

INTERNATIONAL FAIR TRIAL DAY

JUNE 14, 2021

I sincerely congratulate the steering group formed by your vital organizations in the defense of the rule of law, judicial independence, and the function of lawyers. I have been privileged to be able to interact permanently in defense of the independence of judges and the role of lawyers with your organizations that play a fundamental role in confronting violations of that principles and rights and affirming those fundamental principles in the face of the attacks they suffer in various countries, not only in Turkey.

My special appreciation and thanks for inviting me to participate today and, in particular, my congratulations, above all, for the initiative to organize the International Fair Trial Day. To defend fair trial standards is to defend crucial components of a democratic society in which judicial independence, respect for the rules of due process, and access to justice must be respected, promoted, and protected. And because they are values and principles that are part of the international standards and norms as substantive referents, the call for an active role of the international community to guarantee them is crucial.

As recalled in the text of the call for this meeting we are holding today, the serious failure of the judicial system in Turkey to protect and respect fair trial principles has meant not only the systematic affectation of the function of lawyers but also of the freedom, physical integrity and life of many of them. The case of Ebru Timtik and Aytaç Ünsal has the tremendous symbolism of having expressed with their hunger strike and protest the feelings of many lawyers and broad sectors of society that do not understand or share the argument, or rather, the pretext that in the name of a supposed "war against terrorism" the

fundamental rights of the population, including the right to have access to justice and to appropriate means of legal defense, can be canceled.

As Special Rapporteur, I have been following the evolution of events in Turkey and the specific case of Ebru Timtik and Aytaç Ünsal among them. In response to the seriousness of the evolution of events, I have requested at the time an invitation to the government of Turkey to carry out an official visit to the country to gather more information from various sources, and to dialogue not only with lawyers, bar associations, and human rights organizations but also with the authorities. Despite this request, I have not yet received the corresponding invitation, an indispensable requirement for a Rapporteur to carry out an official visit.

In a difficult context for Turkey and several other countries, a meeting such as this one taking place today and the great initiative to establish the International Fair Trial Day play a very important role to share more and better information and, in particular, to reaffirm fundamental principles that have to do not only with the rights of lawyers and the role of the legal profession but with the rights of the population in general. You can count on the vital and permanent commitment of this Rapporteur to the projects and activities that you promote.

In the presentations that will follow in the fantastic panel that you have organized, you are going to have ample opportunity to analyze the major challenges being faced now in Turkey. Let me share with you, as an introduction, a general view of some of the major challenges being faced in different critical situations and countries by lawyers individually and by their Bar Associations. Four major challenges are especially relevant.

1. The independence of the judiciary and consistent respect for the legal profession: fundamental pillars of a democratic society. Such independence is not provided for the benefit or protection of judges or lawyers as such. Nor is it intended to shield them from being held accountable in the performance of their professional duties and to the general law. Instead, its purpose is the protection of the people, affording them an independent and effective legal profession as the bulwark of a free and democratic society.
2. Governmental control of the judiciary can make the legal profession less willing to challenge the government or undertake controversial or sensitive cases that may not sit well with a current political institution. Public attacks by political figures against the judiciary, as well as the threat of judicial persecution or intimidation, can further undermine judicial independence; in turn, undermining the lawyers' ability or willingness to undertake certain cases or represent certain clients.
3. Rights of bar associations, crucial organizations for rule of law, and rights of lawyers, are fundamental in these endeavors. Taking into consideration a challenging context against Bar Associations in different parts of the world, two years ago they were, precisely, the subject of my report to the General Assembly of the UN. I highlighted then the vital role of bar associations and the indispensability of their independence *vis a vis* the government and public and private institutions and emphasized their self-governing nature and their priority mandate to protect the independence of the legal profession.
4. The pandemic. Is placing dramatic challenges in access to justice and the functioning of the legal profession in several parts of the world: states of emergencies, lockdowns, institutional intrusion

of the executives in the judiciaries in some countries, and leading, in different places, to the virtual paralysis of judiciaries. It won't be easy for justice systems to deal with the increased conflicts which, already before the pandemic, had 1.5 billion people unable to resolve their justice problems.

To conclude I want to comment to you that as Special Rapporteur I have been following, in the daily fulfillment of my mandate, that attacks on the legal profession in Turkey and several other countries which unfortunately remain persistent in different parts of the world. I would like to emphasize here the extraordinary contribution of organizations like yours in closely monitoring this situation and documenting the cases that occur; in many cases in countries that I have also been monitoring or visiting at the global scope that corresponds to my role as Special Rapporteur of the UN.

The steps being taken today by our organizations with the Ebru Timtik Award and establishing the International Fair Trial Day is a very important step forward.

Congratulations and thanks again for your generous invitation made to me to be with all of you today.

Diego García-Sayán