AVOCATS EUROPÉENS DÉMOCRATES
ABOKATU DEMOKRATA EUROPARRAK
EUROPÄISCHE DEMOKRATISCHE RECHTSANWÄLTE
ADVOCATS EUROPEUS DEMÒCRATES
ABOGADOS EUROPEOS DEMÓCRATAS
AVVOCATI EUROPEI DEMOCRATICI
EUROPESE DEMOKRATISCHE ADVOKATEN
EUROPEAN DEMOCRATIC LAWYERS

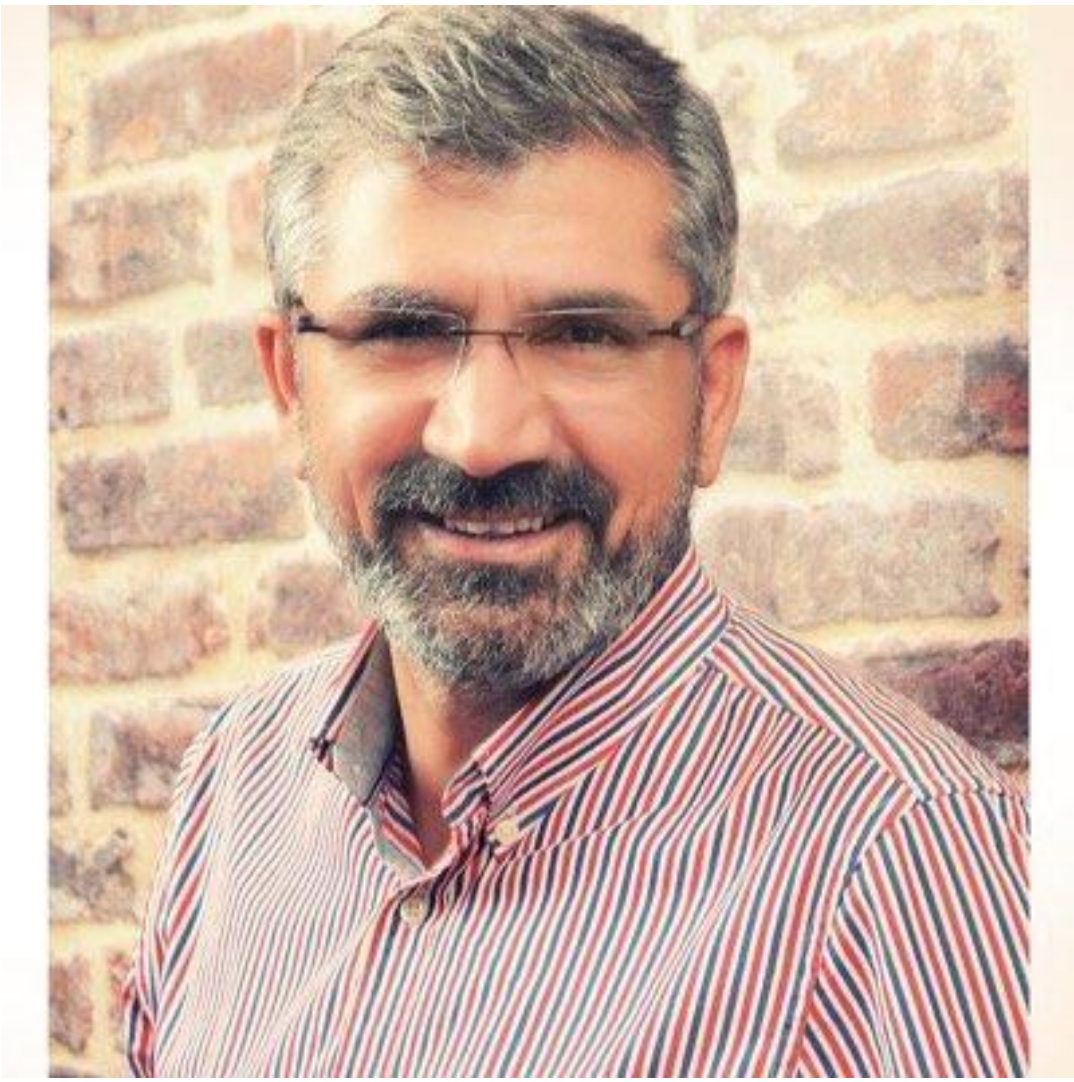
WITH LAWYERS IN 21 COUNTRIES

ELDH European Association of Lawyers for Democracy and World Human Rights

DAY OF THE ENDANGERED LAWYER – 24 January 2019
Solidarity with Turkish lawyers
Basic report

ENDANGERED LAWYERS 2019
Solidarity with Turkish and Kurdish lawyers

In memory of Tahir Elçi



TAHİR ELÇİ
(1966- 2015)

DAY OF THE ENDANGERED LAWYER – 24 January 2019

Solidarity with Turkish and Kurdish lawyers

Basic report

The Day of the Endangered Lawyer is the day on which we turn the spotlight on lawyers all over the world who are being harassed, silenced, pressured, threatened, persecuted, tortured. Murders and enforced disappearances as well are not out of the ordinary. The only reason for these outrages is the fact that these lawyers are doing their job, and fulfilling their professional obligations, when they are needed the most.

The 24th of January was chosen to be the annual International Day of the Endangered Lawyer because on this day in 1977 four labour rights lawyers and a coworker were murdered at their office address at Calle Atocha 55 in Madrid. This is known as the Massacre of Atocha.[1]

The International Day of the Endangered Lawyer aims, on the one hand, to create awareness that the practice of the legal profession in many countries involves significant risks, including that of being murdered, but it aims as well at denouncing the situation in a particular country, where lawyers are victims of serious violations of their fundamental rights because they exercise their profession. Every year on 24 January lawyers' organisations dedicate this day to the endangered lawyers in a particular country: 2010 Iran, 2012 Turkey, 2013 Basque Country/Spain, 2014 Colombia, 2015 Philippines, 2016 Honduras, 2017 China & Egypt. The European Democratic Lawyers (AED-EDL) established the Day of the Endangered Lawyer in 2010. Since then it has been co-organized by AED-EDL and the European Association of Lawyers for Democracy (ELDH) and the foundation "The Day of the Endangered Lawyer". Many other lawyers' organisations and bar associations have supported this project.

In 2019 the Day of the Endangered Lawyer focuses on the endangered lawyers in

[1] See https://www.independent.co.uk/news/obituaries/dolores-gonzalez-ruiz-lawyer-who-survived-the-

Turkey. Unfortunately, the situation of lawyers was never easy in Turkey and this is not the first time that the Endangered Lawyers Day has focused on Turkey. During the 1990s lawyers, such as Fuat Erdoğan, Faik Candan, Şevket Epözdemir were murdered. Following the 1990s, the situation never became secure for human rights lawyers; on the contrary attacks against lawyers never stopped.

Since 2011 many lawyers in Turkey have been targeted, with mass arrests and mass trials. In November 2011, 45 lawyers were arrested only because of being lawyers for Öcalan: Mustafa Eraslan, Mahmut Alinak, Mehmet Nuri Deniz, Veysel Vesek, Şaziye Önder, Davut Uzunköprü, Doğan Erbaş, Cemo Tüysüz, Cemal Demir, Yaşar Kaya, Emran Emekçi, Hadice Korkut, İbrahim Bilmez, Ömer Güneş, Faik Özgür Erol, Cengiz Çiçek, Mehmet Sani Kızılkaya, Asya Ülker, Muhdi Öztüzün, Mehmet Deniz Büyük, Aydın Oruç, Osman Çelik, Serkan Akbaş, Muharrem Şahin, Mehmet Bayraktar, Mizgin Irgat, Mensur Işık, Şakir Demir, Hakzan Sadak, Sabahattin Kaya, Bedri Kuran, Servet Demir, Hüseyin Çalişci, Fuat Coşocak, Mehmet Sabır Taş, Mehmet Ayata, . Some of the lawyers have been detained for two and a half years and the trial is still pending.

In January 2013, another mass police operation was carried out against the Progressive Lawyers Association (CHD). 22 lawyers, Selçuk Kozağaçlı, Barkın Timtik, Ebru Timtik, Günay Dağ, Naciye Demir, Şükriye Erden, Nazan Betül Vangölü Kozağaçlı, Avni Güçlü Sevimli, Güray Dağ, Gülvin Aydın, Efkan Bolaç, Taylan Tanay, Serhan Arıkanoğlu, Zeki Rüzgar, Mümin Özgür Gider, Metin Narin, Sevgi Sönmez Özer, Alper Tunga Saral, Rahim Yılmaz, Selda Yılmaz Kaya, Oya Aslan, Özgür Yılmaz were charged and 9 of them were detained for periods between 9 and 14 months. This trial is also still pending.

Those two mass arrests were followed by new operations against 12 lawyers from in 2016. Two Lawyers for Freedom - ÖHD - lawyers, Ramazan Demir and Ayşe Acinikli, were jailed for more than 6 months. Investigations continue against the members of ÖHD who live and work in Istanbul and Kurdish cities such as Diyarbakır, Van, Antep, Mardin, Urfa.

After the coup attempt of July 2016 in Turkey, human rights activists, lawyers, political activists, human rights defenders, academics and independent journalists have been living under a grave risk of arrest and detention. Many human rights organisations, among them Amnesty International, Human Rights Watch, IDHAE, and the International Commission of Jurists confirm that the Turkish authorities have moved beyond scaremongering, and are now rapidly taking concrete steps to shut down the last critical voices in the country's human rights community. According to the report of the Office of the UN High Commissioner for Human Rights[2], by the end of 2017 around 570 lawyers had been arrested, 1,480 faced some kind of prosecution, and 79 had been sentenced to long-term imprisonment. In most of these cases, the lawyers were accused of connection with the "Gülen organization". At least 14 presidents of bar associations had been arrested or detained. The only risk that the lawyers are facing is not to be arrested. Hundreds of lawyers who have not been arrested but who are being tried for criminal offences have been banned from representing their clients in some specific cases, especially political cases, and can not practice their profession as the result of these arbitrary decisions.

Emergency decrees enacted during the state of emergency, by the, closed some lawyers' organisations, including Progressive Lawyers Association (ÇHD), Lawyers for Freedom (ÖHD) and Mesopotamian Lawyers Association (MHD) as well as a judges association; Yar-Sav (Turkish Association of Judges and Prosecutors).

In September 2017, 15 lawyers were arrested: Ahmet Mandacı, Aycan Çiçek, Ayşegül Çağatay, Aytaç Ünsal, Barkın Timtik, Behiç Aşçı, Didem Baydar Ünsal, Ebru Timtik, Engin Gökoğlu, Naciye Demir, Özgür Yılmaz, Süleyman Gökten, Şükriye Erden, Yağmur Ereren Evin and Zehra Özdemir, followed by the arrest of 2 other lawyers, Selçuk Kozağaçlı in November and Yaprak Türkmen in December. Another lawyer was released under a decision of judicial control and there were arrest warrants for 2 other lawyers. These 17 lawyers are members of Progressive Lawyers Association (ÇHD) including Selçuk Kozağaçlı, the president of ÇHD. Most of the lawyers were

[2] https://www.ohchr.org/Documents/Countries/TR/2018-03_19_Second_OHCHR_Turkey_Report.pdf

working in People's Law Office. At the end of the first trial on September 14, 2018, 17 lawyers were released by court decision. The next day on 15 September 2018, following the objection of the prosecutor, the Court decided to re-arrest 12 of the lawyers. On the following days, 6 lawyers were rearrested and sent to the prison once more. Now, 6 lawyers are detained, 6 lawyers are free but under judicial control and there are arrest warrants for 8 lawyers.

Two lawyers of the Law Office of the Oppressed, Özlem Gümüştaş and Sezin Uçar were arrested on 19 October 2017 and released with a decision of judicial control on 5 October 2018. Can Tombul, a third lawyer of the same law office was arrested on 31 July 2018. The trial against lawyer Can Tombul is pending and he is still in prison.

Besides this situation, the Human Rights Association reported on June 1, 2018, that there are around 78 separate criminal prosecutions and investigations against human rights lawyers[3]. Hundreds of lawyers are charged within these criminal procedures. Most of them are under judicial control with a ban from travelling abroad or with the duty to give signature to the police headquarter on certain days of the week.

All in these cases which were chosen as examples, lawyers were accused just because of practising their profession. By so doing, the Turkish State systematically violates the UN Basic Principles on the Role of Lawyers and it is obvious that this violation has direct impacts on the right of defence.

3 http://www.ihd.org.tr/yargi-baskisi-altindaki-avukatlar-raporu-yayinlandi/

Some prominent endangered lawyers and human rights defenders are:

- **Ahmet MANDACI:**

Ahmet Mandaci, who graduated from Marmara University Faculty of Law in 2015, began his profession in Istanbul in 2017.

He was one of the lawyers who were undertaking the cases of Hasan Ferit Gedik and Dilek Doğan, who were killed by police officers in Istanbul. He was taken into custody on 12 September 2017 and released with condition of judicial control. Upon the objection of the prosecutor, he was taken into custody at Çağlayan Court on September 30, 2017 and then arrested.

His first trial took place between 10 – 14 September 2018. He was released on 14th of September, however the same court (Istanbul 37th Heavy Penal Court) decided to arrest him again without new evidence or an accusation. He was arrested by police on 15th of September 2018 and arrested on 16th of September 2018. He was released on 5th of December 2018, however he is still being held under house arrest.

- **<u>Akın Atalay-Bülent Utku-Mustafa Kemal Güngör :</u>**

Lawyers Akın Atalay, Mustafa Kemal Güngör_and Bulent Utku were chair and board members, and also lawyers of the Cumhuriyet Foundation and its enterprise Cumhuriyet daily newspaper. The three lawyers were convicted of terrorism charges by Istanbul 27th Heavy Penal Court. At the end of the 18-month trial against journalists and executives of Cumhuriyet Foundation and its enterprise Cumhuriyet daily newspaper, 17 of 20 defendants including three lawyers were convicted of terrorism charges.

Akın Atalay who was chair of the Cumhuriyet Foundation, and also the lawyer of Cumhuriyet daily and its several journalists are sentenced to seven years and three months. Lawyers Mustafa Kemal Güngör_and Bulent Utku were sentenced respectively to three years and nine months and two years in prison.

- **Aycan Çiçek:**

Çiçek graduated from Konya Selçuk University in 2005; in the following year she began her career as a lawyer registered in the Istanbul Bar Association. In the first years of her professional career, she was involved in the struggle against the attempts to restrict the rights of lawyers through a new bar examination for lawyers.

After the police raid of People's Law Office and PLA ion 18 January 2013 Aycan Çiçek started to work in the People's Law Office. She was taken into custody on 12 September 2017. Her first trial took place from 10 – 14 September 2018. She was released on 14th of September, however the same court (Istanbul 37th Heavy Penal Court) decided to arrest her again without new evidence or an accusation. She was arrested by police on 15th of September 2018 and is currently being held in Düzce T Type Prison.

- **Aytaç Ünsal:**

Ünsal graduated from Başkent University Faculty of Law in 2012 and started to work as a lawyer in the Ankara People's Law Office in 2013.

He conducted his work in the student commission of ÇHD (Progressive Lawyers Association, PLA). Moreover, he participated as a participant and organizer in international law events. Like his detained colleagues he represented victims against injustice as a lawyer.

He was taken into custody on September 12, 2017 together with his colleague and wife Didem Ünsal and then both were arrested.

The first trial took place between 10 – 14 September 2018. They were released on 14th of September, however the same court (Istanbul 37th Heavy Penal Court) decided to arrest Aytaç Ünsal again without new evidence or an accusation. He was caught by police on 15th of September 2018 and arrested once more on 16th of September 2018. He is currently being held in Silivri Prison.

- **Behiç Aşçı:**

Behiç Aşçı graduated from Ankara University Faculty of Law. He started to work as a lawyer in People's Law Office in 1992. He was arrested in 2004 and held in 2nd section of Tekirdağ F Type Prison for a month. In addition to his fighting as a lawyer against the isolation methods applied in prisons for years, on April 5, 2006, on Lawyers Day, he started a death fast in his home in Istanbul, for the purpose of ending prison isolations.

On the 293rd day of his action, on January 22, 2007, he concluded his action after the acquisition of new rights and benefits to reduce the isolations in the prisons.

Aşçı, who also served as the executive board member of Progressive Lawyers Association (ÇHD), represented workers, students, laborers and oppressed people. He also represented prisoners who were massacred and tortured on December 19, 2000, and the families of those prisoners who were tortured to death.

Finally, he was taken into custody on 12 September 2017. His arrest took place

while he was s one of the defendant lawyers of Nuriye Gülmen and Semih Özakça, who were taken from their offices as public servants under a emergency decree within the state of emergency and who had then started hunger strike, in order to get their jobs back.

His first trial took place between 10 – 14 September 2018. He was released on 14th of September, however the same court (Istanbul 37th Heavy Penal Court) decided to arrest him again without new evidence or an accusation. on September 15 2018, the police detained him. He is currently being held in Silivri Prison.

- **Buket Yilmaz:**

Buket Yilmaz graduated from Gazi University Faculty of Law in 2017 and started law internship in Ankara Bar Association. In the fifth month of her training she was taken into custody on the grounds of democratic press statements to which she had subscribed. She is currently being held in Sincan Closed Prison.

- **Can Tombul**

Can Tombul, who is a lawyer of 7 years standing at Law Office of the Oppressed and member of Platform of Lawyers for Freedom (ÖHP), was for the first time detained for 8 days at the beginning of 2015 due to an investigation carried out by Ankara Prosecutor's Office. He was released after 8 days.

An investigation against him was later initiated by Istanbul Prosecutor's Office with the allegation of being a member of an illegal organisation. The case was based on the fact that he had attended the funerals of his clients. On this ground he was banned from practising as a lawyer, constituting an infringement of the right to defence.

He was detained on 31July 2018.

Can Tombul, who is among the attorneys of Suruc Massacre Case, was detained only days before the hearing of the case together with other attorneys of the victims of the massacre, Ozlem Gumustas and Sezin Ucar. (Özlem Gümüştaş and Sezin Uçar were released after 11.5 months.)

His first hearing took place on 13 December 2018, and the court rejected demands for his release. The next hearing will be on 5 February 2019. He is currently being held in Silivri Prison.

- **Engin Gökoğlu:**

Graduating from Eskişehir Anadolu University Faculty of Law in 2008, Gökoğlu started his profession in the Ankara People's Law Office in 2009. He has represented students, workers, and the Alevi people who resisted in Batıkent Ankara for the request of Cemevi, with his support. He represented people who were oppressed, detained, tortured, and arrested for political reasons.

He worked as a lawyer for miners who were unfairly dismissed in Kınık. During the memorial action of Ethem Sarisülük, who was murdered during the June Resistance in Ankara in 2013, his arm was broken as a result of police attack in 2014. Following this incident he was taken into custody and a case was filed against him.

In August 2017 he started a hunger strike for 30 days demanding that his clients

Nuriye Gülmen and Semih Özakça should return to their employment. On September 12, 2017, on the 28th day of his hunger strike, he was arrested. After his arrest, on October 30, 2017 he and his 7 clients were attacked in 2nd section of Tekirdağ Prison and his arm was broken once again as a result of this attack. He is one of the executive board members of the Ankara branch of the Progressive Lawyers Association.

His first trial took place between 10 – 14 September 2018. He was released on 14 September, however the same court (Istanbul 37th Heavy Penal Court) decided to arrest him again without new evidence or an accusation. The police arrested him on September 15, 2018. He is currently being held in Silivri Prison.

- **Eren Keskin:**

Eren Keskin is a prominent human rights lawyer and co-president of the Human Rights Association (İHD) in Turkey, and member of Platform of Lawyers for Freedom (ÖHP). For almost 30 years she has focused on the protection of minority rights, countered violence against women, and campaigned against militarism and torture. She was also one of the co-editors-in-chief for Özgür Gündem newspaper. She is a honorary member of the Paris Bar Association and was granted many awards regarding her activities, including 2018 Helsinki Civil Society Award.

On March 30, 2018, she was sentenced to seven and a half years in jail in relation to some articles published in Özgür Gündem during the time when she was co-editor-in chief. According to the court, she “degraded” the Turkish nation and “insulted” the Turkish president.

There are 143 cases against her and she also is banned from leaving Turkey.

- **Halil İbrahim Vargün:**

A member of Platform of Lawyers for Freedom (ÖHP), Halil İbrahim Vargün, along with three other lawyers Filiz Kalaycı, Hasan Anlar and Murat Vargün, was convicted having been accused of being a member of an illegal organization, and alleged to have formed the law commission of KCK.

The fact that Halil İbrahim Vargün was the chair of Human Rights Association Ankara Branch and took political cases as a human rights activist was used against him as a proof of being a member of the organization. He was recently arrested due to the conviction while he was the board member of Platform of Lawyers for Freedom (ÖHP). He is still in Kırıkkale F Type Prison.

- **<u>Naim Feyzullah Eminoğlu:</u>**

EMINOGLU graduated from Gazi University Faculty of Law in 2017 and started a law internship in Ankara Bar Association. In the first month of his training he was arrested. He was known for his work on North Korea. He is currently being held in Burhaniye T Type Prison.

- **Selçuk Kozağaçlı:**

Selçuk Kozağaçlı graduated from the Faculty of Law of Ankara University in 1995 and began his career as an independent lawyer registered in the Ankara Bar Association in 1998. Since the beginning of his professional life, he has worked as a lawyer for poor people who suffered oppression and persecution. He became the Chairman of the Progressive Lawyers Association (ÇHD). He was arrested in the operation against the ÇHD and People's Law Office in 2013. After 15 months of imprisonment, he has continued to represent the oppressed and the poor as a lawyer.

In 2014, the German Democratic Lawyers Association (VDJ) awarded him with Hans Litten Prize, named in honour of the lawyer who challenged Hitler. In 2014 he was also awarded the World Citizenship Award by the Kant Foundation in Germany. In 2016, the Paris Bar Association awarded the "Prix de la Conférence Des Avocats Du Barreau De Paris" to Lawyers Ramazan Demir, Ayşe Acinikli and Selçuk Kozağaçlı.

On 9 November 2017 he was arrested in a new prosecution. . His first trial took place between 10 – 14 September 2018. He was released on September 14, however the same court (Istanbul 37th Heavy Criminal Court) decided to arrest him again without new evidence or an accusation. He himself applied to the Court and was arrested on

September 17 without his lawyers. His lawyers were attacked and beaten by police inside the courtroom and the judge did not let them represent Kozağaçlı, without any legal ground. He is currently being held *in solitary confinement* in a single cell in the 9th section of Silivri Prison.