

From the President

Prime Minister Recep Tayyip Erdoğan
Vekaletler Caddesi
Başbakanlık Merkez Bina
PK 06573
Kızılay, ANKARA
Turkey



The Law Society

7 February 2013

Dear Prime Minister,

The Law Society of England and Wales is the professional body representing more than 165,000 solicitors in England and Wales. Its concerns include upholding the independence of the legal profession, the rule of law and human rights throughout the world.

The Law Society is concerned in relation to a number of cases which have been brought in Turkey over the last year or so against lawyers who are engaged in the representation of individuals whose cases involve human rights principles.

1. Arrests on 18 January 2013

Firstly the Law Society is concerned for 15 lawyers that were arrested on 18 January 2013 during raids that were carried out by police forces in 7 cities around Turkey. Amongst those arrested are Taylan Tanay, Güçlü Sevimli, Selçuk Kozağaçlı and thirteen other lawyers. Nine of the fifteen arrested lawyers are members of the Progressive Lawyers' Association (CHD), including an executive board member of the association, Güçlü Sevimli and Istanbul branch head Taylan Tanay. The president of the CHD, Selçuk Kozağaçlı, and an executive board member, Oya Aslan, were abroad at the time, but were arrested on their return to Turkey on 21 January 2013. The offices of CHD in Ankara and Istanbul were searched, the offices of the Peoples Law Office along with the houses of several lawyers. The CHD has been a longstanding member organisation of the European Association of Lawyers for Democracy and World Human Rights (ELDHR), with its President, Selçuk Kozağaçlı, an executive committee member.

From reports of the events which took place it appears that the raids and searches which led to the arrest of the lawyers have been carried out unlawfully as the requirement for the presence of a prosecutor and a member of the bar association was not observed. It appears that the lawyers were arrested because they were associated with their clients' activities and affiliations. As a result, they are prevented from fulfilling their occupational functions and their clients are denied the right to choose the lawyer to represent them. Furthermore, I understand that the victims' lawyers have not been given any details about the charges against the victims.

The victims are prominent human rights lawyers who have represented individuals in cases concerning freedom of speech and police violence. Nine of the fifteen lawyers arrested are members of Çağdaş Hukukçular Derneği (Progressive Lawyers' Association), which has been founded in 1974 in order to strive for the progressive development of the law, a legal system based on liberty and democracy, and the protection of fundamental rights. Selçuk Kozağaçlı has been President of the organisation since 2007.

On 18 January 2013 the Turkish police force are reported to have carried out overnight raids in several cities against DHKP/C, a terrorist organisation. The raids which led to the arrest of the

lawyers took place at residential addresses, ÇHD premises and law offices, including the People's Law Office in Istanbul. The fifteen lawyers, including Taylan Tanay and Güçlü Sevimli, were detained and an arrest warrant was issued for Selçuk Kozağaçlı. Selçuk Kozağaçlı released a statement about the arrests in his capacity as the President of ÇHD.

On 20 January 2013, Selçuk Kozağaçlı was arrested at the airport upon his return from Syria. The Prosecutors' Office started taking statements from the detained lawyers. Other lawyers who wished to attend in order to visit the detained lawyers in their capacity as legal representatives and to petition the Prosecutors' Office were allegedly prevented from doing so by the police. One of these lawyers (Sevinç Sarıkaya) had to be hospitalised as she sustained severe injuries with a risk of internal bleeding. (ÇHD)

Arrests of 22 November 2011

The January 18 2013 arrests are the second wave of mass arrests of lawyers in Turkey. On November 22, 2011 46 Lawyers were detained on charges of transmitting information and orders from imprisoned PKK leader Abdullah Ocalan to KCK members.

By arresting these lawyers the Turkish state has prevented them from exercising their professional duties and has denied their clients the right to be represented by a lawyer of their choice. Both acts are therefore a prima facie violations of human rights under the European Convention of Human Rights.

We draw your attention to Article 6, paragraph 2, c of the European Convention of Human Rights which states:

1. *Everyone charged with a criminal offence has the following minimum rights:*
 - c. *to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;*

We also draw your attention to Article 14 of the International Covenant on Civil and Political Rights which states:

1. *All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.....*

2. *Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.*

3. *In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;*

- (b) *To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;*

- (c) *To be tried without undue delay;*

- (d) *To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require,*

and without payment by him in any such case if he does not have sufficient means to pay for it;.....

We also draw your attention to Articles 1 and 18 of the United Nations Basic Principles on the Role of Lawyers which states:

1. *All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings.*

18. *Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.*

The Law Society is deeply concerned by these mass arrests that prevent lawyers from performing their professional duties.

Convictions on 24 January 2013

On 24 January 2013, four lawyers from Ankara, Ms Filiz Kalaycı, Mr Hasan Anlar, Mr Halil İbrahim Vargün and Mr Murat Vargün received sentences ranging from 6 years and 3 months to 7 years and 6 months in jail on charges of being a member of "an armed, illegal organization." International observers fear that these charges are merely based on the lawyers' legitimate professional activities and their involvement in the promotion of universal human rights standards.

Lawyers for Lawyers (L4L) and Fair Trial Watch (FTW) have closely followed the case against the four Ankara lawyers and attended most trial hearings. The concerns raised by Thomas Hammarberg, former commissioner for Human Rights of the council of Europe were confirmed during the observation of the cases. Mr Hammarberg noted the definition of some offences in Turkish laws concerning terrorism and membership of a criminal organization and their wide interpretation by courts was questionable as the lawyers' legitimate professional activities including the provision of legal advice, investigating torture and ill treatment claims in prisons. In this case it appears and their telephone discussions with colleagues were seen by the court as criminal activities.

Conclusion

Over the last year, we are aware that more than 60 lawyers have been arrested in Turkey and at least 35 lawyers are still detained in custody. These mass arrests suggest that judicial harassment against lawyers in Turkey has become large-scale and systematic. It appears to international observers that lawyers are at risk for defending clients accused of terrorism-related offences or otherwise involved in defending human rights standards, and that they are being prevented from performing their legitimate professional duties.

Furthermore, recent observations undertaken on behalf of the Law Society of the trial in Istanbul of the 46 lawyers mentioned at 2. above has confirmed that the status of defence counsel is considerably weakened by limiting their plea time at certain trials. This strengthens the fear of L4L and FTW that criminal proceedings are being misused to repress, intimidate and punish lawyers. This practice appears to have resulted in arbitrary detentions, it discourages lawyers from representing clients involved in politically sensitive cases, and it undermines the right to be legally represented and thus constitutes a serious violation of the rule of law and Turkey's international law obligations.

The Law Society of England and Wales is concerned that these arrests violate Turkey's international legal obligations to:

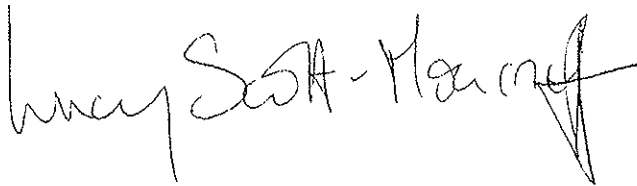
- Ensure and protect the right and duty of lawyers to represent their clients free from interference and reprisals from state agents and others; and
- Protect and ensure for all rights protected by the Universal declaration on human rights, the ICCPR and the ECHR including the right to liberty and to the presumption of innocence until proven guilty.

As such, the Law Society of England and Wales urges the Turkish government to honour its international human rights obligations and to:

1. Immediately release the arrested lawyers referred to above on bail whilst their cases are progressed;
2. Ensure generally that lawyers are able to perform their professional duties without intimidation, hindrance, harassment or improper interference including those who represent individuals accused of terrorism or other criminal activities aimed at the government;
3. Ensure that prosecuting authorities do not identify lawyers with their clients or their clients' causes as a result of discharging their functions;
4. Secure the full implementation of all International and all European obligations 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. Secure full respect in Turkey for the UN Basic Principles on the Role of Lawyers; and.
6. Provide police and judicial officers with education and training about the rights guaranteed by the ICCPR and ECHR and Turkey's legal obligations to ensure effective protection of those rights for all.

On behalf of the Law Society of England and Wales, I respectfully request that, unless there is substantial evidence to show all lawyers currently under arrest and in custody in Turkey may have committed a recognisable criminal offence, the proceedings against them should be discontinued and they should be allowed to carry out their legitimate activities as lawyers without interference.

Yours sincerely



Lucy Scott-Moncrieff
President

Direct Line: 020 7320 5826

Direct Fax: 020 7320 5759

lucy.scott-moncrieff@lawsociety.org.uk