

THE TRIAL OF KEREM ÇAKAN:
THE TURKISH JUDICIARY AND HONOUR KILLINGS

TRIAL OBSERVATION REPORT

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INTRODUCTION

The Kurdish Human Rights Project, VAKAD and Norwegian Bar Association's joint mission to Van, Turkey, in November 2011 was intended to follow up the close monitoring and observation of the trial proceedings against Mr. Kerem Çakan, who is indicted with intentionally killing his pregnant 17-year-old wife, Mrs. Eylem Pesen. KHRP has identified this particular criminal case as *"the embodiment of the country's systemic problem of violence against women; one that would serve as a solid illustrative case to help disseminate knowledge and understanding of Turkey's obligations, under international law, to refrain from any form of discrimination against women."*¹

The KHRP observed and monitored the initial trial proceedings against Mr. Kerem Çakan in August 2009, and as stated in the report after the 2009 mission: *"The trial of Kerem Çakan highlights the on-going violence and discrimination against women, commonly witnessed in the Kurdish region in Turkey, as well as the failure of Turkish authorities to ensure in practice, their stated aims of prosecution of women from violent abuse."*²

KHRP previously concluded that the trial proceedings against Mr. Çakan did go some way in ensuring that perpetrators of violence against women in Turkey are brought to justice under the law. Nevertheless, KHRP underlined that Pesen's murder also highlighted deficiencies in Turkey's efforts to commit to internal reform. It also brought to attention the inconsistencies in Turkey's legal system and the country's failure to overcome ingrained cultural dispositions, prejudicial to the rights of women.

Concern has previously been expressed by the KHRP over the 2005 Turkish Penal Code, as it falls short of meeting basic human rights standards. Moreover, those serving within the police and judicial system often fail to recognise or take seriously honour crimes. Investigation into instances when victims have reported being at risk from, or have in fact been killed as a result of an honour crime, have proven to be ineffective and insufficient.

After the initial hearings in this particular case in 2009, the KHRP stressed that after hearing Mr. Çakan's argument that his wife was involved in a sexual relationship with his brother Tahir Çakan, the court saw no need to investigate the possibility of the defendant having committed the murder on the name of 'honour', or to cross-examine other family members in this respect – so as to scrutinise whether they too could have been implicated in the killing. The KHRP further stressed in the 2009 report that most importantly, the indictment did not qualify the case as an honour killing, which would have increased the charge to aggravated homicide; this carries a heavier sentence. KHRP therefore concluded that the court's omission in this regard was demonstrative of honour crimes not being given enough attention by the Turkish government.

As observed by the 2011 mission to Van, the Court granted the Pesen family's previous legal petition for further hearings into the potential involvement of other family members. As the hearing on 13 October 2011 concluded with the scheduling of further hearings where one

¹ Kearney, Michael: *The Trial of Kerem Çakan: The Turkish Judiciary and Honour Killings. Trial Observation Report* (2009), p. 11 (Foreword by Chief Executive of KHRP Kerim Yildiz and President of BHRC, Mark Muller.)

² Ibid, p. 13.

witness is to be re-examined, the mission considers the development favourable with regards to the scrutiny into possible implication of other family members. This development could suggest that the Court eventually will be better suited to ascertain whether or not the killing of Mrs. Elyem Pesen was a so-called “traditional honour killing”, which is classified as a more serious offence under the 2005 penal code.

However, further observations of the trial proceedings will be necessary in order to establish sufficient grounds to conclude whether the Court has carried out the hearings satisfactorily in this regard. As the court hearing in October 2011 was very brief, the mission has a limited foundation on which to assess the Court’s handling of the relevant issue at hand.

Emphasis in this report will therefore be put on the mission’s findings during its meetings with the Pesen family, VAKAD and other women rights, human rights and civil society organisations; the defendant’s and the deceased family’s lawyers. The report should be considered as a supplement to the 2009 Trial Observation Report written by Mr. Kearney.

I. BACKGROUND TO THE CASE

On 13 October 2011, KHRP observed a trial hearing in the legal proceedings against Mr. Kerem Çakan, a 27-year-old man brought to trial before Van Heavy Crime Court Number 2, Van, Turkey, indicted with intentionally killing his pregnant 17-year-old wife, Mrs. Eylem Pesen. On 17 May 2009, Çakan allegedly stabbed her to death, before running her over with his car.

The initial trial proceedings against Mr. Kerem Çakan took place between 26 and 28 August 2009. These proceedings were closely observed and monitored by Mr. Michael Kearney on behalf of KHRP. The background to the case is thoroughly outlined in the 2009 report by Mr. Kearney. The reader is therefore encouraged to consult Mr. Kearney's report for a more extensive account for the circumstances of the case.³

The 2009 report states that consideration of all the accessible evidence and the autopsy report clearly indicated that the murder of Pesen was premeditated, and at the first hearing attended by KHRP in August 2009, the defendant was not granted any defense of mitigating circumstances.

When the 2011 mission was invited back to Van for the hearing that took place on 13 October 2011, the parties involved expected the hearing to be the final one, before the Court would reach a verdict. The hearing however concluded with the Court scheduling yet another hearing, as the family of the deceased had previously petitioned that another witness – Mr. Kerem Çakan's sister-in-law Maksude, should be heard again by the court. The Pesen family had previously petitioned further questioning of this witness, as the family felt that insufficient investigative efforts had been placed in the potential involvement of other family members in their daughter's killing.

The 2011 mission therefore had limited opportunity to closely observe the more crucial stages of the trial proceedings. The Pesen family and the local women's rights groups however felt that this development in the proceedings represented an improvement, as the Pesen family's petitions were eventually granted.

³ Kearney (2009) p. 15

II. MEETINGS BEFORE THE TRIAL OBSERVATION

a. Meeting with the Pesen family

The objectives for the meeting with Alihan and Serbet Pesen – Eylem Pesen’s parents – were to obtain as much background information as possible on how they experienced the incident, their view of the legal proceedings, and their hope for the outcome of the trial.

The Pesens informed the mission that the marriage between Eylem Pesen and Kerem Çakan was arranged; Kerem Çakan is Alihan Pesen’s cousin. The couple was religiously married in accordance with the local traditions, and there had been no document signing or no official recording of their wedlock. The Pesens explained that according to their culture, it is not important to marry officially.

Alihan Pesen told the mission that his daughter Eylem did not want to marry at the time. She wanted to continue her education in high school, where she had completed the first half of the last year. Alihan described his daughter as hard working, studious and very interested in her studies. The parents finally made a choice to take their daughter out of school so she could marry Kerem Çakan. The Pesens explained that their reasons for making this choice for their daughter was that Kerem Çakan had a good job – he had his own business in construction work, and several employees – and that they wanted their daughter to have her own family. The Pesens expressed to their daughter that they saw no future for her if she continued with her studies instead of entering into marriage.

The Pesens explained that they had no suspicions that Kerem Çakan was in any way violent until sometime after he married Eylem, when they heard rumours that there had been incidents of domestic violence. During the last weeks before their daughter was killed, the Pesens received information that the violence against her had increased. The Pesens expressed that they did not act on this information however, as quarrels within the family are commonplace. They expressed that they considered intervening, but that they would only have intervened if they had known that the violence against their daughter would eventually lead to her death. The Pesens explained that their reasons for not intervening were mainly cultural. They told the mission that domestic violence is considered commonplace, and that such issues are regarded as internal affairs, only to be dealt with by the spouses themselves.

Eylem Pesens parents expressed that they were not sure of Kerem Çakan’s reasons for his violent behaviour, but suspected that he was frustrated over inheritance disputes with his brothers, and that he took this frustration out on their daughter.

On the night of the murder, Alihan received a telephone call from Kerem’s older brother Nasır, who told Alihan that Eylem had been beaten severely, and that she was in danger. Alihan then went to their house and brought Eylem home. Later that night, Kerem’s other brother Adil came to Alihan’s house and asked to take Eylem back to Kerem, in order to reconcile the spouses. Adil reassured Alihan that he would take care of Eylem, and Eylem then followed Adil to his house.

Alihan and Serbet Pesen learned about their daughter's death from a Serbet's brother on the morning after the killing took place. They received no information from the police or health authorities, albeit their daughter had already been taken to hospital at this point.

According to Kerem Çakan's testimony in the initial court hearings, his sister in law and wife of Adil Çakan – Maksude Çakan – was in Kerem's car immediately before the murder took place. Kerem was driving Eylem to hospital as she had pains in her abdomen, and Maksude was in the car with them. As they arrived at the hospital, Maksude exited the car in front of the hospital entrance. Kerem then drove off and moments later he stabbed Eylem repeatedly before he thereafter ran her over with his car. Alihan Pesen explained to the mission that he petitioned the court during the initial hearings that investigation should be made into the potential involvement of Maksude, as there had been no enquiries in this regard. Alihan explained that he suspected that Maksude was somehow jealous of Eylem as she was the new bride of the family, and that she had encouraged Kerem to murder Eylem.

The Pesens told the mission that they had no clear understanding of Kerem's motives for killing their daughter. Kerem however explained in the initial court hearings that he suspected that Eylem had a relationship with his third brother Tahir, and that this was his motive for the murder. The Pesens told the mission that Kerem later withdrew this part of his statement.

Alihan and Serbet Pesen explained that they have become "*enemies for a lifetime*" with the Çakan family. Alihan told the mission that Kerem Çakan had threatened him during a court hearing on 3 May 2011, as Kerem had said that he would kill Alihan when he was released from prison. Alihan then tried to attack Kerem physically, but was restrained by present policemen. Maksude Çakan spat at Serbet Pesen in the same court hearing. The Pesen family told the mission that they had not received direct threats from the Çakan family outside the courtroom.

The mission asked the Pesens whether they had been offered any kind of compensation from the Çakan family after the murder, which they denied. They however said that the Çakans have offered to make peace between the families, but the Pesens have refused.

The Pesens told the mission that they hoped the trial against Kerem Çakan would result in him receiving the maximum penalty. They expressed that they feel that the general sentencing practice in cases where men are found guilty of murdering their wives, is not harsh enough. They conveyed to the mission that they did not believe the current sentencing practice works as an effective deterrent.

The Pesens also expressed concerns over the fact that Kerem Çakan recently had claimed that he could not be held responsible for his actions due to psychiatric illness, and that he was trying to obtain a psychiatric report in support of this. Alihan Pesen told the mission that the Çakan family had approached a local member of parliament in order to ask for his assistance in obtaining such a report. When he became aware of this, Alihan contacted the MP who then reassured Alihan that he would not contribute in any way in this process.

Furthermore, the Pesens expressed concerns over the trial proceedings. They told the mission that they had no trust in the judiciary or the police, as their petitions for further investigations had not been heard at this point. Alihan also recalled an incident where local women's rights organisations attended one of the court hearings. Alihan was then approached by the presiding

judge in the case, who accused Alihan of making “a show” out of his daughter’s demise. Alihan told the mission that these statements have contributed to his losing faith in the legal system.

The Pesens also expressed disappointment over the fact that the government has not paid any attention to the case. Alihan pointed out that the case has caused massive media attention both nationally and internationally, and that Van had been visited by journalists from both Europe and Canada. The case has also caused a great deal of attention from women’s rights organisations and international human rights groups. However, no representatives from the government have paid attention to the case. The Pesens expressed their disappointment over this fact, as it is their hope that the case could serve as an example from which to draw experience to utilise in future preventive measures.

b. Meeting with Mr. Burhan Buğday – Kerem Çakan’s public defence lawyer, and Mr. Adil Çakan – Kerem Çakan’s brother

This meeting was originally scheduled to involve all of the members of the Çakan family. They unfortunately could not attend, except for Mr. Adil Çakan, who is Kerem Çakan’s brother.

The objective for the meeting with defence lawyer Burhan Buğday was to gather further information about the case from the defence perspective.

Mr. Buğday gave a brief summary of the defence perspective, where he explained that Kerem Çakan has said that he killed his wife in a sudden rage, with the suspicion that she was cheating on him with his own brother. If it is proven that Eylem had an affair, this could qualify as “unjust provocation” under article 29 in the Turkish criminal code, and hence result in a considerable reduction in the sentence. Kerem still thinks that Eylem had an affair, and that she was pregnant with Adil Çakan’s child. However, DNA analysis later proved that the child belonged to Kerem. At the time of the meeting, Mr. Buğday therefore expected that the court would make no reductions in the sentence, as there were no substantial mitigating circumstances.

Mr. Buğday further explained that Kerem Çakan is suffering from psychological trauma after military service in the eastern Anatolia region, which would be argued as a mitigating circumstance. Furthermore, collaboration with the prosecution and the court during the hearings would be argued as mitigating circumstances. Mr. Buğday however expressed that he did not expect any reduction in the sentence due to these circumstances.

Regarding the insanity defence, Mr. Buğday explained that the defence initially claimed that Kerem Çakan was mentally incapable of understanding the crime, and tried to obtain a medical report to this end. Kerem Çakan was undergoing psychiatric examination in hospital for some time, but the final report said that he was mentally capable. In summary, Mr. Buğday expected that Kerem Çakan would get the lifetime sentence.

Mr. Buğday explained that article 82 in the Turkish Penal Code lists certain qualifying circumstances that lead to a harsher penalty, e.g. if the intentional killing is committed with premeditation, against a child or against somebody who cannot protect themselves physically or mentally, or against a pregnant woman – in knowledge of the pregnancy. Mr. Buğday

explained that the ordinary penalty for an “intentional killing” is life imprisonment, which means 36 years in prison with the possibility of probation, transfer to open prisons and early release after having served two thirds of the total sentence. If a qualifying condition is present under article 82, the indictment should charge the defendant with “aggravated homicide”. The sentence for aggravated homicide is also life imprisonment for 36 years, but without the possibilities of probation, transfers or early release. Mr. Burhan Buğday expressed to the mission that he was certain that the final indictment would charge Kerem Çakan with aggravated homicide.

Kerem Çakan’s brother, Mr. Adil Çakan joined the meeting and gave his opinions on the case. He argued that his brother Kerem did not commit the murder intentionally, as he was suffering from a grave psychiatric illness at the time. Furthermore, he claimed that there had been no incidents of domestic violence in the marriage of Kerem Çakan and Eylem Pesen prior to the killing. Adil Çakan accused the Pesen family of lying about such incidents. Adil Çakan further explained that his family had paid 50.000 Turkish liras in blood money to the Pesen family, through intermediaries who tried to settle the dispute between the families. He felt that the Pesen family had treated the Çakan family unfairly by continuing the case despite accepting the blood money. There is therefore a discrepancy between the explanations of the respective families.

c. Meeting with Mr. Güven Yarımbatman – the Pesen family’s lawyer

The objective of the meeting with Mr. Yarımbatman was to obtain the legal view points from the Pesen family’s legal representative.

Mr. Yarımbatman explained that his hopes for the outcome of the trial were that Kerem Çakan would be sentenced according to article 82 in the Turkish criminal code, for aggravated homicide. He stressed that there was no grounds for the application of article 29 (unjust provocation). Mr. Yarımbatman explained that if adultery had in fact taken place, article 29 would have been applicable, and the sentence would be reduced.

Regarding the general development in cases regarding honour killings, Mr. Yarımbatman explained that his impression was that awareness around the issue of violence against women has been generally elevated recently. He referred to criminal proceedings where the courts had not applied article 29, where there had been instances of adultery.

When asked by the mission whether he considered the Turkish penal code adequate in addressing the issue of honour killings; Mr. Yarımbatman expressed that his view was that the laws are sufficient, but that the problem rather lies in the lack of implementation. Mr. Yarımbatman however explained that he believes that implementation is gradually getting better.

The mission asked his opinion on whether the courts are sufficiently able to tackle cases of violence against women. Mr. Yarımbatman replied that an important cause for concern is the length of the legal proceedings. The Pesen case has taken about two years so far, and there is still no verdict. Mr. Yarımbatman was of the opinion that the courts are not effective enough.

With regards to the question of prevention against honour killings, Mr. Yarımbatman told the mission that he believed a larger number of women’s shelters should be established in order to

actively address the problems of women who experience domestic violence. He also suggested that the issue of honour killings should be addressed on other levels, as some of the causes are rooted in cultural aspects. He said that the recent focus of the media on the topic, and education on the issue could lead to a more positive development.

When asked if these cultural aspects follow into the courtroom, Mr. Yarımbatman explained that at the end of the day, judges are members of the local communities and that culture naturally will influence their judgements to some extent. Mr. Yarımbatman did not know whether judges receive specific training on the topic of honour killings, but stressed that several seminars are currently being held for judges with regards to the harmonisation of Turkish and European legislation as part of the EU accession process.

d. Meeting with Van Women's Association (VAKAD), Van Bar Association's Women's Rights Committee (Van Barosu Kadın Hakları Danışma Merkezi), Blue Lake Women's Association (Mavigöl Kadın Derneği) and Women's Cooperative (Yaka-Koop).

The mission met with women's rights groups working in Van in order to obtain their views on the case and on ways to tackle such cases. More specifically, the mission was curious about their assessment of the effectiveness of the measures taken by the state to prevent honour killings from taking place, and whether Turkey is genuinely implementing an effective policy to tackle violence against women.

Present from VAKAD was Zozan Özgökçe, Sema Bağrı, Aylin Çelik, Gül Kıran and Marlene Schäfers, Bedia Özgökçe from Van Bar Association's Women's Rights Committee, Gülmay Gümüşhan from Yaka-Koop and Suna Şahin from Blue Lake Women's Association.

Legislation and implementation

The mission asked the participants their opinions on whether the Turkish penal code from 2005 and other legislation has had a positive impact on the way with which honour killings are dealt with. The shared opinion amongst the participants was that while the national laws are changing and Turkey becomes part of an increasing number of international agreements on human rights, the implementation still remains an issue. It was expressed by Bedia Özgökçe from the Van Bar Association that they are under the impression that the police and the judiciary seem unwilling to implement new laws.

A dominating impression amongst the participants of the meeting, was also that the authorities, be it the judiciary or the police, seek to find ways to circumvent relevant legislation due to a mentality where domestic violence is considered to be an issue only belonging within the confines of marriage.

To illustrate to the mission how incidents of domestic violence sometimes are dealt with in court, Suna Şahin from Blue Lake Women's Association gave an example from the court proceedings in the case of Sıdika Platin, which was observed by members from Blue Lake Women's Association, VAKAD and Yaka-Koop. Platin had sustained injuries including losing part of her ear in an assault by her husband in 2009. During the initial court proceedings, which were conducted in Turkish, it became apparent to Suna Şahin that Sıdika

Platin only spoke Kurdish, and that she could not understand what was being said. Despite the fact that the presiding judge was made aware that Platin needed an interpreter, the proceedings concluded after the court had heard solely the husband's testimony. He stated in court that Platin had cut her own ear off in grief after their daughter had passed away. The proceedings then ended, and the judge told the couple that they could go home together. Police officers present in the courthouse laughed openly at this, and made remarks about how the integrity of the family should not be disturbed by such court proceedings. Suna Şahin from Blue Lake Women's Association explained that she saw this as a grave, but not uncommon, example of the attitudes within the judiciary system and the police towards domestic violence cases.

A specific area of concern with the current legislation, which was raised by VAKAD, is the frequent application of article 29 in the Turkish criminal code; under which infidelity is considered an unjust provocation that leads to a reduction of the sentence. Another area of concern is that women accusing someone of rape can be subjected to genital examinations by a court ruling, in accordance with the 2005 criminal code. VAKAD expressed that this practice represents discrimination against women, as there are no similar genital examinations being carried out on men. VAKAD expressed worries over the consequences of this practice, where the burden of evidence after an alleged rape is placed on the woman alone.

The participants pointed out that a specific area of improvement within the 2005 penal code, was the fact that the sexual assault section of the law has been made applicable for incidents of sexual abuse within marriages, as opposed to previously. The 2005 criminal code has also eliminated the possibility of impunity in situations where men guilty of rape later marry the victims.

Bedia Özgökçe from the Van Bar Associations's Women's Rights Committee, further explained that her organisation recently did a scan of one hundred random criminal court files in Van from the last five years, and found that all the victims in these cases were women. When they examined how many out of these one hundred women who had legal representation in court, they found only one. Whereas the defendant was always given free legal representation, 99 out of 100 victims were not assigned a lawyer despite the fact that complainants in criminal cases are permitted to have legal representation.

Investigation

There was a general consensus among the women's rights groups that investigative measures into honour killings are not sufficiently effective or thorough. The Pesen case was pointed out as an example, where several requests from the Pesen family had not resulted in any efforts from the police or judiciary to ascertain whether other members from the Çakan family had been involved in the murder.

VAKAD referred to the fact that Turkey has been found to have violated the European Convention for the Protection of Human Rights and Fundamental Freedoms due to the lack of effectiveness in investigations in cases of injury or death. VAKAD stressed that the collection of evidence is often insufficient, and that this was a general problem also pertaining to other cases than violence against women.

Prevention

Bedia Özgökçe expressed that according to the family protection law, the suspect of domestic violence can be ruled by court order to leave the family's home. She expressed, however, that implementation in this regard is insufficient, as families often intervene in such situations to mediate between the spouses. These mediations often end in the husband moving back home after a short while.

VAKAD further explained that there currently are women's shelters that take care of female victims of violent and sexual abuse. VAKAD and other NGOs have previously conducted women's rights training sessions in such shelters in 52 provinces throughout the country, in order to empower victims. Funding of such projects has however been cancelled, and the training has therefore ceased. Zozan Özgökçe from VAKAD explained that the training currently being given to victims of abuse has been limited to a three day seminar, where issues of women's rights and discrimination against women have been reduced to a minimum. Zozan Özgökçe further explained that four women had been killed by their husbands in Van during this year alone. Three out of these four women had sought protection by the police and the shelters, but had not been taken seriously and were thereafter sent home to their husbands who subsequently murdered them. One out of these four women had stayed for a while in a women's shelter when her husband came and declared that he wanted to make peace. The woman was killed on the same day she returned to their home.

The participants in the meeting agreed that current prevention measures in this regard are not sufficient, and stressed that it is necessary to conduct training of personnel who come in contact with abuse victims – e.g. police officers, doctors, nurses and social workers. The organisations all called for the establishment of specialised units who are thoroughly equipped with the necessary resources to take care of abuse victims.

When asked by the mission if the state is taking measures to alter gender stereotypes, the participants in the meeting all expressed that there was a total lack of initiative from the state in this regard. VAKAD mentioned that they have recommended to the education authorities that some of the elementary school curriculums should be revised, as school books – according to VAKAD's opinion - contain references to nationalist, militarist, racist and sexist attitudes. Furthermore, gender stereotypes are reflected in the elementary school curriculum, where girls are often depicted as weak, emotional, introvert, dependent on the male members of the family and bound to the home. Boys on the other hand are often depicted as soldiers, strong-willed, extravert, and independent.

VAKAD also pointed out that lessons on human rights are taught in high schools, but that issues concerning women's rights and discrimination against women have recently been removed from the curriculum.

The women's rights organisations expressed to the mission that while very small advancements are being observed in issues surrounding violence against women, such as the increased focus on the subject in the media and the greater society, this is not necessarily indicative of improvement.

III. THE COURT HEARING

As mentioned initially in this report, the hearing that took place on 13 October 2011 in The Second Heavy Crime Court in Van, concluded with the scheduling of further hearings of the witness Maksude Çakan. The mission considers this development favourable with regards to the scrutiny into possible implication of other family members. This development could suggest that the court eventually will be better suited to ascertain whether or not the killing of Elyem Pesen was a so-called “traditional honour killing”.

Present at the hearing was Alihan and Serbet Pesen and their lawyer Güven Yarımbatman, defence lawyer Burhan Buğday and the case prosecutor. Kerem Çakan was not present at the hearing.

The delegation of judges had changed since the last hearing, which suggested that the case documents had been reviewed from a new perspective. After the hearing, VAKAD expressed to the mission that they supposed that the reason for the court’s decision to schedule further hearings of the witness Maksude Çakan, was that the court had found her previous testimony too vague.

The mission’s interpreter, Ms. Pırl Akkuş, translated the court’s minutes from the hearing – which are cited below:

“The board of judges, together with prosecutor and the secretary, gathered in the hearing room of The Second Heavy Crime Court of Van. The defence lawyer Burhan Buğday and participant lawyer Güven Yarımbatman and participants Herdem Pesen and Necmettin Pesen came to the hearing. No one else came. Open proceedings continued.

Because of change of delegation in the court, the previous minutes were read.

An order had been written to the Van M Type closed prison for bringing Kerem Çakan to the court. The answer was that the defendant could not be taken to the court because he was sent to Elazığ Closed Prison.

The participants [Eylem Pesen’s parents] were asked about their opinions. And they said ‘we repeat our previous statement.’

The representative of the participants [Mr. Güven Yarımbatman] was asked about his opinions. He said ‘we want the deficiencies in the case to be eliminated.’

The representative of the defendant was asked [Mr. Burhan Buğday]. He said ‘I repeat my previous statements.’ And he said ‘My client has been receiving psychological treatment for a long time. And we demand the minimum level of punishment to be given to him, considering this fact.’

The prosecutor was asked. He said ‘I have nothing to say to the defence or the statements. I want the elimination of the missing points and continuation of the remand of the defendant, considering the quality of the content of the crime, and existing evidence.’

THE DECISION:

- 1- An order shall be written to Van Police Directorate to bring by force the previously heard witness Maksude Çakan to be heard again.*
- 2- The imprisonment [remand] state of Kerem Çakan shall be continued, considering the quality of the crime of intentional murder, and existence of strong suspicion that the defendant committed the crime.*

This decision shall be notified to the defendant (it was not notified). The option to object to this decision of remand is open at Van number 1 aggravated felony court. According to penal procedural code article 107/1, the decision to prolong the remand can be notified to one relative of the imprisoned person, or someone the imprisoned assigns to receive such notification.

- 3- *An order shall be written to the Elazığ E Type Closed Prison, to bring the defendant Kerem Çakan to the court room on the day of the next hearing.*

The review of the remand will be heard on these dates: 10/11/2011 and 07/12/2011.

The hearing has been adjourned to 15/12/2011 at 10:30 am.

13.10.2011

President [presiding judge] 39518

Member 124722

Member 125141

Secretary 116968”

When the mission spoke to the Pesen family after the hearing, they expressed their relief that the court had ordered additional hearings in order to further scrutinise the involvement of Maksude Çakan.

IV.COMMENTARY

As stated in the introduction, this report should be read as a supplement to Mr. Michael Kearney's Trial Observation Report from the mission to Van in 2009. The report gives an extensive analysis of the relevance of the Eylem Pesen case, in terms of identifying specific legal issues arising from the case. It also gives a set of recommendations to the Turkish judiciary and government, The European Union, local NGOs, human rights groups and civil society groups.

The 2011 mission would like to express that it fully agrees with the analysis, conclusions and recommendations that are stated in the 2009 report, as the mission finds that the opinions given therein are still very much valid in addressing the issues at hand.

Specific areas of concern observed by the 2011 mission, which were also mentioned in the report from 2009, are those of whether the implementation of relevant laws is sufficient, whether prevention measures are adequate and whether investigation is thorough enough.

The mission is inevitably left with the impression that Turkey still has a long way to go in assuring that necessary steps are taken to improve the situation abused women, especially in the Kurdish areas. In this regard, the mission finds it appropriate to reiterate the conclusion from the 2009 mission, where it is stated that the Turkish State is failing to implement a sound policy to tackle violence against women, causing it to be in contravention of its international and domestic obligations. Moreover, there seems to be little, if any, coherent state policy of addressing threats of honour crimes or violence against women in general.

The 2011 mission would however like to express that it was pleased to see that the court found reason to further scrutinise the possibility of culpability of other family members, by calling Maksude Çakan to an additional hearing. This development suggests that the trial proceedings do go some way in ensuring a more thorough investigation into the potential involvement of the greater family – and by doing so potentially ascertaining whether the killing was a so-called “traditional killing”.

However, insofar as the case is only one of many regarding violence against women, and insofar as the case has received relatively large attention internationally, the development of the trial proceedings in the Pesen case is not necessarily indicative of how such cases are handled on a larger scale within the judiciary.

Examples from similar cases given to the mission by local women's rights groups, suggest that there exists an unhealthy prejudice against women both within the police and the courts, as cultural aspects play a part in how violence against women is considered to be a matter belonging within the confines of the family.

As pointed out by the 2009 mission, such attitudes suggest that it still remains the case that the Turkish state is not doing enough to effect changes in societal mentality through for example education. To this end, the 2011 mission would like to express its support to the

women's rights groups in Van who continue to raise awareness about the rights of women, and continue to influence the Turkish policy makers.