



The Norwegian
Medical Association
DEN NORSKE LEGEFORENING



International
Forensic
Expert
Group



To: Regional High Court, Gaziantep

Cc: Minister of Justice, Bekir Bozdağ
Prime Minister of Turkey, Binali Yıldırım

To whom it may concern,

We are representatives of public health, science, human rights and medical institutions from around the globe. We write to you to raise our serious concerns about the conviction of Dr. Serdar Küni by a court in the city of Şırnak on April 24, 2017.

Dr. Serdar Küni, a respected practicing physician in Cizre, Human Rights Foundation of Turkey's representative in Cizre, and former president of the Şırnak medical chamber, was convicted of "aiding and abetting" terrorist organizations, based on allegations by an unnamed witness and four others who later said they had signed statements used as evidence by the prosecution under torture, in contravention of Turkish and international law. The allegations are that Dr. Küni provided medical treatment to Kurdish fighters between 2015 and 2016.

At a previous hearing in March 2017, an international delegation observed four witnesses say they had been tortured in custody and forced to sign statements against Dr. Küni. International and Turkish law prohibits the use of evidence elicited by torture, ill-treatment, or coercion.

In your consideration of the case against him, we encourage you to take cognizance of both the arbitrary nature of the charges against Dr. Küni and the failure of the Şırnak court to adhere to international fair trial standards. We urge you to respect Turkey's obligations under international law to ensure fair trial, and protection of the right to health.

Dr. Küni, who is originally from Cizre, has worked as a physician since 2005 with the Bişeng Public Health Centre in Cizre, and became the representative of the Human Rights Foundation of Turkey's center in Cizre in October 2015. On October 19, 2016, he was detained by the Cizre Magistrate Judge and sent to Şırnak Prison. The authorities subsequently charged Dr. Küni with being a member of an armed organization, based on allegations that he provided medical treatment to members of armed organizations during the unrest in Cizre.

Legal actions, both criminal and administrative, that serve to punish health professionals for carrying out their duties are in direct violation of the Turkish state's international human rights obligations. International humanitarian law and international human rights law both mandate the protection of health professionals in order to allow them to fulfill their duties to provide care for those in need, without regard to any element of identity, affiliation, or political opinion; therefore, these medical professionals' actions should not be criminalized.

Under international human rights law, the right to health, namely essential primary health care, must be upheld in both peacetime and in situations of civil unrest, emergencies, or internal conflict. Turkey is a state party to both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), and is bound to uphold the norms enshrined in those covenants, which include the right to health.

Further, the right to health must be read in conjunction with the right to non-discrimination, meaning the provision of health care services must be non-discriminatory and never withheld as a punitive measure, including for political opponents or as punishment for those in contravention of the law.

Dr. Serdar Küni, in providing medical treatment without discrimination, acted in compliance with Turkey's duty as a state to provide health services, even in times of emergency or unrest, without discrimination, and his own duty under medical ethics to preserve the life and health of his patients, regardless of race, ethnicity, nationality, or political affiliation. The detention and prosecution of Dr. Serdar Küni are in direct violation of Turkey's obligation to provide effective protection for health care workers, including during times of conflict, unrest, or emergency.

Further, the recent UN Security Council resolution on protection of civilians in armed conflict (S/RES/2286) mandates that states should not punish medical personnel for carrying out medical activities compatible with medical ethics, or compel them to undertake actions that contravene these standards. The UN General Assembly resolution on the Principles of medical ethics (A/RES/37/194), which is applicable in and outside of armed conflict situations, likewise obligates states not to compel medical personnel to undertake actions that contravene medical ethics, including refusing to provide treatment. Under international human rights law, states have the obligation to maintain a functioning health care system in both peacetime and in times of armed conflict or internal unrest. States are also obligated to provide care and treatment to all people without discrimination.

We urge you to do all that is necessary to uphold international, regional and national human rights law in Turkey. In particular, we urge you to:

1. Uphold Turkey's obligation to protect the right to health, medical neutrality, and fair trial in the case of Serdar Küni;
2. Ensure that all allegations that witness statements are made under torture or ill-treatment are effectively investigated according to international standards, including the Istanbul Protocol
3. Ensure that all evidence established to be produced through torture or ill-treatment is excluded from the trial; and
4. Provide an effective remedy and reparation to victims of arbitrary arrest, detention, and judicial and legal harassment.

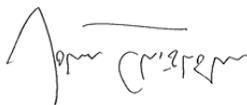
Sincerely,



Donna McKay, Executive Director, Physicians for Human Rights



Asger Kjaerum, Director of Advocacy, International Rehabilitation Council for Torture Victims (IRCT)



Dr. John Chisholm (CBE), Chair British Medical Association Ethics Committee



Prof. Dr. Frank Ulrich Montgomery, President, German Medical Association



Dr. Jacques de Haller, President, Standing Committee of European Doctors



Dr. Pierre Duterte, Member of the Steering Committee, Independent Forensic Expert Group (IFEG)



Michael J. Klag, MD, MPH, Dean, Johns Hopkins Bloomberg School of Public Health



Adriaan van Es, MD, Secretary, International Federation of Health and Human Rights Organizations



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Dr. Peter Hall, Chair, Doctors for Human Rights

CC:

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