



ELDH European Association of Lawyers for Democracy & World Human Rights

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



EJDM/ELDH | Platanenstrasse 13 | D - 40233 Düsseldorf

DJS JDS GDS

Demokratische Juristinnen und Juristen der Schweiz
Juristes Démocrates de Suisse
Giuristi e Giuriste Democratici Svizzeri
Giuristas e Giurists Democrats Svizzers

Schwanengasse 9
3011 Bern
Tel 078 617 87 17
info@djs-jds.ch

Still more evidence required

Report on the hearing in the trial against Lawyers of Asrın Law Office (in previous reports referred to as KCK lawyers trial)¹, which took place on 10th May 2018 at 9.30 am, Heavy Penal Court, 19th Chamber, Istanbul. This report is to be considered as a follow up to Tony Fisher's «Turkey Report»² issued in December 2017.

On 10th May around 40 lawyers from England, France, Germany, Italy, the Netherlands, Spain and Switzerland formed an international trial observation delegation - since three hearings in three different court cases against our colleagues took place the same day, the delegation had to divide into smaller observation groups. Lawyers from France, Germany, the Netherlands and Switzerland followed the 19th hearing in the Asrın lawyers trial in Çağlayan court house, Istanbul.

As previously reported, the trial has continued through a period of substantial political and social changes within Turkey. In July 2016 an attempted coup, which has been attributed by the Turkish authorities to members of the Gülen movement, failed. Subsequently, a state of emergency was declared which has continued uninterrupted since then. Wide executive powers have been ceded to the President who has made use of these to arrest tens of thousands of alleged supporters of the coup. The public prosecutor formerly investigating the Asrın lawyers trial, together with Mehmet Ekinçi, who was the previously responsible judge, police-officers and intelligence-service employees who were involved in the original investigations concerning the case were among the arrested and are now accused for example of falsifying or even forging evidence. To justify the massive wave of purges against the Gülen movement formerly allied to Erdoğan's AKP, the government constructed a new narrative accusing Gülenists of basically having created an informal state within the state. They are also accused of having fabricated investigations and criminal charges against a wide range of different people.

EJDM/ELDH European Association of Lawyers for Democracy & World Human Rights
President: Professor Bill Bowring, London | E-Mail: bill.bowring@eldh.eu | Phone +44 (0)781 048 34 39
Présidente d'honneur: Professeure Monique Chemillier-Gendreau, Paris
Secretary General: Rechtsanwalt Thomas Schmidt, Düsseldorf | E-Mail: thomas.schmidt@eldh.eu |
Phone +49 (0)172 68 10 888
Postal address: ELDH | Thomas Schmidt | Platanenstrasse 13 | D - 40233 Düsseldorf (Germany)
Website: www.eldh.eu

In the previous hearings the defence repeatedly requested to take the files regarding these charges against officials who were formerly involved in the Asrın lawyers investigation, into evidence in the Asrın lawyers case itself. This request has been at least partially approved by the court and the defence has been provided with some of the crucial case files. On 10th May 2018 first two of the defendants took the opportunity to give a new statement to the court emphasising among other aspects that although they now had access to additional evidence a comprehensive overview still isn't possible. The different investigations leading up to the Asrın lawyers trial had been joined and separated several times. Representations were made that it still cannot be fully determined how the individual defendants in the case have been selected and finally combined to face the criminal charges brought against them collectively. One defendant, lawyer Faik Özgür Erol, mentioned several documents in the files marked with different case numbers proving that criminal investigations have been joined and separated again, making it close to impossible to fully understand the proceedings without access to the complete files of all cases connected to his trial. Later defence attorney Avv. Several Ballıkaya mentioned for example a record of a raid but the court order it was based on is missing in the files. There were other instances where the order was present but no other records in relation to that order. One example was a file which contained an order to observe a person but which showed no further records of the observation. Faik Özgür Erol also mentioned one specific investigation [2010/521 no] which seems to be a kind of primary source investigation. This investigation focussed on the Oslo and İmralı negotiation process before 2011 including not only the accused lawyers of the jailed Abdullah Öcalan but also involved members of the Turkish secret service MİT. According to the defence when the political climate requested this intervention it was split into different parts first of all separating MİT from the other suspects. After then adding other lawyers from other ongoing investigations the lawyers of Asrın Law Office were combined to one file recorded as case number 2010/521. It then appears that in November 2011 all defendants were finally transferred to another file with the case number 2011/2196 - followed by raids and arrests on 22nd November 2011.

In court defence lawyer Avv. Several Ballıkaya spoke regarding an investigation referred to as the «Jerusalem Army [Selam-Tevhid] investigation [2011/762]» one of several investigations led by members of the Gülen movement targeting all sorts of potential threats to state power and political opponents under trumped-up allegations of criminal activity. Based on these «investigations» a wide range of people were put under unlawful surveillance and an extensive amount of evidence for potential future use was gathered. Using methods like this the government was preparing to be able to crack down on any dissent eventually threatening to shift state power.

In conclusion the defence requested on 10th May 2018 to take all connected files into evidence in the present case and proposed to the court that further inquiries should be made regarding the connection of the Asrın lawyers trial to other proceedings in Turkey.

Exposing the political nature of the Asrın lawyers trial Avv. Several Ballıkaya also mentioned the «Ergenekon» case. While the conviction of the mainly Kemalist members of the army have been revoked in the meantime because it was allegedly based on fraudulent evidence fabricated by the Gülen movement, the Asrın lawyers trial is still going on - a distinction which can not be explained from a legal point of view. In conclusion the defence requested on 10th May 2018 to take all connecting files into evidence and proposed to the court to make further inquiries regarding the connection of the trial against Asrın Law Office lawyers to other proceedings in Turkey. After a short recess the case was adjourned again to autumn 2018.

1

The «Asrın lawyers trial» is one of many mass trials against lawyers in Turkey and started in July 2012 in Istanbul. The accusations target mainly Lawyers from the Asrın Law Office or other lawyers connected them - the defendants at some point were all involved in the defence of the still imprisoned Abdullah Öcalan. The case is related to the «KCK operation» of the Turkish Government and is therefore connected to other mass trails concerning the alleged membership of the defendants in the KCK which is classified as terrorist organization by the Turkish state.

2

http://www.eldh.eu/fileadmin/user_upload/ejdm/events/2018/KCK_Lawyers_Trial_-_Tony_Fisher_-_Turkey_Report_December_2017.pdf (note: Tony Fisher was unable to attend this hearing since he was attending, with other members of the international delegation, the first hearing in a new trial of 18 further lawyers which was held at the same time.)