



*His Excellency,  
Mr Recep Tayyip Erdoğan  
President of the Republic of Turkey  
Cumhurbaşkanlığı Külliyesi  
06560 Beştepe,  
Ankara, Turkey*

17 May 2019

**Open letter to His Excellency, Mr Recep Tayyip Erdoğan, President of the Republic of Turkey, from the International Bar Association's Human Rights Institute and the Anti-Torture Initiative**

Your Excellency,

We are writing to you on behalf of the **International Bar Association's Human Rights Institute** (IBAHRI) and the **Anti-Torture Initiative** (ATI) to express our concern and condemnation regarding the conviction of 11 members of the Turkish Medical Association (TMA) Central Council (term: 2016–2018) by the 32nd High Criminal Court in Ankara.

The Ankara-based TMA is a physicians' organisation which contains 83,000 members across 65 provinces throughout Turkey. It is internationally recognised for its commitment to human rights, peace and protection of endangered civilians. According to our information, 11 members of the TMA Central Council were tried before the 32nd High Criminal Court on the charge of spreading terror, and were sentenced on 3 May 2019 to 20 months of imprisonment for 'inciting hatred and hostility'. The allegation is grounded in the doctors' criticism of Turkey's invasion of the Kurdish enclave of Afrin in north-western Syria, expressed in a declaration published on 24 January 2018 entitled 'War is a public health problem'. The declaration states that 'every conflict causes irreparable problems in terms of physical, mental, social and environmental health'. In its decision, the Court also referred to a previous declaration by the TMA made on 1 September 2016 entitled 'It is Quite Possible to Live in Peace and Equality on this Land'. The 11 Central Council members were sentenced to ten months of imprisonment for each of the declarations.

One TMA member, Dr Handa Arpat, was additionally charged with 'terrorist propaganda' and sentenced to a total of three years, three months and 22 days in prison. The charge stems from Dr Arpat's activity on social media, which the Court considered to be sympathetic to those whom the Turkish government deems to constitute a terrorist organisation. According to our reports, the doctors intend to appeal the verdict.

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The IBAHRI monitors respect for human rights in Turkey and has issued several statements raising concerns over infringements of human rights, freedoms, independence and treatment of professionals. On 30 January 2019, the IBAHRI and ATI sent an open letter to Your Excellency, condemning the criminal proceedings brought against prominent human rights defender, Dr Şebnem Korur Fincancı, and her sentence to two years and six month's imprisonment.

The recent conviction of doctors who drew attention the impact of war on public health and safety of innocent civilians is a serious breach to freedom of speech and threatens the critical role of medical professionals, whose mission is to ensure impartial and independent delivery of healthcare to all.

The Presidents of the Bar Associations of Adana, Ankara, Hatay, İstanbul, İzmir and Mersin, as well as a Managing Board member of the Bar Association of Diyarbakır, have expressed their solidarity with the TMA and actively intervened in defence of the doctors. The IBAHRI and the ATI join the representatives of the Bar Associations in stressing that protecting public health and people's right to healthy life is among the core values of the medical profession and should not be criminalised.

The configuration of war as a public health problem has been internationally recognised by scholars, politicians and organisations, including the World Health Organization (WHO) and the World Medical Association (WMA). Health professionals have the duty to minimise the impact of violence and armed conflicts and to provide protection for all victims, particularly civilians. The WMA states in its **Ethical Principles of Health Care in Times of Armed Conflict and Other Emergencies**<sup>1</sup> the necessity of adherence to the principles of impartiality, non-discrimination and independence of medical actors as required by international humanitarian law. The WMA **Regulations in Times of Armed Conflict and Other Situations of Violence**<sup>2</sup> also provide that:

'Physicians have a duty to press governments and other authorities for the provision of the infrastructure that is a prerequisite to health... Where conflict appears to be imminent and inevitable, physicians should, as far as they are able, ensure that authorities are planning for the protection of the public health infrastructure...'

The TMA's focus on public health and the call for peaceful solutions to military conflict is drawn from the scope of its mandate and cannot be considered as an offence. Warning about negative outcomes of war in terms of public health is compliant with the ethical standards of the medical

<sup>1</sup> Ethical Principles of Health Care in Times of Armed Conflict and Other Emergencies, adopted by the 65th General Assembly of the WMA, Durban (South Africa), October 2014.

<sup>2</sup> Regulations in Times of Armed Conflict and Other Situations of Violence, adopted by the 10th World Medical Assembly, Havana, Cuba, October 1956 and following revisions.

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profession, as doctors have the responsibility to advocate against circumstances that damage general safety. As provided in point No 2 of the WMA **Statement on Armed Conflicts**:<sup>3</sup>

‘Physicians should encourage politicians, governments, and others in positions of power to be more aware of the consequences, including the impact on health, of their decisions on the commencement or continuation of armed conflict.’

The IBAHRI and the ATI reiterate that professional autonomy constitutes the foundation of the work of doctors and is a precondition for people’s right to health, and consequently call on Turkish authorities to overturn the unjust decision. Such campaigns of intimidation against doctors undermine the fundamental role of health professionals in society and ultimately threaten respect for the human right to health.

Freedom of expression and speech is a fundamental right protected under international, regional and national law, preventing governments from criminalising mere opinions. The IBAHRI and ATI draw your attention to Articles 19(2) and 21 of the International Covenant on Civil and Political Rights, ratified by Turkey in 2003, and Article 10 of the European Convention on Human Rights, ratified by Turkey in 1954, which protects freedom of expression. The Constitution of Turkey further protects this right in Article 26 (freedom of expression and dissemination of thought).

The IBAHRI and ATI strongly condemn the conviction of the members of the TMA and call on Your Excellency to ensure the recognition of freedom of expression and the independence and impartiality of medical professionals, requiring the immediate end of the undue repression of doctors and restriction of democratic liberties in Turkey.

We would be grateful to receive your assurances that you have received our letter and that our concerns will be addressed as a matter of urgency.

Yours sincerely,

The Hon Michael Kirby  
AC CMG  
IBAHRI Co-Chair

Anne Ramberg, Advocate,  
Dr jur hc  
IBAHRI Co-Chair

Juan E Mendez  
Director, Anti-Torture Initiative  
& Former United Nations  
Special Rapporteur on Torture

<sup>3</sup> WMA Statement on Armed Conflicts, adopted by the 68th General Assembly, Chicago, United States, October 2017.



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## Notes

(1) The [International Bar Association](#) (IBA), established in 1947, is the world's leading organisation of international legal practitioners, bar associations and law societies. Through its global membership of individual lawyers, law firms, bar associations and law societies it influences the development of international law reform and helps to shape the future of the legal profession throughout the world.

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The [International Bar Association's Human Rights Institute](#) (IBAHRI), an autonomous and financially independent entity, works to promote, protect and enforce human rights under a just rule of law, and to preserve the independence of the judiciary and the legal profession worldwide.

(2) The [Anti-Torture Initiative](#) (ATI) is a core project of the Center for Human Rights and Humanitarian Law at American University Washington College of Law (WCL). The ATI was set up in 2011 with the purpose of expanding the reach and practical implementation of the work of former United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and Professor of Human Rights Law in Residence at WCL, Juan E Méndez.

The ATI has played a key role in supporting the development of norms, providing technical assistance and capacity building, and promoting the implementation of reforms and best practices in different jurisdictions. During the former Special Rapporteur's tenure from November 2010 to November 2016, the ATI worked vigorously to complement his activities, particularly in the areas of follow-up, implementation and dissemination. Since 2016, the ATI has continued its mission by devising programmatic and country-specific activities in key thematic areas, including solitary confinement, investigative interviewing, gender and torture, and the Istanbul Protocol.

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