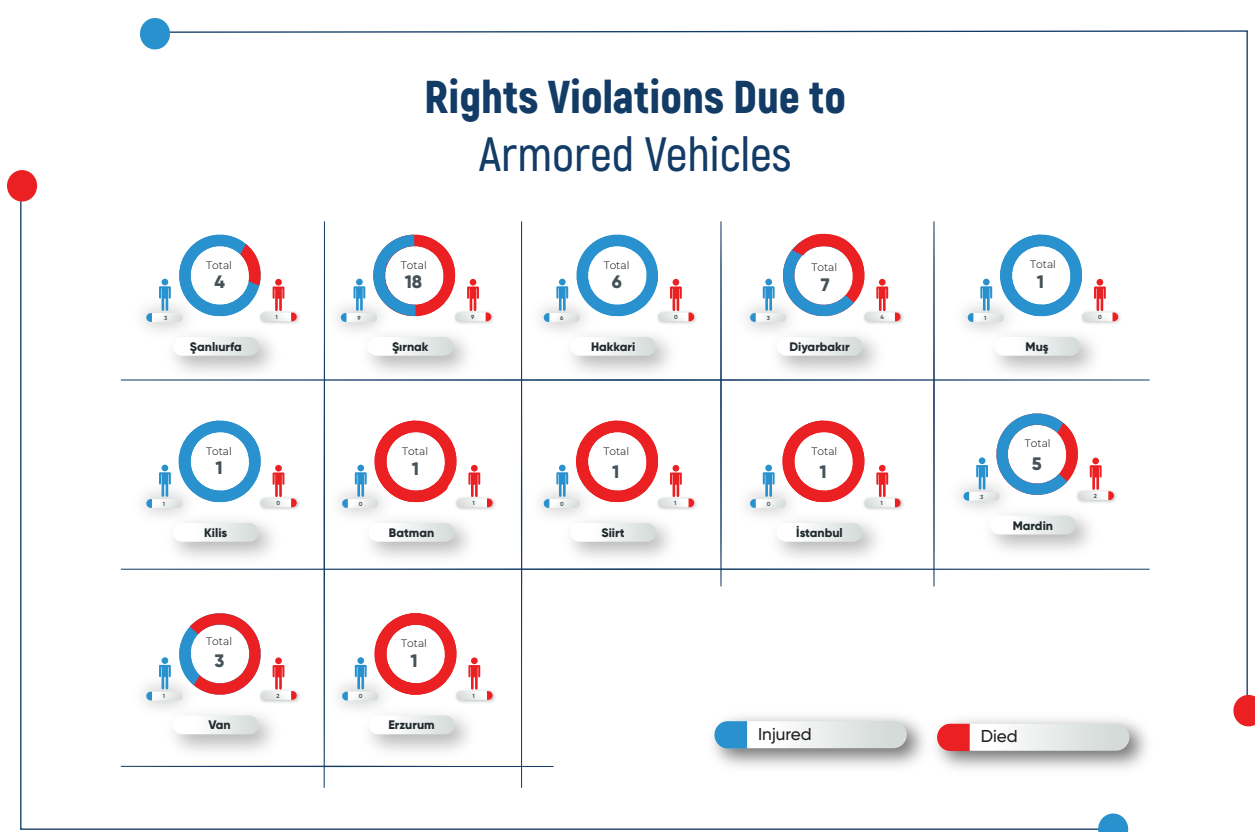
Rights Violations Due to Armored Vehicles

The map displays the following provinces and their corresponding violation levels (from highest to lowest):

- Hakkari** (Dark Red)
- Şırnak** (Dark Red)
- Mardin** (Dark Red)
- Diyarbakır** (Dark Red)
- Van** (Dark Red)
- Bitlis** (Dark Red)
- Batman** (Dark Red)
- Şanlıurfa** (Dark Red)
- Kilis** (Dark Red)
- Erzurum** (Dark Red)
- Muş** (Dark Red)
- Bingöl** (Dark Red)
- Elazığ** (Dark Red)
- Tunceli** (Dark Red)
- Erzincan** (Dark Red)
- Gümüşhane** (Dark Red)
- Bayburt** (Dark Red)
- Rize** (Dark Red)
- Artvin** (Dark Red)
- Ardahan** (Dark Red)
- Iğdır** (Dark Red)
- Ağrı** (Dark Red)
- Kars** (Dark Red)
- Kozluk** (Dark Red)
- Yozgat** (Dark Red)
- Kırşehir** (Dark Red)
- Yozgat** (Dark Red)
- Kırıkkale** (Dark Red)
- Neveşehir** (Dark Red)
- Kayseri** (Dark Red)
- Niğde** (Dark Red)
- Adana** (Dark Red)
- Osmaniye** (Dark Red)
- Gaziantep** (Dark Red)
- Hatay** (Dark Red)
- Mersin** (Dark Red)
- Karaman** (Dark Red)
- Konya** (Dark Red)
- Isparta** (Dark Red)
- Burdur** (Dark Red)
- Denizli** (Dark Red)
- Muğla** (Dark Red)
- Aydın** (Dark Red)
- İzmir** (Dark Red)
- Manisa** (Dark Red)
- Uşak** (Dark Red)
- Afyon** (Dark Red)
- Kütahya** (Dark Red)
- Bilecik** (Dark Red)
- Bursa** (Dark Red)
- Balıkesir** (Dark Red)
- Çanakkale** (Dark Red)
- Eskişehir** (Dark Red)
- Ankara** (Dark Red)
- Çorum** (Dark Red)
- Amasya** (Dark Red)
- Tokat** (Dark Red)
- Samsun** (Dark Red)
- Sinop** (Dark Red)
- Kastamonu** (Dark Red)
- Zonguldak** (Dark Red)
- Bartın** (Dark Red)
- Karabük** (Dark Red)
- Düzce** (Dark Red)
- Bolu** (Dark Red)
- Sakarya** (Dark Red)
- Kocaeli** (Dark Red)
- Yalova** (Dark Red)
- Tekirdağ** (Dark Red)
- Kırklareli** (Dark Red)

Death / Injury Color Scale

Legend: Highest (Dark Red) to Lowest (Light Pink)





Died Due to Armored Vehicles

	Name-Surname	Age	Sex	City	District	Open Date	Dead-Injured	Year	Region
1	MİHRAÇ MİROĞLU	7	M	Şırnak	İdil	03.09.2021	DIED	2021	Southeast
2	EFE TEKTEKİN	6	M	Diyarbakır	Bağlar	11.09.2019	DIED	2019	Southeast
3	FERHAT DALKILIÇ	5	M	Diyarbakır	Centrum	29.12.2017	DIED	2017	Southeast
4	BURAK İLHAN	5	M	Batman	Centrum	06.11.2017	DIED	2017	Southeast
5	FELEK BATUR	7	F	Siirt	Centrum	21.10.2017	DIED	2017	Southeast
6	RAŞİT OSO	9	M	İstanbul	Şişli	01.08.2017	DIED	2017	Marmara
7	MUHAMMED YILDIRIM	7	M	Şırnak	Silopi	03.05.2017	DIED	2017	Southeast
8	FURKAN YILDIRIM	6	M	Şırnak	Silopi	03.05.2017	DIED	2017	Southeast
9	BERFİN DİLEK	7	F	Mardin	Derik	09.02.2017	DIED	2017	Southeast
10	HAKAN SARAK	5	M	Şırnak	Cizre	24.10.2016	DIED	2016	Southeast
11	MUSTAFA DUMAN	17	M	Van	İpekyolu	30.08.2016	DIED	2016	Eastern Anatolia
12	TAHA KILIÇ	4	M	Van	İpekyolu	24.07.2016	DIED	2016	Eastern Anatolia
13	BÜNYAMİN BAYRAM	6	M	Şırnak	Cizre	07.06.2016	DIED	2016	Southeast
14	HÜSEYİN BARUT	8	M	Diyarbakır	Bismil	24.04.2016	DIED	2016	Southeast
15	NİDAR SÜMER	17	F	Şırnak	Cizre	07.01.2016	DIED	2016	Southeast
16	HAKAN DOĞAN	15	M	Mardin	Nusaybin	08.12.2015	DIED	2015	Southeast
17	FERHAT KARTAL	15	M	Şırnak	Silopi	08.12.2015	DIED	2015	Southeast
18	HELİN HASRET ŞEN	12	F	Diyarbakır	Sur	12.10.2015	DIED	2015	Southeast
19	CEMİLE ÇAĞIRGA	13	F	Şırnak	Cizre	06.09.2015	DIED	2015	Southeast
20	ÜMİT KURT	14	M	Şırnak	Cizre	06.01.2015	DIED	2015	Southeast
21	HASAN BAKDUR	16	M	Şanlıurfa	Akçakale	12.11.2013	DIED	2013	Southeast
22	YUSUF YILAN	9	M	Erzurum	Karayazı	13.06.2012	DIED	2012	Eastern Anatolia

FEMALE: F MALE: M UNIDENTIFIED: U



Injured Due to Armored Vehicles

	Name-Surname	Age	Sex	City	District	Open Date	Dead-Injured	Year	Region
1	N.D	5	F	Şanlıurfa	Viranşehir	20.10.2021	INJURED	2021	Southeast
2	N.Ş.A	12	M	Hakkari	Yüksekova	01.04.2021	INJURED	2021	Eastern Anatolia
3	H.Ö	7	M	Şırnak	Silopi	09.10.2019	INJURED	2019	Southeast
4	R.E	9	F	Şırnak	Silopi	12.03.2019	INJURED	2019	Southeast
5	Z.Ü	CHILD	U	Şırnak	İdil	15.09.2018	INJURED	2018	Southeast
6	B.Ü	CHILD	U	Şırnak	İdil	15.09.2018	INJURED	2018	Southeast
7	Y.Ü	CHILD	U	Şırnak	İdil	15.09.2018	INJURED	2018	Southeast
8	V.T	10	M	Muş	Centrum	24.05.2018	INJURED	2018	Eastern Anatolia
9	H.İ.K	14	M	Kilis	Centrum	21.05.2018	INJURED	2018	Southeast
10	S.K	4	M	Şırnak	Silopi	07.04.2018	INJURED	2018	Southeast
11	S.A	10	U	Şırnak	Cizre	25.01.2018	INJURED	2018	Southeast

NO	NAME Name-Surname	Age	Sex	City	District	Open Date	Dead-Injured	Year	Region
12	R.C	8	F	Şırnak	Cizre	22.11.2017	INJURED	2017	Southeast
13	M.Ş. B	17	M	Mardin	Nusaybin	09.06.2017	INJURED	2017	Southeast
14	NO NAME	CHILD	U	Hakkari	Centrum	04.05.2016	INJURED	2016	Eastern Anatolia
15	S.A	10	F	Mardin	Nusaybin	19.02.2016	INJURED	2016	Southeast
16	K.O	15	M	Hakkari	Yüksekova	23.05.2015	INJURED	2015	Eastern Anatolia
17	NO NAME	CHILD	U	Hakkari	Centrum	04.05.2015	INJURED	2016	Eastern Anatolia
18	S.D	CHILD	F	Mardin	Nusaybin	09.01.2015	INJURED	2015	Southeast
19	E.K	7	M	Diyarbakır	Centrum	02.09.2014	INJURED	2014	Southeast
20	A.O	12	U	Van	Centrum	08.04.2014	INJURED	2014	Eastern Anatolia
21	NO NAME	CHILD	U	Şanlıurfa	Centrum	2014	INJURED	2014	Southeast
22	NO NAME	CHILD	U	Şırnak	Cizre	2014	INJURED	2014	Southeast
23	FT	5	U	Şanlıurfa	Suruç	2014	INJURED	2014	Southeast
24	M.K.B	16	U	Diyarbakır	Centrum	23.10.2013	INJURED	2013	Southeast
25	A.Ö	4	U	Diyarbakır	Centrum	13.05.2013	INJURED	2013	Southeast
26	M.B	17	F	Hakkari	Yüksekova	25.02.2013	INJURED	2013	Eastern Anatolia
27	M.İ	8	M	Hakkari	Centrum	23.08.2012	INJURED	2012	Eastern Anatolia

FEMALE: F MALE: M UNIDENTIFIED: U

The cases in which the children died or were injured due to hits by or fire from armored vehicles have been observed in Turkey for a long time, and the number of these children has increased especially after 2015 due to the armed conflicts at urban centers, and the State of Emergency process and the state policies that prioritize security. As shown in Graphic 5, the number of deaths and injuries increased dramatically between 2016 and 2018. During the 11 years' period investigated in the report, the number of cases of death and injury caused by armored vehicles is at least 49. 52% of these incidents happened between 2016 and 2018, during which the security-oriented policies of the state increased.

Considering the East and Southeast Anatolia Regions, where the number of children who died or were injured due to hits by or fire from armored vehicles was high, the armored vehicles, which are traumatic vehicles and which should not be stationed in cities due to the narrowness of the alleys and the unsuitability of the urban structures, are driven by the security forces as urban vehicles.

As stipulated by the Regulations, the driver is required to possess a competency certificate to drive the armored vehicles, and these vehicles are required to be controlled periodically by technicians. However, in East and Southeast Anatolia Regions where the number of violations due to the activities of armored vehicles is high, it is well-known that some of the members of security forces who drive these vehicles do not possess competency certificates, and that the necessary controls are not carried out on the vehicles. Accordingly, as the result of vehicle malfunctions and incompetence of the drivers, children die or are injured due to hits by or fire from armored vehicles.

While enjoying their right to play, which is one of their basic needs and rights, the children are affected by the armored vehicles that move in the cities in an unrestricted manner. These effects violate the children's right to play and right to live in a healthy environment, the children are injured, or they live with the psychological traumas that the armored vehicles create

**VIOLATIONS OF RIGHTS OF THE CHILD
DUE TO MINES AND CONFLICT-WAR WASTES**



Rights Violations Due to Mines and Conflict-War Wastes

The mined terrains and the other areas with conflict-war wastes are one of the greatest barriers for the children's rights to live, develop and play in a healthy environment. During the "play" activities required for the healthy development of the children, the children's right to live is violated due to the mines and conflict-war wastes, or the children are permanently disabled. The rights to a healthy environment, to develop and to life are state's both positive and negative obligations with respect to the children.

Since the living areas of the children at rural regions are generally intertwined with the mined terrains and since these terrains are not cleared of mines, it is evident that these rights are violated by the hand of the states.

Against the growing problem of mines around the world, the Ottawa Convention on the prohibition of the use, stockpiling, production and transfer of anti-personnel mines and on their destruction was entered into force on March 1, 1999. The Convention was ratified by 131 countries and signed by 146 countries. Turkey became a party to the Convention in 2003 and a signatory in 2004, and pursuant to the Convention, undertook to clear the mines on its territory until 2014 and to provide support for the victims. However, Turkey could not complete the destruction of the mines until 2014 and demanded additional time, postponing the deadline for the destruction of the mines to March 2022. However, at this stage, the clearing of the mines is not yet complete despite additional time granted, and the public opinion is not informed whether there is any activity carried out for this purpose.

The clearing at the border regions for the purposes of changes in border security was carried out in the scope of the EU-supported project activities, or in the scope of the Law No. 5903 on The Tender and Mine Clearance Activities along the Land Borders between the Republic of Turkey and Syrian Arab Republic. The mine destruction process, which had to be carried out with a human rights-based perspective, was reduced to a scope of "tender activity" or "project", and the clearing activity was not completed even in this scope.

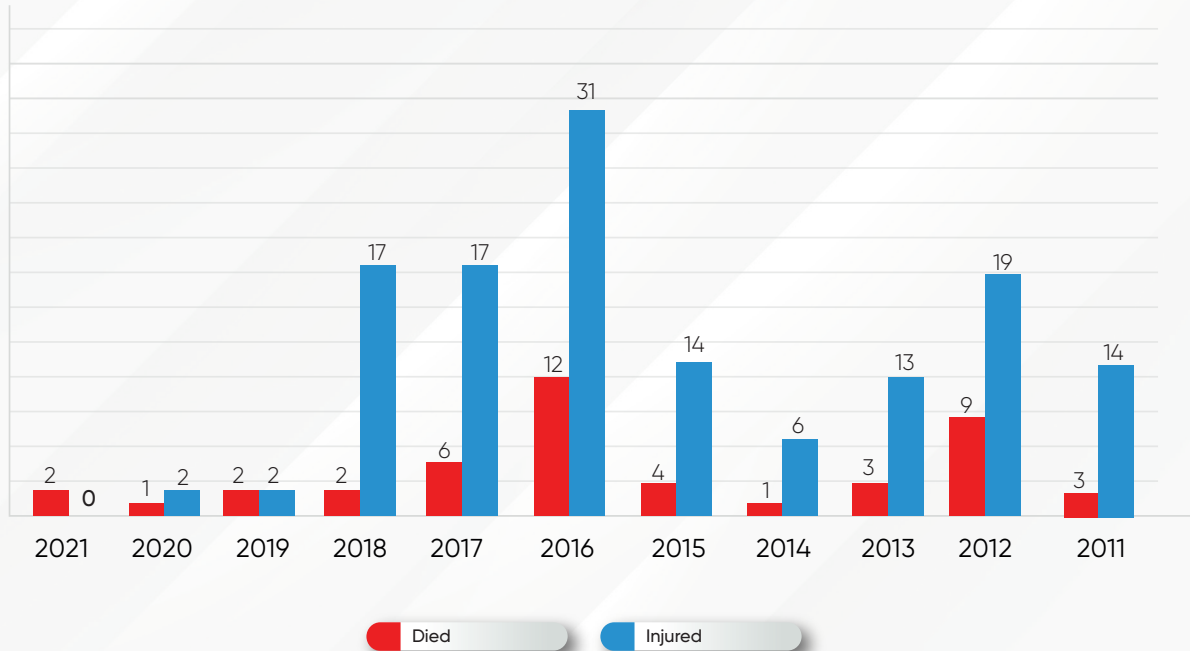
According to the data in the report presented by Landmine Monitor in 2018, Turkey is one of the 10 counties with more than 100 km² mined terrain within its borders, and the other countries are Afghanistan, Iraq and Yemen. According to the latest data, there are at least about 900 thousand buried mines within the borders of Turkey. Along with the buried mines, the conflict-war wastes within the borders of Turkey pose a danger for the children. There are children who died, were injured or lost their limbs because of the conflict-war wastes, which are scattered around the houses, schools and playgrounds, shortly in the living areas of the children, and which are unidentified objects for the children. The reason for contacting with such conflict-war wastes is generally the sense of curiosity, and the idea that they are suitable for play.

As shown in Graphic 1, the significant increases in cases of death and injuries between 2015 and 2018 during and after the State of Emergency period reveal that the children are the group most affected by the periods of war and conflicts.

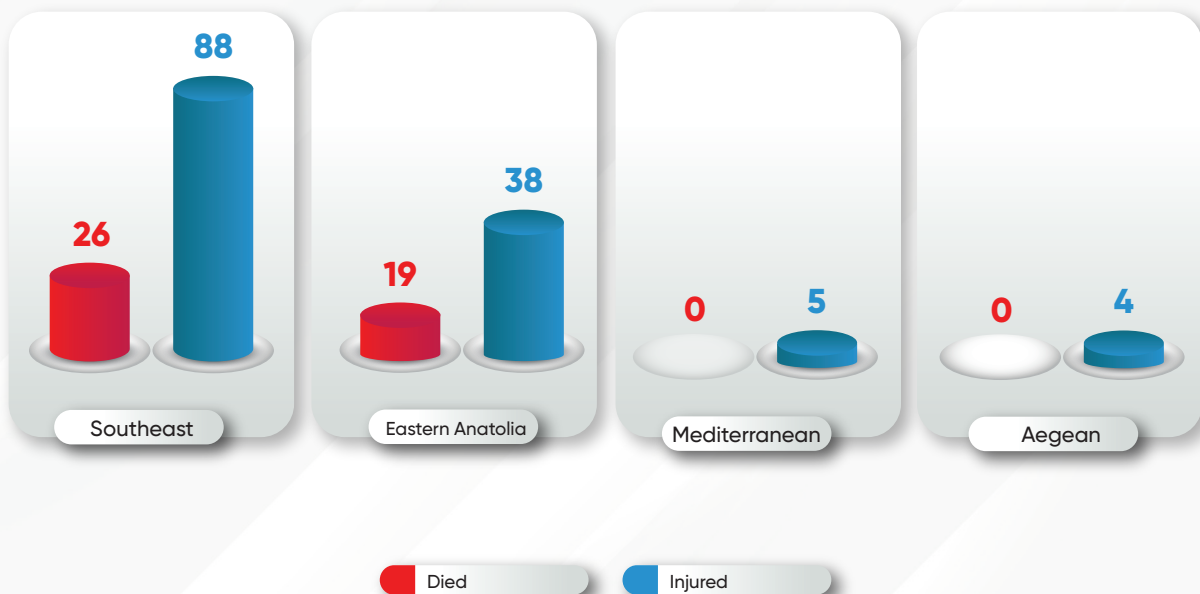
In Turkey, where there are at least about 900 thousand buried mines within its borders and conflict-war wastes in the living areas of children, the state does not comply with its positive and negative obligations. In the scope of its positive obligation, the state is required to mark the mined terrains, close the mined terrains to the passage of the civilians, and provide informative training for the children on the issue at the schools especially at rural areas, where the risk of mines is high.



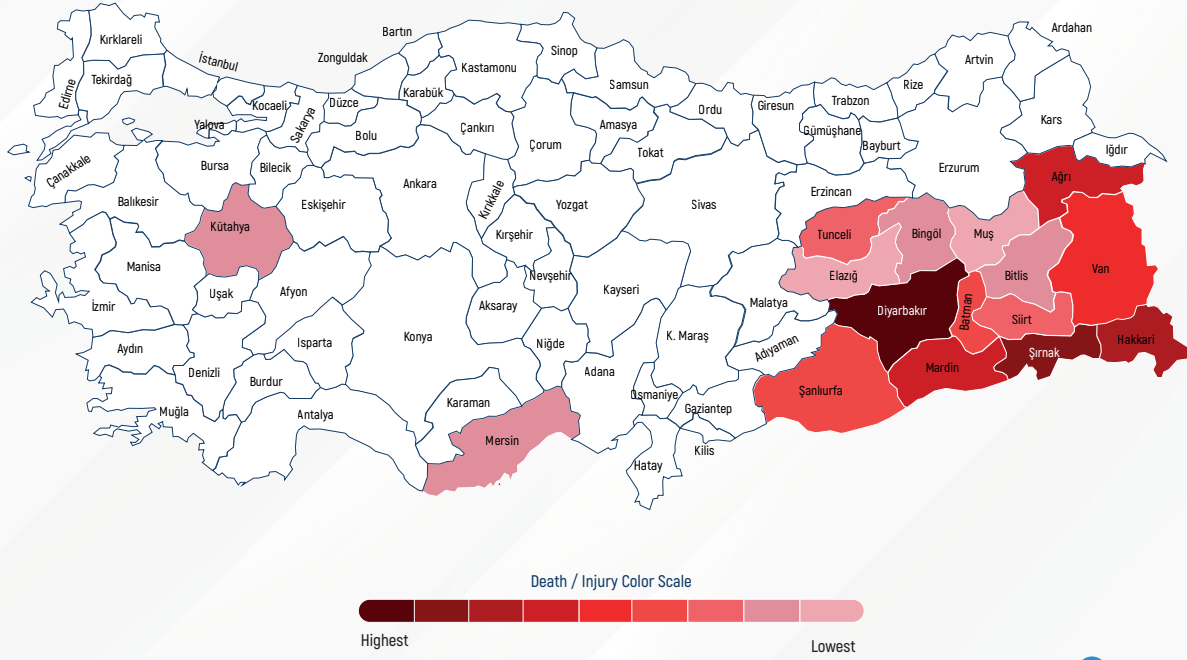
Rights Violations Due to Mines and Conflict-War Wastes (As Per the Years)



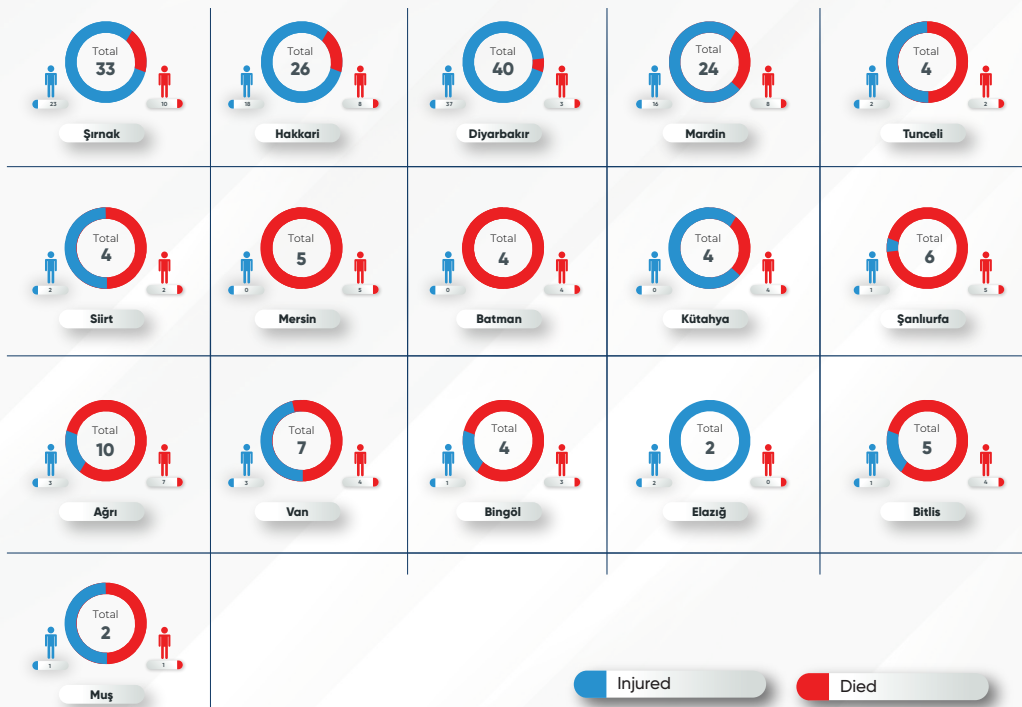
Rights Violations Due to Mines and Conflict-War Wastes (Death / Injury)



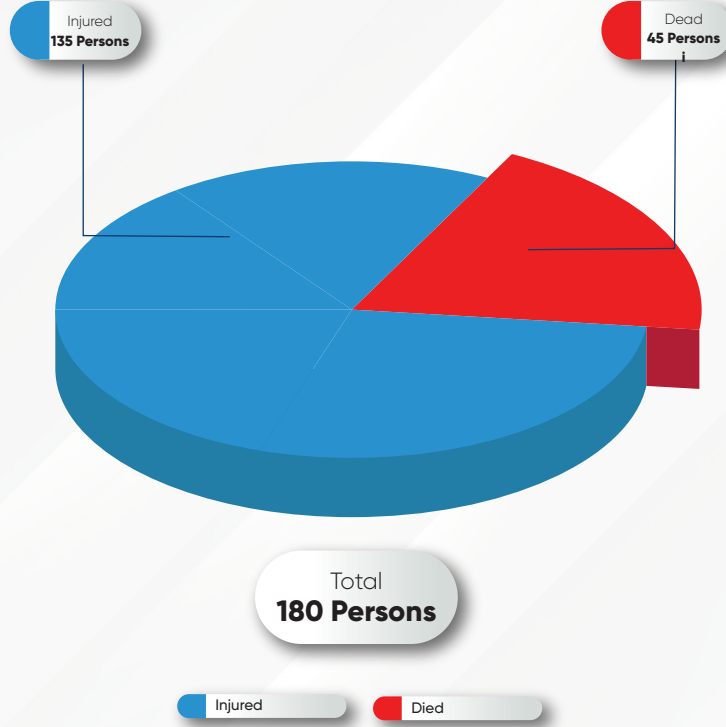
Rights Violations Due to Mines and Conflict-War Wastes (Death/Injury Map)



Rights Violations Due to Mines and Conflict-War Wastes (Death / Injury)



Rights Violations Due to Mines and Conflict-War Wastes (Death/Injury)



Deaths Due to Mines and Conflict-War Wastes

	Name-Surname	Age	Sex	City	District	Open Date	Dead-Injured	Year	Region
1	YUSUF ATA	14	M	Şırnak	Uludere	21.03.2021	DIED	2021	Southeast
2	CANER SAK	16	M	Şırnak	Uludere	21.03.2021	DIED	2021	Southeast
3	Yusuf YILDIRAK	11	M	Diyarbakır	Lice	31.03.2020	DIED	2020	Southeast
4	AYAZ GÜLÜOĞLU	8	M	Tunceli	Ovacık	15.07.2019	DIED	2019	Eastern Anatolia
5	NUPELDA GÜLÜOĞLU	4	F	Tunceli	Ovacık	15.07.2019	DIED	2019	Eastern Anatolia
6	HOGİR KAYRAN	11	M	Mardin	Nusaybin	12.05.2018	DIED	2018	Southeast
7	BERAT OKTAY	10	M	Hakkari	Yüksekova	10.03.2018	DIED	2018	Eastern Anatolia
8	UMUT KOZAY	5	M	Hakkari	Yüksekova	30.09.2017	DIED	2017	Eastern Anatolia
9	MUHAMMED AÇIKÇA	12	M	Siirt	Şirvan	08.04.2017	DIED	2017	Southeast
10	KADİR AÇIKÇA	9	M	Siirt	Şirvan	08.04.2017	DIED	2017	Southeast
11	HAVİN GÜNEŞ	2	F	Mardin	Nusaybin	30.03.2017	DIED	2017	Southeast
12	FATİH GÜNEŞ	5	M	Mardin	Nusaybin	30.03.2017	DIED	2017	Southeast
13	SIDIKA TOPRAK	5	F	Hakkari	Şemdinli	09.01.2017	DIED	2017	Eastern Anatolia

	Name-Surname	Age	Sex	City	District	Open Date	Dead-Injured	Year	Region
14	NO NAME	Child	U	Şırnak	Centrum	05.11.2016	DIED	2016	Southeast
15	NO NAME	Child	U	Şırnak	Centrum	05.11.2016	DIED	2016	Southeast
16	KADRİ BARAK	14	M	Mardin	Nusaybin	18.10.2016	DIED	2016	Southeast
17	UMUT AYVALIK	10	M	Hakkari	Yüksekova	11.10.2016	DIED	2016	Eastern Anatolia
18	FEHİME KORKMAZ	12	F	Mardin	Nusaybin	23.08.2016	DIED	2016	Southeast
19	FETTAH ERDEM	15	M	Ağrı	Diyadin	09.07.2016	DIED	2016	Eastern Anatolia
20	ERKAN ÖLMEZ	17	M	Hakkari	Çukurca	27.06.2016	DIED	2016	Eastern Anatolia
21	ENES ERDEM	10	M	Şırnak	Silopi	15.05.2016	DIED	2016	Southeast
22	MÜSLÜM İLHAN	8	M	Şırnak	İdil	07.05.2016	DIED	2016	Southeast
23	HİDAYET TEK	4	M	Şırnak	İdil	13.04.2016	DIED	2016	Southeast
24	HARUN ÇAĞLI	4	M	Şırnak	Cizre	31.03.2016	DIED	2016	Southeast
25	AYŞENUR GEÇİT	6	F	Şırnak	Cizre	31.03.2016	DIED	2016	Southeast
26	HASAN YILMAZ	9	M	Diyarbakır	Silvan	08.10.2015	DIED	2015	Southeast
27	Tahsin Uray	9	M	Mardin	Kızıltepe	12.09.2015	DIED	2015	Southeast
28	ENSAR YILDIRIM	9	M	Elazığ	Palu	13.06.2015	DIED	2015	Southeast
29	ECRİN YILDIRIM	3	F	Elazığ	Palu	13.06.2015	DIED	2015	Southeast
30	MAZHAR MAHMUD	7	M	Şanlıurfa	Suruç	24.09.2014	DIED	2014	Southeast
31	BEHZAT ÖZER	14	M	Hakkari	Şemdinli	29.10.2013	DIED	2013	Eastern Anatolia
32	MUĞDAT ÇAVMAK	14	M	Hakkari	Yüksekova	24.05.2013	DIED	2013	Eastern Anatolia
33	RAMAZAN YILDIZ	11	M	Şırnak	Güçlükonak	10.04.2013	DIED	2013	Southeast
34	SAMİ AKTİ	13	M	Van	Çaldıran	27.09.2012	DIED	2012	Eastern Anatolia
35	SELAMİ AKTİ	9	M	Van	Çaldıran	27.09.2012	DIED	2012	Eastern Anatolia
36	RAMAZAN KIZILGÖZ	14	M	Bingöl	Yayladere	12.09.2012	DIED	2012	Eastern Anatolia
37	SERAY YAVUZ	8	F	Muş	Kızılağaç	06.09.2012	DIED	2012	Eastern Anatolia
38	NO NAME	Child	U	Mardin	Kızıltepe	30.08.2012	DIED	2012	Southeast
39	NO NAME	Child	U	Mardin	Kızıltepe	30.08.2012	DIED	2012	Southeast
40	ERTAN DİLAVER	14	M	Ağrı	Doğubayazıt	12.07.2012	DIED	2012	Eastern Anatolia
41	ŞABAN ARSLAN	12	M	Hakkari	Çukurca	21.06.2012	DIED	2012	Eastern Anatolia
42	ŞÜKRÜ ERDOĞAN	13	M	Bitlis	Hizan	04.04.2012	DIED	2012	Eastern Anatolia
43	UMUT PETEKKAYA	15	M	Diyarbakır	Çermik	07.06.2011	DIED	2011	Southeast
44	MURAT POLAT	17	M	Van	Erciş	05.05.2011	DIED	2011	Eastern Anatolia
45	BARAN ÖZYOLCU	8	M	Ağrı	Patnos	16.04.2011	DIED	2011	Eastern Anatolia

FEMALE: **F** MALE: **M** UNIDENTIFIED: **U**



Injuries Due to Mines and Conflict-War Wastes

	Name-Surname	Age	Sex	City	District	Open Date	Dead-Injured	Year	Region
1	Y.A	12	M	Hakkari	Yüksekova	26.08.2020	INJURED	2020	Southeast
2	Ö.I	15	M	Şırnak	İdil	04.08.2020	INJURED	2020	Southeast
3	A.S	14	M	Mardin	Kızıltepe	03.09.2019	INJURED	2019	Southeast
4	İ.K	13	M	Siirt	Eruh	05.07.2019	INJURED	2019	Southeast
5	H.D	Child	U	Mersin	Erdemli	22.12.2018	INJURED	2018	Mediterranean
6	Y.D	Child	U	Mersin	Erdemli	22.12.2018	INJURED	2018	Mediterranean
7	C.D	Child	U	Mersin	Erdemli	22.12.2018	INJURED	2018	Mediterranean
8	S.T	Child	U	Mersin	Erdemli	22.12.2018	INJURED	2018	Mediterranean
9	M.R	Child	U	Mersin	Erdemli	22.12.2018	INJURED	2018	Mediterranean
10	H.D	12	U	Batman	Centrum	14.08.2018	INJURED	2018	Southeast
11	E.D	11	U	Batman	Centrum	14.08.2018	INJURED	2018	Southeast
12	M.D	6	U	Batman	Centrum	14.08.2018	INJURED	2018	Southeast
13	S.D	5	U	Batman	Centrum	14.08.2018	INJURED	2018	Southeast
14	E.N	16	M	Kütahya	Tavşanlı	16.07.2018	INJURED	2018	Aegean
15	Ö.FD	16	M	Kütahya	Tavşanlı	16.07.2018	INJURED	2018	Aegean
16	H.Y	13	M	Kütahya	Tavşanlı	16.07.2018	INJURED	2018	Aegean
17	H.G	9	M	Kütahya	Tavşanlı	16.07.2018	INJURED	2018	Aegean
18	E.B	12	F	Şanlıurfa	Akçakale	04.07.2018	INJURED	2018	Southeast
19	A.B	15	M	Şanlıurfa	Akçakale	04.07.2018	INJURED	2018	Southeast
20	NO NAME	Child	U	Diyarbakır	Sur	19.02.2018	INJURED	2018	Southeast
21	NO NAME	Child	U	Diyarbakır	Sur	19.02.2018	INJURED	2018	Southeast
22	N.Y	Child	U	Mardin	Nusaybin	04.11.2017	INJURED	2017	Southeast
23	Y.Y	Child	U	Mardin	Nusaybin	04.11.2017	INJURED	2017	Southeast
24	Ö.Y	Child	U	Mardin	Nusaybin	04.11.2017	INJURED	2017	Southeast
25	E.K	Child	U	Hakkari	Yüksekova	30.09.2017	INJURED	2017	Eastern Anatolia
26	K.A	9	U	Şırnak	Cizre	19.07.2017	INJURED	2017	Southeast
27	E.Ç	10	U	Hakkari	Yüksekova	01.07.2017	INJURED	2017	Eastern Anatolia
28	E.B	10	U	Hakkari	Yüksekova	01.07.2017	INJURED	2017	Eastern Anatolia
29	R.K	Child	U	Tunceli	Pertek	25.04.2017	INJURED	2017	Eastern Anatolia
30	T.K	Child	U	Tunceli	Pertek	25.04.2017	INJURED	2017	Eastern Anatolia
31	E.B	10	U	Şırnak	Şırnak	20.04.2017	INJURED	2017	Southeast
32	M.B	11	U	Şırnak	Şırnak	20.04.2017	INJURED	2017	Southeast
33	H.A	12	U	Şırnak	Şırnak	20.04.2017	INJURED	2017	Southeast
34	C.K	11	U	Şırnak	Şırnak	20.04.2017	INJURED	2017	Southeast
35	Y.M	12	U	Mardin	Nusaybin	25.01.2017	INJURED	2017	Southeast
36	M.M	6	U	Mardin	Nusaybin	25.01.2017	INJURED	2017	Southeast
37	E.B	Child	U	Şırnak	Şırnak	22.01.2017	INJURED	2017	Southeast
38	V.B	Child	U	Şırnak	Şırnak	22.01.2017	INJURED	2017	Southeast
39	M.A	12	M	Mardin	Dargeçit	30.12.2016	INJURED	2016	Southeast
40	A.Ş	8	U	Diyarbakır	Silvan	06.12.2016	INJURED	2016	Southeast
41	M.İ	13	U	Diyarbakır	Sur	04.12.2016	INJURED	2016	Southeast
42	Ş.A	11	U	Diyarbakır	Sur	04.12.2016	INJURED	2016	Southeast
43	NO NAME	Child	U	Şırnak	Centrum	05.11.2016	INJURED	2016	Southeast

	Name-Surname	Age	Sex	City	District	Open Date	Dead-Injured	Year	Region
44	NO NAME	Child	U	Şırnak	Centrum	05.11.2016	INJURED	2016	Southeast
45	NO NAME	Child	U	Şırnak	Centrum	05.11.2016	INJURED	2016	Southeast
46	NO NAME	Child	U	Şırnak	Centrum	05.11.2016	INJURED	2016	Southeast
47	H.A	8	M	Hakkari	Yüksekova	11.10.2016	INJURED	2016	Eastern Anatolia
48	H.A	10	F	Hakkari	Yüksekova	11.10.2016	INJURED	2016	Eastern Anatolia
49	D.K	13	U	Mardin	Nusaybin	23.08.2016	INJURED	2016	Southeast
50	E.K		U	Mardin	Nusaybin	23.08.2016	INJURED	2016	Southeast
51	Y.T	11	M	Mardin	Nusaybin	16.08.2016	INJURED	2016	Southeast
52	A.D	7	M	Mardin	Nusaybin	16.08.2016	INJURED	2016	Southeast
53	E.Ç	10	M	Mardin	Nusaybin	16.08.2016	INJURED	2016	Southeast
54	B.D	11	M	Mardin	Nusaybin	16.08.2016	INJURED	2016	Southeast
55	S.Ç	16	M	Ağrı	Diyadin	09.07.2016	INJURED	2016	Eastern Anatolia
56	R.Ö	4	U	Diyarbakır	Lice	06.07.2016	INJURED	2016	Southeast
57	A.Ö	9	U	Diyarbakır	Lice	06.07.2016	INJURED	2016	Southeast
58	Y.Ö	13	U	Diyarbakır	Lice	06.07.2016	INJURED	2016	Southeast
59	S.Y	14	M	Hakkari	Çukurca	27.06.2016	INJURED	2016	Eastern Anatolia
60	X.X	15	U	Hakkari	Yüksekova	16.06.2016	INJURED	2016	Eastern Anatolia
61	R.D	10	M	Diyarbakır	Yenişehir	19.05.2016	INJURED	2016	Southeast
62	S.E	8	M	Şırnak	Silopi	15.05.2016	INJURED	2016	Southeast
63	K.K	2	M	Şırnak	Silopi	15.05.2016	INJURED	2016	Southeast
64	D.Ü	Child	M	Şırnak	Silopi	15.05.2016	INJURED	2016	Southeast
65	A.A	5	U	Şırnak	Cizre	12.05.2016	INJURED	2016	Southeast
66	S.A	16	U	Van	Çaldıran	07.05.2016	INJURED	2016	Eastern Anatolia
67	S.A	15	U	Van	Çaldıran	07.05.2016	INJURED	2016	Eastern Anatolia
68	C.K	5	U	Diyarbakır	Bağlar	15.02.2016	INJURED	2016	Southeast
69	M.D	7	U	Diyarbakır	Bağlar	15.02.2016	INJURED	2016	Southeast
70	M.F	11	F	Hakkari	Şemdinli	08.11.2015	INJURED	2015	Eastern Anatolia
71	S.F	11	M	Hakkari	Şemdinli	08.11.2015	INJURED	2015	Eastern Anatolia
72	S.M	14	M	Bingöl	Centrum	20.10.2015	INJURED	2015	Eastern Anatolia
73	H.M	15	M	Bingöl	Centrum	20.10.2015	INJURED	2015	Eastern Anatolia
74	Ü.Y	Child	M	Diyarbakır	Silvan	08.10.2015	INJURED	2015	Southeast
75	M.Y	Child	M	Diyarbakır	Silvan	08.10.2015	INJURED	2015	Southeast
76	N.Y	Child	M	Diyarbakır	Silvan	08.10.2015	INJURED	2015	Southeast
77	M.A.T	Child	U	Diyarbakır	Sur	28.09.2015	INJURED	2015	Southeast
78	Y.T	Child	U	Diyarbakır	Sur	28.09.2015	INJURED	2015	Southeast
79	S.K	Child	U	Diyarbakır	Sur	28.09.2015	INJURED	2015	Southeast
80	A.K	Child	U	Diyarbakır	Sur	28.09.2015	INJURED	2015	Southeast
81	Ş.S	Child	U	Diyarbakır	Sur	28.09.2015	INJURED	2015	Southeast
82	R. Ş	9	M	Mardin	Kızıltepe	12.09.2015	INJURED	2015	Southeast
83	Y.Ş	13	U	Şırnak	Cizre	12.09.2015	INJURED	2015	Southeast
84	M.Ş	17	M	Şanlıurfa	Suruç	27.09.2014	INJURED	2014	Southeast
85	M.S	7	U	Hakkari	Şemdinli	01.07.2014	INJURED	2014	Eastern Anatolia
86	C.Ş	5	M	Şanlıurfa	Centrum	28.04.2014	INJURED	2014	Southeast
87	M.K	9	M	Şanlıurfa	Centrum	28.04.2014	INJURED	2014	Southeast
88	L.Ç	12	F	Mardin	Nusaybin	23.02.2014	INJURED	2014	Southeast
89	Y.U	12	M	Şırnak	Güçlükonak	23.01.2014	INJURED	2014	Southeast

	Name-Surname	Age	Sex	City	District	Open Date	Dead-Injured	Year	Region
90	T.C	10	M	Hakkari	Şemdinli	29.10.2013	INJURED	2013	Eastern Anatolia
91	D.E	13	U	Diyarbakır	Kayapınar	24.07.2013	INJURED	2013	Southeast
92	Y.Y	16	U	Diyarbakır	Bağlar	16.07.2013	INJURED	2013	Southeast
93	R.F	16	U	Diyarbakır	Bağlar	16.07.2013	INJURED	2013	Southeast
94	G.İ	Child	U	Diyarbakır	Bağlar	16.07.2013	INJURED	2013	Southeast
95	E.İ	Child	U	Diyarbakır	Bağlar	16.07.2013	INJURED	2013	Southeast
96	İ.K	17	M	Hakkari	Yüksekova	20.05.2013	INJURED	2013	Eastern Anatolia
97	S.O	14	M	Diyarbakır	Centrum	12.05.2013	INJURED	2013	Southeast
98	Y.O	10	M	Diyarbakır	Centrum	12.05.2013	INJURED	2013	Southeast
99	NO NAME	Child	U	Diyarbakır	Centrum	12.05.2013	INJURED	2013	Southeast
100	NO NAME	Child	U	Diyarbakır	Centrum	12.05.2013	INJURED	2013	Southeast
101	NO NAME	Child	U	Diyarbakır	Centrum	12.05.2013	INJURED	2013	Southeast
102	M.Ç	15	M	Şırnak	Cizre	01.03.2013	INJURED	2013	Southeast
103	A.S	12	M	Ağrı	Doğubayazıt	02.12.2012	INJURED	2012	Eastern Anatolia
104	İ.G	16	M	Diyarbakır	Dicle	09.11.2012	INJURED	2012	Southeast
105	M.K	10	M	Hakkari	Centrum	28.10.2012	INJURED	2012	Eastern Anatolia
106	B.Y	5	U	Hakkari	Yüksekova	17.10.2012	INJURED	2012	Eastern Anatolia
107	H.Y	7	U	Hakkari	Yüksekova	17.10.2012	INJURED	2012	Eastern Anatolia
108	Ö.D	17	M	Ağrı	Doğubayazıt	08.10.2012	INJURED	2012	Eastern Anatolia
109	E.D	13	M	Ağrı	Doğubayazıt	08.10.2012	INJURED	2012	Eastern Anatolia
110	C.K	13	U	Diyarbakır	Kulp	04.10.2012	INJURED	2012	Southeast
111	C.K	11	F	Bingöl	Yayladere	12.09.2012	INJURED	2012	Eastern Anatolia
112	NO NAME	Child	U	Bitlis	Şexcıman	10.09.2012	INJURED	2012	Eastern Anatolia
113	NO NAME	Child	U	Bitlis	Şexcıman	10.09.2012	INJURED	2012	Eastern Anatolia
114	NO NAME	Child	U	Mardin	Kızıltepe	30.08.2012	INJURED	2012	Southeast
115	B.T	11	M	Diyarbakır	Bağlar	28.07.2012	INJURED	2012	Southeast
116	E.Ç	17	M	Diyarbakır	Bağlar	28.07.2012	INJURED	2012	Southeast
117	O.D	12	M	Van	Başkale	23.07.2012	INJURED	2012	Eastern Anatolia
118	M.D	11	M	Van	Başkale	23.07.2012	INJURED	2012	Eastern Anatolia
119	A.Y	12	M	Ağrı	Doğubayazıt	12.07.2012	INJURED	2012	Eastern Anatolia
120	H.A	13	M	Hakkari	Çukurca	21.06.2012	INJURED	2012	Eastern Anatolia
121	E.Ö	8	F	Bitlis	Hizan	04.04.2012	INJURED	2012	Eastern Anatolia
122	NO NAME	Child	U	Şırnak	Cizre	19.11.2011	INJURED	2011	Southeast
123	NO NAME	Child	U	Şırnak	Cizre	19.11.2011	INJURED	2011	Southeast
124	A.K	11	M	Şırnak	Silopi	16.10.2011	INJURED	2011	Southeast
125	İ.E	11	M	Şırnak	Silopi	16.10.2011	INJURED	2011	Southeast
126	M.A	11	M	Diyarbakır	Centrum	11.07.2011	INJURED	2011	Southeast
127	M.S.K	10	M	Diyarbakır	Ergani	20.06.2011	INJURED	2011	Southeast
128	D.P	Child	M	Diyarbakır	Çermik	07.06.2011	INJURED	2011	Southeast
129	İ.A	Child	M	Diyarbakır	Çermik	07.06.2011	INJURED	2011	Southeast
130	A.A	12	U	Muş	Centrum	24.04.2011	INJURED	2011	Eastern Anatolia
131	R.Ö	15	M	Bitlis	Hizan	22.04.2011	INJURED	2011	Eastern Anatolia
132	M.D	10	M	Ağrı	Patnos	16.04.2011	INJURED	2011	Eastern Anatolia
133	S.D	8	M	Ağrı	Patnos	16.04.2011	INJURED	2011	Eastern Anatolia
134	M.E.Ş	8	M	Hakkari	Şemdinli	13.04.2011	INJURED	2011	Eastern Anatolia
135	K.A	17	M	Siirt	Pervari	17.01.2011	INJURED	2011	Southeast

As evident from the data pertaining to the children who died or were injured due to mines and conflict-war wastes, the mines are mostly at East and Southeast Anatolia Regions, violating the rights to life, physical integrity, development, play and environment of the children living in these regions. Because of these reasons, the state must comply with its positive and negative obligations, and clear the inner regions that were not demined, not being limited to the border areas cleared by means of tenders or with the mine clearing projects of the European Union.

Even the most basic rights of children to live in a healthy environment, develop and play are violated because of the mines and conflict-war wastes. Since the mined terrains and conflict-war wastes have reached a dimension that restricts the playgrounds for children and prevents the children from living in a healthy environment, the children die, are injured or lose their limbs and become disabled due to their exposure to mine explosions and the effects of conflict-war wastes while enjoying their basic rights like playing, or during their daily activities.

This section of the report assesses the child deaths due to mines, conflict-war wastes and armored vehicles, and some court files monitored also by the Center for Rights of the Child of Diyarbakır Bar Association, and in line with these assessments, addresses the practice of impunity of the judiciary, and the prohibition of discrimination.



**THE MONITORED COURT FILES AND THE
ASSESSMENTS REGARDING THE FILES**



MUHAMMED VE FURKAN YILDIRIM

At 00:29 on May 4, 2017, a panzer-type armored vehicle driven by police officer Ö.Y., who was in charge of the protection of Silopi district building of a political party at Karşıyaka quarter of Şırnak's Silopi district, hit the living room section of the single-floor reinforced concrete house of the family. The armored vehicle demolished the walls and columns and ran into the house, killing Muhammed Yıldırım (7) and Furkan Yıldırım (6) sleeping in the living room at that moment.

The armored vehicle was taken away from the scene of accident, allegedly upon the instructions given by District Police Chief S.E. after the accident.

The armored vehicle, which was taken out from the house it hit and taken to TOKİ police lodgings on the night of the incident, was inspected by machinery, electricity and traffic expert witnesses, and it was determined that the vehicle did not have any malfunction. In the expert witness report, it was also noted that driver Ö.Y., who was arrested as a precaution, did not have the certificate required for driving the armored vehicle, and that the reason for failing to stop the armored vehicle was the lack of knowledge and experience of Ö.Y. In his testimony as the suspect, Ö.Y., who worked at Administrative Office of Protection, stated that he was not trained to drive armored vehicles.

In the reports obtained in relation with the court file, it was stated that the armored vehicle did not have a hydraulic malfunction stemming from the engine and brake, that the brake and steering systems of the armored vehicle were in working order, that the oil pump that controls the safety system was not defective, and that any experienced person trained on the use the vehicle could easily stop the vehicle.

It was expressed that the vehicle driver was not licensed to drive panzer-type armored vehicles, that he had driven the vehicle without the driving certificate that required a special training, and that the Administration and the vehicle driver were equally responsible.

In the report prepared by Gendarmerie included in the court file by discovery, it was noted that the panzer-type vehicles did not have a hand brake and therefore the primary negligence laid with the vehicle, and the secondary negligence laid with the police officer who drove the vehicle and the officers who appointed the driver.

At the final hearing held on June 19, 2019, the driver of the armored vehicle Ö.Y. was sentenced to a prison term of 2 years and 6 months for "reckless killing of one or more persons, as well as injuring two or more persons". The court made a reduction by 1/6 in the sentence given to Ö.Y., decreasing it to 2 years and 1 month, and changed into Yıldırım a fine of 19 thousand Turkish Liras. The police commander M.M., who was judged with the same accusation, acquitted, since he held the office for one week when the incident happened, and since app

• ASSESSMENT

For the court files in which the perpetrator is a law enforcement officer, an effective investigation is not carried out, and it is observed that the records kept and reports prepared by the law enforcement officers for these files tend to protect the perpetrator. The inefficiency of the supervision of these documents leads to consequences to the detriment of the victim; and in cases where the perpetrator is a public officer, there are instances such as evidence tampering and producing false evidence using the public power.



For instance, in this case, the vehicle that hit the house was towed upon the instruction of the Police Chief without being investigated at the scene of accident, and this is an example of evidence tampering.

Since it was not possible to attribute any negligence to the children sleeping at their homes in the witness report prepared in the scope of the court file, the routine of laying the negligence with the deceased/victim was not practiced in this case. Therefore, in order to protect the perpetrator who was a public officer, the negligence was laid with the armored vehicle that hit the house.

Although the expert witness reports prepared by the law enforcement officers protected the perpetrator, the reports prepared by expert witnesses specialized in machinery and electricity stated that the full negligence laid with the perpetrator. Driving an armored vehicle without training and a driving certificate points to probable intent. However, during the court, the perpetrator was sentenced according to the crime of reckless killing that required a lesser sentence, and this sentence was changed into a judicial fine of 19 thousand Turkish Liras. Failure to sufficiently sentence the actions that are clearly considered as crimes with respect to criminal law encourages the perpetrators, and undermines the trust of community in justice.



EFE TEKTEKİN

The armored vehicle driven by police officer İ.A. hit 5 years old Efe Tektekin while he was crossing Emek street at Bağlar district of Diyarbakır on September 11, 2019, and the child lost his life two days after the incident at Dicle University Medical Faculty Hospital where he was hospitalized for treatment.

On October 20, 2019, an indictment was prepared by Diyarbakır Chief Prosecutor's Office considering the statements of the suspect and the witnesses, and scene of accident report. With the indictment, it was requested to sentence the suspect according to Article 85/1 of Turkish Penal Code, which regulates the crime of "causing the death of a person by reckless conduct".

According to the negligence inspection report prepared on November 11, 2019 by a police officer in the judiciary expert witness list, the defendant driver İ.A. was found to have 'secondary' negligence, while the parents of Efe Tektekin were found to have 'primary' negligence.

According to the record of discovery carried out on July 7 in the scope of the court file, an expert witness report concerning degree of negligence was prepared by a police office in the judiciary expert witness list. According to this report, Efe Tektekin's father A.T. was found to have 'primary' negligence since he did not watch over his child, and police officer İ.A. was found to have 'secondary' negligence since he could have avoided the accident if he had exercised due care and attention.

The negligence report prepared by Traffic Expertise Department of Forensic Medicine Institute was included in the court file on September 14, 2021. The report contains the opinion that "It is not possible to attribute the negligence to the defendant driver, considering that the vehicle was not traveling at a speed that exceeded the limit required by the conditions of the location since it stopped at a distance of 7.3 meters after the accident, and that the deceased pedestrian darted suddenly from between parked vehicles in a way that blocked his visibility and restricted the driver's ability to act", and concludes that Efe Tektekin's behavioral factors due to his age were the main reason for the occurrence of the incident, and that the defendant driver İ.A. did not have any negligence.

Lastly, pursuant to Article 15/3 of the Law No. 2659 on Forensic Medicine Institution, a warrant was issued to İstanbul Forensic Medicine Institute and a report was requested from the extended panel of experts, and the trial proceedings still continue.



● ASSESSMENT

It is understood that the expert witness reports prepared by law enforcement officers in the scope of this case were prepared with the intention of protecting the perpetrator law enforcement officer. The expert witness is required to be impartial and independent, and it is important for ensuring impartiality and independence to select the expert witnesses from among the members of different professions when the judged perpetrator is a police officer. However, the expert witness report for this judicial proceeding was prepared by a person that shared the same profession with the perpetrator, and this may lead to a reflex to protect the perpetrator. It was observed that the facts such as why and for how long the cameras in the armored vehicle did not operate and why this was neglected were not discussed during the trial proceedings, and an effective judicial process was not implemented. On the contrary, it was understood that all these facts were interpreted in favor of the defendant, and the case predicated on the statements of the defendant.



HELİN HASRET ŞEN

It is stated in the court file that 12 years old Helin Hasret Şen, who was on the street to go to the bakery with her mother at Sur District of Diyarbakır during curfew on October 12, 2015, died due to the fire opened from the Cobra-type armored vehicle. Helin Hasret Şen's body could not be removed from its location since the armored vehicle continued to fire uninterruptedly for some time, and she was taken to Diyarbakır Selahaddin Eyyubi State Hospital about one hour after the incident.

Shortly after an investigation process was commenced about the incident by Diyarbakır Chief Prosecutor's Office, a decision of restriction was made about the court file. The administrative investigation process carried out by the Provincial Police Disciplinary Board of Governorship of İstanbul about the defendant police officer A.E. was concluded on September 28, 2017. The defendant police officer A.E. was sentenced to 2 years stay of seniority.

The indictment dated December 12, 2018, which was prepared after the decision of restriction that continued for more than 4 years, called for the punishment of the defendant police officer with the offense of "killing with probable intent". However, the indictment was returned pursuant to Article 174 of Code of Criminal Procedures due to "errors in applicable articles". About one year after the returning of the court file, another indictment was prepared on October 14, 2019; this time for the offense of "reckless killing". Diyarbakır 8th Court of First Instance, to which the indictment was sent, gave a decision of lack of jurisdiction pursuant to Article 5 of the Code of Criminal Procedures, on the grounds that the act of the defendant constituted "the offense of killing with probable intent". Upon the decision of lack of jurisdiction, the trial proceedings about defendant police officer A.E. began at Diyarbakır 1st Heavy Penal Court in the scope of the "offense of reckless killing".

At the 3rd hearing on September 24, 2020 of the court file, Diyarbakır 1st Heavy Penal Court decided on issuing a warrant to the Governorship of Diyarbakır to permit to start an investigation about the defendant, stating that a permission to investigate was required pursuant to Article 11/J-5 of the Law No. 5442 on Provincial Administrations and Article 2 and subsequent articles of the Law No. 4483 on the Trial of Civil Servants and Other Public Officials, and resolved on the stay of the trial proceedings pursuant to Article 223/8 of the Law No. 5271 on Criminal Procedures.



As the result of the examination carried out by the Governorship of Diyarbakır, a decision to permit the investigation was made, and the relevant court was accordingly informed. Upon the decision to permit the investigation, Diyarbakır 1st Heavy Penal Court resumed on the trial proceedings.

● ASSESSMENT

The decision of restriction, which had to be given with respect to the suspect and defense counsel pursuant to Article 153/1 of the Law No. 5271 on Criminal Procedures, was applied with respect to the victim and her counsels in defiance of Article 234 of the said law. Pursuant to the decision of restriction, the access to the file of investigation carried out by the public prosecutor's office was hindered, resulting in a disadvantageous process for the aggrieved party with respect to participation in an effective judicial process. In this scope, the investigation phase that took 4 years was carried out ineffectively and in defiance of procedures. Two indictments were prepared, where nonprocedural actions were carried out with respect to the classification of offense and applicable articles. While the first indictment was returned, the second indictment was accepted by the court, and the classification of offense was corrected and a decision of lack of jurisdiction was made.

This shows that the investigation process continued for an unreasonable time and that the trial proceedings were procrastinated with the aim of rendering the proceedings inefficient; and the classification of offense in the indictments shows that it is desired that the perpetrator goes unpunished.

The trial proceedings, which have been continuing for nearly 3 years, are still continued by the local court for getting the permission to investigate and to eliminate the other procedural deficiencies. The trial proceedings have to be carried out duly and effectively, and a decision has to be made with the correct determination of the classification of offense of the perpetrator.



Non-Prosecuted Files at Diyarbakır Province

Based on the data available to Center for Rights of the Child of Diyarbakır Bar Association, only 4 files could be found as the result of the research carried out for investigating the files of children whose rights were violated due to hits by armored vehicles in Diyarbakır province.

The children named E.K., R.D. and M.A. were injured due to hits by armored vehicles. As the result of the investigation files opened about the perpetrators, decisions of non-prosecution were given. E.Ç. was also injured due to a hit by an armored vehicle, and a warrant of permanent search was issued in the investigation started about the perpetrator.

One of the greatest problems during the examination of the files was that it was not possible to reach these files based only on the names and surnames of the children, whose citizenship numbers were not available. The other hindrances were that the files were moved to the archives, that the secretarial officers responded negatively to our requests to examine these files, and that our demands to examine the files were rejected without legal grounds. The verbal rejection of these demands results in ineffectiveness of the legal remedies to be employed against these decisions of rejection.





About the Policy of Impunity

The concept of impunity refers to failing to investigate or prosecute because of the legislation or practices, to failing to implement the investigation and prosecution processes properly, to the injustice or non-enforcement of the decision made as the result of these processes, or in short, to the immunity from punishment of the perpetrators of human rights violations. The tendencies of the political powers and the ongoing approaches of public officers on the course of such tendencies are the decisive factors for the practice of impunity. Taken together with the non-independence of the judiciary power, the emerging practice results in a setting where the human rights violations that occur due to the arbitrary treatments by the public officers are considered legitimate, and where the perpetrators are protected with impunity.

In the trial proceedings where the perpetrators are public officers, the shallowness of the prosecution phase appears as another aspect of the practice of impunity. The problems we determined with respect to the shallowness of the prosecution phase are the points such as the lack of any efforts for revealing the material fact, which is the main objective of the criminal procedure, the rejection of most of the demands of the intervening parties and claimant's attorneys without any grounds, the insufficient examination of the claims included in the files, the non-inclusion in the file of the documents requested from the law enforcement agencies, and non-inclusion of the persons in the chain of command in the files as defendants.

The practices such as not conducting a disciplinary investigation about the perpetrators who are public officers and not relieving them of their duties, and the relevant agencies' negligence to respond to the warrants issued by the courts or to provide complete and correct answers, not only show that the relevant public agencies act with an approach that protects their staff, but also lead to evidence tampering and destruction of evidence, and thus lead to circumstances that pave the way for impunity.

The passive and inefficient actions of the judiciary during the trial proceedings and their reluctance to demand arrest for the defendants or their tendency to reject the demands on this course, show that they tend to protect the perpetrators.

While the perpetrators' stay in office should be a reason for arrest with respect to the probability of tampering with evidence, on the contrary, it is put forward by the prosecutor's office as a reason for the demand for release pending trial. In addition, excluding the perpetrators from hearings is a result of the approach in favor of the perpetrator, and a requisite of the practice of impunity.

It was observed during the hearings that the perpetrators argue their case with a tendency to accuse the victims, and exhibit relieved manners. The failure of the perpetrators to appear at the trial proceedings result in the failure to question the perpetrator who is not present at the hearing, and thus leads to the procrastination of the trial proceedings.

All these circumstances indicate that the points we listed above, which lay the grounds for impunity, empower the perpetrators, make them feel safe, and make them think that their actions were legitimate.





About the Prohibition of Discrimination

Discrimination is “any distinction, exclusion, restriction or preference, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights or freedoms”. Pursuant to the national and international legislations, the States are responsible to respect and to ensure to all individuals subject to its jurisdiction the rights recognized in the relevant legislations, without distinction of any kind.

According to Article 10 of the Constitution, everyone is equal before the law without distinction as to language, race, color, sex, political opinion, philosophical belief, religion and sect, or any such grounds. Similarly, the basic principles in the Law No. 5395 on Protection of Children are protecting the interests and well-being of the child, and not subjecting the child or his/her family to discrimination due to any reason. One of the basic principles of the United Nations Convention on the Rights of the Child is the prohibition of discrimination. The principle on non-discrimination regulated in Article 2 of the Convention is also important with respect to the children's right to live in a healthy environment and right to play. Accordingly, “States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status”.

The State is responsible for considering the children as individuals, and for respecting their right to live in a healthy environment and right to play, for providing age-appropriate and equal opportunities to all children, and for ensuring the children's access to play. Pursuant to the prohibition of discrimination, it is necessary to challenge the judgments that hinder the right to live in a healthy environment and the right to play of children living at conflict regions, to build appropriate playgrounds, and to make spatial and social arrangements for their enjoyment of the right to play. It is necessary to provide equal opportunities for children, and to promote the access to these rights of disadvantaged children, such as poor, disabled, female and detained children, and children who are under treatment or live at conflict regions.

Every child has the rights to live in a healthy environment, to develop and to play. However, as it is evident in the tables in the report, the exposure of the children living especially at East and Southeast Anatolia Regions to intense rights violations is not a coincidence, but an indicator that the State does not comply with the prohibition of discrimination with respect to East and Southeast Anatolia Regions. The children are exposed to discriminative practices carried out by the hand of the State, and thus their rights to live in a healthy environment, to develop and to play are violated. The State is required to comply with its positive and negative obligations without any discrimination on the basis of the places of settlement, identities or the socio-cultural status of the children, to desist from its policy of impunity that stems from discrimination, and to provide for the impartial and independent execution of the trial proceedings.

The rights violations that are the subject of the prohibition of discrimination are not observed throughout Turkey, but they are specific to some regions. According to the data in the report, the violations of the rights of the children due to mines, conflict-war wastes and armored vehicles systemically occur especially at the provinces in East and Southeast Anatolia Regions, where the conflicts are intense. This circumstance must be considered in the scope of the violation of the prohibition of discrimination, which is defined in national and international legal instruments. The established passive practices of the national and international judicial authorities regarding the violations of prohibition of discrimination exacerbate the problem. Yet, when establishing a practice or taking an action, the administrative authorities are required to pay regard to the prohibition of discrimination and to develop protective and preventive policies regarding this matter. Parallel to this, the national and international judicial authorities are required to address the prohibition of discrimination thoroughly when carrying out their assessments. It is observed that ignoring the regional conditions and the passive attitude of the judiciary violate the prohibition of discrimination per se.





SUGGESTIONS

As a result of the security policies of the State, the incidents of death and injury due to armored vehicles, mines and conflict-war wastes have increased;

- 1- The State must urgently fulfill its obligation to clear mines, which was undertaken pursuant to Ottawa Convention.
- 2- The legal arrangements and practices regarding the clearing of mines must be carried out by acknowledging that the mines are an environmental and human rights violation problem, and not be reduced to a problem of tender or land reclamation.
- 3- **The mine clearing actions must be carried out through a planned and urgent process, and the public must be informed about and be able to supervise this process.**
- 4- **The mined terrains must be marked and closed to the passage of civilians to prevent damages that might arise from the existing mines during the course of the mine clearing process.**
- 5- **Especially at the schools in the rural areas, where mined terrains are dense or which are close to the mined terrains, the children must be trained on the protection against risks due to the mines and conflict-war wastes.**
- 6- **Primarily, the Regulations on Highway Traffic must be amended to prohibit the use of armored vehicles in cities, or if not possible, the use of armored vehicles in cities must be minimized, and the armored vehicles must comply with the legal speed limits specified for urban areas.**
- 7- **The law enforcement officers who drive the armored vehicles must possess the licenses and certificated required for driving these vehicles, and complete the training courses related with these.**
- 8- **In order for the law enforcement officers who drive the armored vehicles (which are actually tools of war and conflict with regards to their intended use) to preserve their ties with social reality, they must be supported psychosocially.**
- 9- **The health facilities located at regions where the mines and conflict-war wastes are dense must be supported with respect to personnel and equipment.**
- 10- **Prosthesis and rehabilitation centers must be established for children injured due to mines, war-conflict wastes and armored vehicles.**
- 11- **The procedures regarding the fitting and renewal of the prosthesis must be completely free, and acknowledging that the children grow rapidly, the replacement period must be determined according to the needs, not dependent on a certain period.**
- 12- **Policies must be developed to respond to the economic and social support needs of the children harmed by mines, conflict-war wastes and armored vehicles.**
- 13- **Regarding the criminal court files related with the children who died or injured due to mines, conflict-war wastes and armored vehicles, the investigation and prosecution procedures regarding the perpetrators must be carried out effectively, and the judiciary must abandon the practice of impunity.**

The presence of the mines, conflict-war wastes and armored vehicles violate the children's rights to live in a healthy environment and to play. Taking our suggestions into consideration and including these suggestions into practices may provide a ground for the solution of the problem. In this case, a point indicated at the beginning of the report needs to be reemphasized:



