

## OPEN LETTER TO THE AUTHORITIES - THE OBSERVATORY

### Open Letter to Mr. Abdullah Gül, President and Mr. Sadullah Ergin, Minister of Justice Republic of Turkey

Paris-Geneva, February 24, 2011

**Re: Call for the release and the end of judicial harassment against four İHD members.**

Your Excellencies,

The Observatory for the Protection of Human Rights Defenders, a joint programme of the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), expresses its deepest concern about the prolonged pre-trial detention and judicial harassment against Mr. **Muharrem Erbey**, General Vice-President of the Human Rights Association (*İnsan Hakları Derneği* - İHD) and President of its Diyarbakır province branch, Mr. **Arslan Özdemir** and Ms. **Roza Erdede**<sup>1</sup>, İHD members in Diyarbakır, Ms. **Vetha Aydın**, President of İHD's Siirt province branch<sup>2</sup>.

The Observatory recalls that the four human rights defenders were arrested by the Anti-Terror Units as part of an operation launched in 11 provinces of Turkey between the end of 2009 and April 2010 to dismantle a so-called terrorist network - the Kurdish Communities Union (KCK) - an organisation said to be the "urban branch" of the armed Kurdistan Workers Party (PKK). The four defenders have been charged of "being a member of an illegal organisation" pursuant to Article 314 of the Criminal Code, with reference to Article 220/6 of the Criminal Code in the Law No. 5237 and are facing a minimum sentence of 7,5 to 15 years of prison.

The Observatory conducted a fact-finding mission in Turkey from October 16 to 22, 2010. Ms. Souhayr Belhassen, FIDH President, personally headed the delegation, and had the honour to meet your Excellency, Mr. Sadullah Ergin. The objectives of this visit were to express our solidarity with Mr. Erbey and other İHD members at the opening of their trial before the Diyarbakır Special Heavy Penal Court on October 18, 2010, to meet state officials and civil society representatives and to collect information on the circumstances and reasons of the arrests targeting several human rights defenders, notably İHD members.

We would like to share with you some of our preliminary findings on the conduct of the investigation and prosecution of Messrs. Erbey and Özdemir, Ms. Erdede and Ms. Aydın since we believe that the accusation of membership to a terrorist organisation is baseless.

In relation to Mr. Erbey, the minutes made during his interrogation on December 25, 2009 by the prosecution show that he was arrested for his legitimate human rights work. It appears that that the charges were notably based on his participation in a workshop in Diyarbakır in September 2009 on constitutional amendments aimed at ensuring a greater respect of minorities' rights, on his speeches on Kurdish rights made before parliaments in Belgium,

<sup>1</sup> Messrs Muharrem Erbey and Arslan Özdemir are remanded into custody since 23 December 2009. Ms. Roza Erdede is remanded into custody since April 2010. See the Observatory's Press Release, December 29, 2009.

<sup>2</sup> Ms. Vetha Aydın was arbitrarily arrested on March 16, 2010 by the Anti-Terror Unit of the police together with Mr. Abdullah Gürge, board member İHD's Siirt province branch. On March 17, 2010, Mr. Abdullah Gürge was released from the Siirt police headquarters at around 2 pm. See the Observatory's TUR 001 / 0310 / OBS 040.

Sweden and England, and on his attendance to the “Kurdish Film Festival” in Italy in 2009. In addition, in contradiction with the right of the defence, lawyers representing Messrs. Erbey and Özdemir were only given access to the criminal file six months after the arrest of their clients.

It is also alleged that Ms. Vetha Aydın was charged in relation to meetings she attended and press statements she made as part of her human rights work. Furthermore, several IHD premises were illegally searched, notably on December 24, 2009 at IHD's Diyarbakır province branch and on March 16, 2010 at IHD's Siirt province branch.

The Observatory is deeply concerned that Mr. Erbey, Ms. Aydın, Mr. Özdemir and Ms. Erdede are being prosecuted under terrorism law since their human rights activities should not be considered as crimes. In that regard, the Observatory would like to recall Article 1 of the United Nations Declaration on Human Rights Defenders adopted by the General Assembly on December 9, 1998, which states that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels”.

The work and commitment of Mr. Erbey, Ms. Aydın, Mr. Özdemir and Ms. Erdede towards the promotion and protection of human rights and peace in Turkey is unquestionable and as human rights defenders, the State of Turkey should “take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration” in conformity with Article 12.2 of the UN Declaration on Human Rights Defenders.

We appraise the fact that freedom of expression has greatly improved in Turkey over the past years and that critical and open debate in the media and public on topics deemed sensitive have increased. However, the Observatory considers that the prosecution of human rights defenders for their human rights work, including the exercise of their freedom of expression, contravene the international obligations of Turkey and notably the International Covenant and Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR).

Due to the excessive duration of the pre-trial detention of Mr. Erbey, Ms. Aydın, Mr. Özdemir and Ms. Erdede and the elements of the case which show that their detention is arbitrary, the Observatory considers that the continuing detention and judicial harassment against the four human rights defenders also violate international and regional commitments binding the Republic of Turkey and therefore urges for their immediate provisional release.

In that regard, the Observatory calls your Excellencies to ensure the respect and protection of the right to liberty and security, the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law, the right to the presumption of innocence, the right to defence and the right to freedoms of thought and expression of the above mentioned defenders in compliance with the ECHR and the ICCPR.

More generally, the Observatory calls your Excellencies to ensure that human rights defenders in the Republic of Turkey do not face any act of harassment, so as to comply with the provisions of the UN Declaration on Human Rights Defenders as well as to ensure in all circumstances the respect for human rights and fundamental freedoms in accordance with international and regional human rights instruments ratified by the Republic of Turkey.

The Observatory respectfully thanks your Excellencies for their attention in this matter and expresses its sincere hope that your Excellencies will take these considerations into account.

Yours sincerely,



The Observatory  
for the Protection  
of Human Rights Defenders

Souhayr BELHASSEN  
FIDH President

Eric SOTTAS  
OMCT Secretary General