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## Lawyers' Rights Watch Canada

*NGO in Special Consultative Status with the Economic and Social Council of the United Nations*  
Promoting human rights by protecting those who defend them  
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### **BY AIRMAIL**

**Prime Minister of Turkey**  
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November 28, 2013

**Re: Prosecution of Att. Ramazan Demir**

Excellency,

The Dutch Lawyers for Lawyers (L4L) Foundation ("Stichting Advocaten voor Advocaten"), Lawyers Rights Watch Canada (LRWC) and Fair Trial Watch (FTW) are independent and non political foundations that seek to promote the proper functioning of the rule of law by pursuing freedom and independence of the legal profession. These organizations do this by supporting lawyers worldwide who are threatened or suppressed in the execution of their profession.

L4L, LRWC and FTW express our grave concern over the prosecution now faced by our colleague Att. Ramazan Demir, a lawyer known for his participation in the defence of journalists and lawyers prosecuted for allegedly being members of, or connected to the KCK.

During a court-hearing held in Silivri on November 16, 2012, in the course of the KCK-press trial against 44 journalists, Mr. Demir represented one of the accused journalists. In that capacity he rebutted the allegation of the prosecutor that the journalists on trial were not independent journalists. He challenged the capacity of the prosecutor to determine that the journalists were conducting activities that are not "normal" or "independent" journalistic activities and requested the court to call and hear an expert to testify on the subject.

Six months later, on May 13, 2013, the special prosecutor of the 15th Serious Crimes Court filed a complaint about Mr. Demir's intervention mentioned above. On July 16, 2013, Mr. Demir was charged with "insulting or (...) offending the dignity of a public authority in the performance of his duties" Pursuant to Section 125 of the Criminal Code, a criminal offence that may be punished with up to two years imprisonment. On September 9, 2013, the special prosecutor obtained authorization from the Ministry of Justice to actually file an indictment with respect to this alleged offence.

L4L, LRWC and FTW strongly object to this prosecution as an illegitimate restriction on the right of lawyers in Turkey to advocate for clients in court. Lawyers must be able, within professional standards, to make any statement that they deem to be relevant for the defence of their clients' case. In particular, they are entitled to and should be able to vigorously challenge in court, the charges, the evidence and the submissions of the prosecutor without being liable to prosecution themselves. The prosecution of Mr. Demir because of his statement in the KCK-press trial on November 16, 2012 – statements properly considered part of a regular defence – is doing precisely the opposite.

According to our information, the case of Mr. Demir is only one of several cases in which lawyers are facing similar charges for words spoken in court during their representation of defendants in KCK-trials. Such a pattern of improper prosecution demonstrates the existence of a structural pattern of obstructing defence lawyers in politically sensitive cases, which may lead intimidate and prevent lawyers from exercising their legitimate professional activities in the best possible way.

The duties of Turkey and other states to ensure that lawyers can perform their professional duties—particularly when representing unpopular clients and causes—free from political pressure, prosecution and other interference are set out in the *Basic Principles on the Role of Lawyers*. Article 16 provides,

- Governments shall ensure that lawyers
- (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference;
- ...
- (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.<sup>1</sup>

Article 18 ensures that "[l]awyers shall not be identified with their clients or their clients' causes as a result of discharging their functions."<sup>2</sup>

Vigorously challenging in court, the charges, evidence and submissions against one's client(s) is protected as "a recognized professional duty" of Mr. Demir and other lawyers.

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<sup>1</sup> *Id.* at Article 16.

<sup>2</sup> *Id.* at Article 18.



The prosecution of Mr. Demir for such protected statements violates a number of standards accepted internationally and by Turkey, namely:

1. the right of persons accused of a crime to be represented by a lawyer empowered to effectively protect rights and achieve justice<sup>3</sup>; and,
2. the right of lawyers to perform their professional functions without intimidation, harassment or improper interference<sup>4</sup>; and,
3. the prohibition against identifying lawyers with their clients causes.<sup>5</sup>

In particular, we would like to recall paragraph 20 of the Basic Principles that states that "lawyers shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a court, tribunal or other legal or administrative authority".

By hampering the ability of Mr. Demir to fully defend his client(s), the prosecution contravenes Article 14 of the International Convention on Civil and Political Rights.

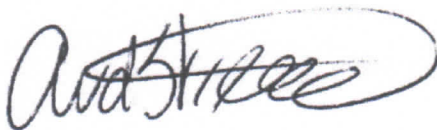
In light of this, L4L, LRWC and FTW urge you to make sure that these charges against Mr. Ramazan Demir and his colleagues are dropped unconditionally. We call on the Turkish authorities to honour Turkey's international human rights obligations, to ensure the personal and professional safety of Mr. Demir and his colleagues and to enable them to carry out their professional duties while not being intimidated and hindered in doing so.

L4L, LRWC and FTW will continue to monitor this important matter closely.

We kindly request to receive your response on the shortest possible notice and thank you for the attention you will give to our concerns.

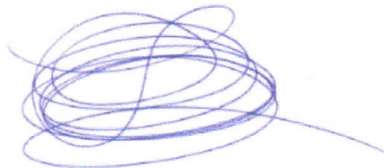
Sincerely,

**Lawyers for Lawyers**



Adrie van de Streek  
Executive director

**Lawyers Rights Watch Canada**



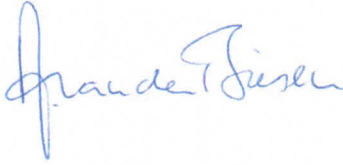
Gail Davidson  
Executive Director

<sup>3</sup> The Basic Principles on the Role of Lawyers U.N. Doc. A/CONF.144/28/Rev.1 at 118 (1990); Article 5, 6, 7, 8. The International Covenant on Civil and Political Rights, Article 14; The Declaration of Human Rights Defenders, Article 9.

<sup>4</sup> The Basic Principles on the Role of Lawyers, Article 16.

<sup>5</sup> The Basic Principles on the Role of Lawyers, Article 18.

**Lawyers for Lawyers**



Phon van den Biesen  
President

**Fair Trial Watch**



Neval Çiftçi  
President

C.C.

- President of Turkey, Mr. Abdullah Gül
- Prime Minister of Turkey, Mr Recep Tayyip Erdoğan
- Ministry of Justice, Mr Sadullah ERGİN
- Ministry of Foreign Affairs, Prof. Dr. Ahmet Davutoğlu
- Minister for EU Affairs, mr. Egemen Bağış
- Council of Europe Commissioner for Human Rights, Mr. Nils Muižnieks
- UN Special Rapporteur on the Independence of Lawyers and Judges, Ms Gabriela Knaut
- UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, mw Frank la Rue
- UN Special Rapporteur on the situation of human rights defenders, Ms Margaret Sekaggya
- Ambassador, Mr. Oğuz Demiralp, Permanent Mission of Turkey to the United Nations in Geneva
- Ambassador, Mr. Izzet Selim Yenel, Diplomatic Mission of Turkey to the European Union in Brussels