



ELDH European Association of Lawyers for Democracy & World Human Rights

WITH LAWYERS
IN 16 COUNTRIES

EJDM Europäische Vereinigung von Juristinnen & Juristen für Demokratie und Menschenrechte in der Welt
EJDH Asociación Europea de los Juristas por la Democracia y los Derechos Humanos en el Mundo
EJDH Association Européenne des Juristes pour la Démocratie & les Droits de l'Homme
EGDU Associazione Europea delle Giuriste e dei Giuristi per la Democrazia e i diritti dell'Uomo nel Mondo

Equality Privacy Social Rights
No Racism Peace No Torture Civil Rights No War
Self-Determination of Peoples Democracy
Human Rights Rights of Migrants

Duesseldorf/Istanbul

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Press Release

Fact-Finding Mission in Turkey

A group of 8 lawyers from different European Countries (Germany, Greece, Holland, Italy, Switzerland), from Egypt, and the U.S.A. are visiting Turkey from 7th till 12th March to investigate the circumstances of the recent wave of arrests of lawyers and trade unionist. The lawyers have been sent by two European lawyers organisations, The European Association of Lawyers for Democracy and World Human Rights (ELDH) www.eldh.eu and the European Democratic Lawyers AED-EDL <http://www.aeud.org/>, by the Arab Lawyers Union (Egypt) and by the International Association of Democratic Lawyers (IADL) www.iadllaw.org.

The above mentioned lawyers organisation have taken notice of the new mass arrest of lawyers in Turkey, among them the President of ÇHD Selçuk Kozağaçlı, with utmost concern. For the same reason on February 11, IADL submitted a statement to the Human Rights Council to bring to its attention IADL's grave concern over the arrest of lawyers in Turkey. Immediately after the arrests happened, ELDH and IADL alarmed the public with their protests. For many years ÇHD has been a member organisation of ELDH and also of IADL, struggling with both organisations for the defence of Human Rights. It is the duty of these organizations to give ÇHD all possible legal and political assistance for the exoneration of their president and their other arrested members.

After having observed the politically motivated trial against the 46 lawyers in Silivri the lawyers associations are anxious that the new arrests are also politically motivated and that once more lawyers are identified with their clients or their clients' causes as a result of discharging their functions.

During their mission in Turkey the group of lawyers intends to accomplish the following programme

In Istanbul

- Meetings with Turkish lawyers organisations and with the Istanbul Bar Association
- Visit of the raided offices
- Meetings with witnesses

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- Meeting with the Prosecutor on Istanbul
- Meeting with the President of KESK
- Meeting with the Free Defence Platform
- meeting with İstanbul Medical Chamber (IMC is in charge of the complaints for disciplinary proceedings of the doctors who forcibly -with police officers- sampled blood and salivary from the arrested lawyers)

In Ankara

- Meeting in Ankara with officials from the Ministry of Justice and the State Prosecutor on Friday, 8th March 2013. We consider it necessary to hear the legal justification of the Government for these arrests. Up to now the Ministry has not replied to the official demand for a meeting.
- Visits to the two prisons in and near Istanbul where the lawyers are currently detained between Friday 8th and Sunday 10th March 2013. These visits are necessary to gather evidence about the conditions of detention and the state of health of the detained lawyers. Up to now the Ministry of Justice has not given the permission for such a visit.

After a first evaluation of the reports about the recent lawyers arrests ELDH, AED-EDL, ALU, and IADL came to the following preliminary conclusions, based on the report of the English Barrister Richard Harvey, special envoy to prepare the Fact-Finding Mission:

1. All arrested lawyers were assaulted by the police in the course of their arrests and Taylan Tanay was taken forcibly to the ÇHD office from the People's Law Office, above which he lived. Former ÇHD branch president Serhan Arıkanoglu and ÇHD member Zeki Rüzgar were arrested when they came to the Court House of their own free will to give statements to the public prosecutor.
2. Those arrested were forcibly compelled to provide blood and saliva samples (and in one case a blood sample), despite the fact that no probable cause had been shown that such samples were relevant to any ongoing criminal investigation [in violation of Turkish law]. The doctors involved in procuring these samples by force have been reported for violation of medical ethics by the Medical Chamber of Istanbul.
3. In response to these arrests, ÇHD President Selçuk Kozağaçlı, who was abroad in Syria at the time, issued a public statement condemning the arrests and announcing his intention to return to Turkey despite the arrest warrant that awaited him. When he arrived at Ataturk Airport, he was arrested because he was considered by the police to be a "flight risk," despite having flown back to Turkey knowing he would be arrested.
4. The lawyers' client files have not been returned and countless clients' civil rights have thus been compromised.
5. When a group of lawyers went to the court to file an application for the release of the lawyers under arrest, police in full riot gear attacked them. Ramazan Demir was stomped on the ground by police until he lost consciousness. He and other lawyers required hospital treatment and he showed the photographs of these injuries received in the course of trying to do his legal duty to represent his clients.
6. Beginning at 4:00 am on 18 January 2013, ÇHD's Istanbul and Ankara branch offices were raided by Turkish police, in violation of Article 118 of the Turkish Criminal Procedure Code Number 5271.¹ The People's Law Office (an independent law firm defending the basic rights of the oppressed) and many lawyers' homes were also raided. Searches and detentions began at 04.00 AM. The searches further violated the Turkish Criminal Procedure Code law as they began without prosecuting officials in attendance and the Istanbul Bar Association was not informed about the searches until over an hour after they began.²
7. Lawyers' computers and other attorney-client privileged work product were seized, including case files for which the police appeared to be looking specifically. The police also seized lists members of ÇHD, files on the struggle of some workers to whom ÇHD

¹ (prohibition on searches of private dwellings or business places during night hours)

² Contrary to Article 130(1) of the Turkish Criminal Procedure Code Number 5271 (Search and Seizure in Attorneys' Offices) and Article 58 of the Attorneyship Law.

had given advice and attempted to seize files on the assassination of Hrant Dink and other case files.³

8. By arresting these lawyers the Turkish State not only prevents them from exercising their professional duties but also denies their clients the right to be represented by a lawyer of their choice. Both acts are a violation of human rights, under the European Convention of Human Rights Art. 6, Para 2, c, as well as the UN Basic Principles on the Role of Lawyers, Article 1.” Furthermore Article 18 of the basic principles state that Lawyers shall not be identified with their clients or their clients’ causes as a result of discharging their functions.

The lawyers associations which have organized the fact-finding mission in Turkey demand

1. The immediate release of the arrested lawyers.
2. That lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.
3. The Turkish State shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.
4. The full implementation of all International and all European law ratified by Turkey concerning the right to a fair trial, i.e. Art. 14 International Covenant on Civil and Political Rights, Art. 6 European Convention on Human Rights.
5. The full implementation of the Basic Principles on the Role of Lawyers i.e. Art. 7, 8, 16, 182. That all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention.

The lawyers associations within their resources will give the arrested lawyers all possible assistance.

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³ Turkish-Armenian journalist and editor-in-chief of the bilingual Turkish-Armenian newspaper Agos, assassinated in Istanbul in January 2007 shortly after the premiere of the documentary *Screamers*, featuring an interview with him on Turkey’s denial of the Armenian Genocide. His assassin was later photographed flanked by smiling Turkish police officers, posing with him in front of the Turkish flag. See, http://en.wikipedia.org/wiki/Hrant_Dink