

## OPEN LETTER TO THE AUTHORITIES

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

Brussels-Geneva-Ottawa-Paris, December 16, 2011

#### **Re: Call for the release and the end of judicial harassment against lawyers**

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), the *Union Internationale des Avocats* (UIA-International Association of Lawyers), the *Conférence internationale des barreaux* (CIB), Lawyers' Rights Watch Canada (LRWC) and the International Foundation for the Protection of Human Rights Defenders (Front Line) express their deepest concern about the frequent use of arbitrary detention and judicial harassment against a significant number of lawyers for merely defending their clients' rights in politically sensitive cases.

The most recent and serious incident is the campaign of arrest, launched on November 22, 2011, that targeted 39 lawyers and one legal worker in the scope of an operation aiming to dismantle an alleged terrorist network known as the Kurdish Communities Union (KCK) - an organisation said to be the "urban branch" of the armed Kurdistan Workers Party (PKK). They were taken into custody in Istanbul for their alleged membership to KCK under charges of "membership of an illegal organisation" and "directing an illegal organization". All were remanded into custody on November 26 or December 7 after they had been interrogated at the Beşiktaş (Istanbul) Heavy Penal Court No. 11. All of them have been involved in the legal representation of imprisoned PKK leader Abdullah Ocalan and have been accused of "passing orders of Abdullah Ocalan". The arrests include defence lawyers who are engaged in the main KCK trial handled by the Diyarbakır 6th High Criminal Court. The lawyers took a stance against the ban of a defence in Kurdish before the Diyarbakır courts as a matter of principle and stated that they would not be able to defend their clients. Both the lawyers and the Diyarbakır Bar Association were warned several times by the court and the prosecutors about "committing a crime". On December 5, another lawyer was remanded into custody in the same criminal case.

Today 41 individuals - 40 lawyers and one legal worker - are remanded into custody and currently detained in Metris prison are **Asya Ülker, Aydın Oruç, Bedri Kuran, Cemal Demir, Cemo Tüysüz, Davut Uzunköprü, Doğan Erbaş, Fuat Çoşacak, Hüseyin Çalışçı, Mehmet Bayraktar, Mehmet Deniz Büyük, Mehmet Nuri Deniz, Mehmet Sani Kızılkaya, Mensur Işık, Mizgin Irgat, Muharrem Şahin, Mehdi Öztüzün, Mustafa Eraslan, Osman Çelik, Sebahattin Kaya, Serkan Akbaş, Servet Demir, Şakir Demir, Şaize Önder, Veyssel Vesek, Yaşar Kaya, Cengiz Çiçek, Faik Özgür Erol, Hatice Korkut, İbrahim Bilmez, Ömer Güneş, Emran Emekçi, Mehmet Sabir Tas, Mahmut Alınak, Fırat Aydınkaya, Mehmet Ayata, Nevzat Anuk, Nezahat Paşa Bayraktar, Yalçın Sarıtaş, Ümit Sisliğin** as well as and the secretary of the Century's Law Bureau's (*Asrın Hukuk Bürosu*), Ms. **Sebahat Zeynep Arat**.

Our organisations deplore that cases of judicial harassment against lawyers for exercising their mission to provide a defence are not new and that, worse, they are becoming frequent. Many lawyers suffer judicial harassment because they are identified with their clients or the cause they defend. Notably, lawyers who represent clients in anti-terrorism cases, in turn face prosecution for terrorism on the basis of the vague provisions on membership, support or propaganda. Other lawyers have also suffered harassment due to their involvement in the promotion of universal human rights standards. It has been the case of lawyer Mr. **Muharrem Erbey**, General Vice-President of the Human Rights Association (*İnsan Hakları Derneği* - İHD) and President of its Diyarbakır province branch, who is remanded into custody since December 23, 2009, but also of lawyers Mr. **Hasan Anlar**, İHD Deputy Secretary General, Ms. **Filiz Kalaycı**, İHD Executive Committee member, Mr. **Halil İbrahim Vargün**, İHD former Treasurer, and Mr. **Murat Vargün**, İHD member, one of the most notorious case, who face a prison sentence of between 6 to 15 years of imprisonment as well as others.

The targeting of lawyers occur as other categories of Turkish civil society have also been repressed in the scope of the so-called “KCK” operations, including NGO activists, journalists, writers, intellectuals, trade unionists, students, teachers, elected officials and Kurdish political activists.

As recommended by the Special Rapporteur on the independence of judges and lawyers, Ms. Gabriela Carina Knaul de Albuquerque e Silva, in her 2009 report to General Assembly (UN document A/64/181), “as regards freedom to carry out legal work [...] authorities [should] cease, with immediate effect, to associate lawyers with the interests of their clients and refrain from expressing related comments in the public sphere”.

These arrests are contrary to human rights standards which bind Turkey. Furthermore, these arrests contravene the “Basic Principles on the Role of Lawyers” (Havana Rules) as adopted at the United Nations (UN) in Havana/Cuba in 1990. According to these rules, the Government is responsible for ensuring that lawyers can carry out their profession without experiencing threats, interference, harassment and inappropriate intervention and that lawyers should not be associated with the interest of their clients. We call on the Government in Turkey to immediately release the lawyers and stop their judicial harassment.

Our organisations are deeply concerned that lawyers in Turkey are being prosecuted under terrorism law though their activities are perfectly legitimate and should not be considered as crimes. These lawyers have significantly and unquestionably contributed to the promotion and protection of human rights in general and those of their clients in particular. Therefore, 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.

Our organisations call upon your Excellencies to ensure that lawyers in the Republic of Turkey do not face any act of harassment, in conformity with the Universal Declaration on Human Rights, the UN Declaration on Human Rights Defenders and the Havana Rules as well as to ensure the respect for human rights and fundamental freedoms in all circumstances in accordance with international and regional human rights instruments ratified by the Republic of Turkey, including the International Covenant on Civil and Political Rights and the European Convention on Human Rights.

We respectfully thank your Excellencies for your attention in this matter and express our sincere hope that your Excellencies will take these considerations into account.

Yours sincerely,

Ms. Souhayr Belhassen, FIDH President  
Ms. Gail Davidson, LRWC Executive Director  
Mr. Gerald Staberock, OMCT Secretary General  
Mr. Mario Stasi, CIB Secretary General  
Mr. Driss Chater, UIA President  
Ms. Mary Lawlor, Front Line Director