



Law Society of Ontario | Barreau de l'Ontario

May 24, 2018

H.E. Mr. Recep Tayyip Erdoğan
President of the Republic of Turkey
Cumhurbaşkanlığı Külliyesi
06689 Çankaya, Ankara
Turkey

Your Excellency:

Re: Concerns regarding the arbitrary arrest and denial of medical treatment of lawyer Mustafa Aydin

I write on behalf of the Law Society of Ontario* to voice our grave concern over the arbitrary arrest and denial of medical treatment of lawyer Mustafa Aydin. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Mustafa Aydin is a lawyer and a member of the Istanbul Bar Association. According to reports, authorities have alleged that Mustafa Aydin is associated with the Gulen Movement, a group that the Government of Turkey has designated as an armed terrorist organization.

Mustafa Aydin was taken into custody by Turkish police on August 16, 2016 and remains in custody today. It is believed that Mustafa Aydin's arrest is solely motivated by his activity as a lawyer and his alleged association with the Gulen Movement. When he was detained on August 16, 2016, he was held for thirteen days before being officially arrested on August 29, 2016. On November 10, 2017, Mustafa Aydin was charged with membership in an armed terrorist organization, an offence carrying a penalty of up to 22.5 years in prison. The first hearing of his case will take place at the Istanbul 34 Assize Court on June 27, 2018. Mustafa Aydin has been denied the right to pre-trial release and the right to be brought before a competent court to determine the legality of his detention.

The Turkish Penal Code does not define what constitutes an armed terrorist organization. Mustafa Aydin was charged under Article 314(2) of the Code, and according to reports, this provision has been actively used to detain, arrest and arbitrarily convict lawyers acting for clients or causes that are unpopular with the authorities.

In addition, reports indicate that Mustafa Aydin has been diagnosed with prostate cancer and a hernia, which have resulted in his inability to walk. Mustafa Aydin has

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not yet received medical care while in detention, and is in urgent need. If he does not receive medical treatment urgently, then his prognosis is terminal. Mustafa Aydin has a 10-year-old son, which Down syndrome, who is dependent on him for emotional support.

The Law Society of Ontario is deeply troubled by Mustafa Aydin's situation and urges Your Excellency to comply with Turkey's obligations under international human rights laws, including the United Nations' *Basic Principles on the Role of Lawyers*.

Article 16 of the *Basic Principles on the Role of Lawyers* states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economics or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Article 17 states:

Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

Article 18 states:

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

Furthermore, Article 23 provides:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society of Ontario also urges Your Excellency to comply with Turkey's obligations under the United Nations' *Universal Declaration of Human Rights*.

Article 3 of the *Universal Declaration of Human Rights* states:

Everyone has the right to life, liberty and security of person.

Article 5 states:

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 9 states:

No one shall be subjected to arbitrary arrest, detention or exile.

Furthermore, Article 10 states:

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

The Law Society urges the Government of Turkey to:

- a. ensure that Mustafa Aydin is afforded immediate and adequate medical care,
- b. withdraw the charges against Mustafa Aydin immediately and unconditionally;
- c. guarantee all of the procedural rights that should be accorded to Mustafa Aydin in accordance with his right to a fair trial;
- d. guarantee that adequate reparation will be provided to Mustafa Aydin if he is found to be a victim of human rights abuses;
- e. guarantee in all circumstances the physical and psychological integrity of Mustafa Aydin;
- f. put an end to all acts of harassment against lawyers in Turkey;
- g. ensure that all lawyers and judges in Turkey are adequately safeguarded by the authorities such that they are able to carry out their professional duties and activities free from intimidation,

hindrance, harassment, improper interference, the threat of criminalization, or other human rights violations; and

- h. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours truly,

Paul B. Schabas
Treasurer

**The Law Society of Ontario is the governing body for more than 50,000 lawyers and 8,000 paralegals in the province of Ontario, Canada. The Treasurer is the head of the Law Society.*

The mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

cc:

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