



Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the
Economic and Social Council of the United Nations
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October 21, 2015



Mr. Kenan İpek, Minister of Justice
Ministry of Justice
Adalet Bakanligi
06659 ANKARA, Turkey

OPEN LETTER

Mr. Ahmet Davutođlu
Prime Minister of the Republic of Turkey
Cad. No:8 Balgat
06100 ANKARA, Turkey

Your Excellencies,

Re: Arrest and investigation of human rights lawyer Tahir Elçi

On behalf of the Lawyers for Lawyers Foundation, Fair Trial Watch and Lawyers Rights Watch Canada we express our grave concern over the investigation faced by our colleague Atty. Tahir Elçi, a prominent human rights lawyer and the president of the Diyarbakir Bar Association.

On 20 October 2015, Mr. Elçi was arrested by the anti-terror police in the offices of the Diyarbakir Bar Association and brought to Istanbul to be interrogated by the Bakirköy Public Prosecutor. We understand first that the prosecutor has started an investigation of Mr. Elçi for allegedly 'making propaganda for or promoting a terrorist organization' and second, that he was arrested on the grounds that his whereabouts were not known and that a summons to testify before the prosecutor could not be issued. We reject the legitimacy of both the basis of the investigation and the grounds for the arrest and associated restrictions. With respect to the arrest, as we understand it, Mr. Elçi had stated on 19 October 2015 that he was willing to come to the police station voluntarily to make a statement. As he did not receive a summons, he waited at his office at the Diyarbakir Bar Association for the police, together with a group of lawyers and politicians.

After Mr. Elçi was questioned, the prosecutor requested the court to impose pre-trial detention. The court ordered Mr. Elçi's release. However, his release is pending completion of the investigation, which is ongoing, and restrictions have been imposed: Mr. Elçi is not allowed to leave the country and is placed under judicial supervision.

The investigation against Mr. Elçi was started because of carefully considered comments he made on a television show in his capacity as President of the Diyarbakir Bar Association. In a live discussion on CNN Turk on 14 October 2015, he stated his opinion that the Kurdistan Workers' Party (PKK) is not a terrorist organization, but rather an armed political movement with political demands that has a lot of supporters. Mr. Elçi also called for an immediate end of the conflict and a peaceful resolution of the Kurdish issue.

Mr. Elçi has worked as a human rights lawyer in Cizre and Diyarbakir since the early 1990's, representing families of victims of human rights violations by the security forces. Recently, as president of the Diyarbakir Bar Association he has led fact-finding missions into the curfews imposed on cities and towns in southeast Turkey and documented human rights violations by the security forces against civilians.¹

We strongly object to the way Mr. Elçi is being treated. Lawyers, like other citizens, are entitled to freedom of expression. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights. The right to freedom of expression of lawyers is explicitly set out in article 23 of the United Nations *Basic Principles on the Role of Lawyers* (Basic Principles).²

Lawyers in Turkey, including Mr. Elçi, play a vital role in documenting the events that occur in the conflict in Southeast Turkey and in supporting victims of human rights violations. It is essential that the valuable role of lawyers played in a democratic society such as Turkey is recognized by the Turkish government, especially in trying times like these. Turkey is obliged "to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference" and "shall not suffer, or be threatened with, prosecution of administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics" (Articles 16 and 17 of the Basic Principles). Lawyers must be able to perform their work without fear that this might have negative consequences for themselves. The treatment of Mr. Elçi is contradictory to that.

The undersigned organizations endorse the resolution adopted by The Paris Bar Council on 20 October 2015 condemning the aforesaid treatment of Atty. Tahir Elçi.

The Paris Bar believes that the arrest of the President of the Bar of Diyarbakir and the proceedings against him violate the United Nations Basic Principles on the Role of Lawyers adopted on 27 August and 7 September 1990 (Principles of Havana), including warranties related to the exercise of the profession and freedom of expression of the lawyer. The Paris Bar recalls its commitment to these fundamental principles of rule of law and strongly condemns the procedure implemented against the Bar Tahir Elçi.

In light of this we urge you to make sure that the investigation against Mr. Elçi is dropped immediately and unconditionally and that all conditions restricting his liberty and movement are removed. We call on the Turkish authorities to honour its international human rights law

¹ Source : HRW, Turkey : Rights Lawyer Faces Terrorism Probe, www.hrw.org/news/2015/10/20.

² *Basic Principles on the Role of Lawyers*, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, U.M. Doc. A/CONF. 144/28/Rev.1 at 118 (1990), available at <http://www2.ohchr.org/english/law/lawyers.htm>.

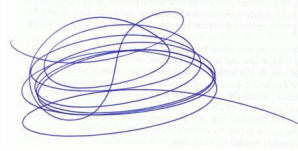
obligations, to ensure the personal and professional safety of Mr. Elçi and his colleagues and to enable them to carry out their professional duties free from intimidation and reprisals.

We respectfully request your response to our requests as soon as possible. We will continue to monitor this important matter closely.

Sincerely,



Adrie van de Streek, Executive Director L4L



Gail Davidson, Executive Director, LRWC



Newal Çiftçi, Fair Trial Watch

The Lawyers for Lawyers Foundation (L4L) is an independent and non political foundation that seeks to promote the proper functioning of the rule of law by pursuing freedom and independence of the legal profession. We do this by supporting lawyers worldwide who are threatened or suppressed in the execution of their profession. .

Fair Trial Watch (FTW) is an independent and non political Dutch Foundation that promotes a fair trail for anybody around the world.

Lawyers Rights Watch Canada (LRWC) is a committee of lawyers that promotes human rights and the rule of law internationally through advocacy, research and education.

CC: National Human Rights Institution of Turkey

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