

**Keynote speech of CCBE President, Dr. Margarete von Galen, to the Memorial event for Ebru Timtik on 5 April 2021**

Dear Colleagues and Friends,

I want to thank you very much for the invitation to join you today on the Day of Lawyers in Turkey. I feel very honoured to be invited to speak at this very important memorial event for Ebru Timtik.

The CCBE has been following the fate of Ebru Timtik and her colleagues who were sentenced in March 2019 and has tried to support Ebru Timtik and her colleagues as far as possible.

From the outset of the trial where Ebru Timtik was accused together with her colleagues and which ended in March 2019 with a sentence of 159 years of prison for 18 lawyers, the CCBE and other lawyers' associations were worrying about the fairness of the proceedings. Many incidents occurred that raised concerns about the impartiality and independence of the proceedings. The CCBE therefore supported a [fact-finding mission](#) which took place from 13 to 15 October 2019 and which consisted of 15 lawyers from 7 European countries who met in Istanbul to clarify the legal circumstances of that trial.

When Ebru Timtik and her colleague Aytaç Ünsal respectively started a hunger strike in January and February 2020, the CCBE followed it with great concern. On 18 August my predecessor and then President of the CCBE Ranko Pelicarić issued a statement in which he urged “the Turkish authorities to do everything to “guarantee Ebru Timtik and Aytaç Ünsal a fair trial, ensure their good health and restore their freedom.”

On the same day, the CCBE signed a letter which was supported by several chairs and presidents of Bar Associations in Europe and which was sent to the UN High Commissioner of Human Rights.

In this letter, the trial was described as having been “plagued by a distortion of procedures and lack of respect for universally accepted elements of a fair trial.” The trial was criticised as “a travesty of justice [that] demonstrates the inability of courts crippled under political pressure to deliver a fair trial”. Such concerns included arguments by the prosecution based on digital records which were not in the case file and not made available to the defence,

and the judge not allowing the defence to speak or to engage in any effective manner to challenge evidence and refusing a request to facilitate the collection of further evidence and investigation. And as we all know, the trial ended with all the defendants and their lawyers being removed from the court and sentences were issued the following day without the defendants and their lawyers being allowed to return to court to submit their final defence statements and participate further in the proceedings.”

So, all in all, a trial which did not at all meet the standards of Art. 6 of the European Convention of Human rights.

In this joint letter, the signatories asked the UN High Commissioner for Human Rights to urge the Turkish authorities to immediately release Ebru Timtik and Aytaç Ünsal, to drop all charges, to stop all forms of harassment and to allow them to perform their professional and lawful functions without intimidation or improper interference.

Sadly, this was in vain and for Ebru Timtik obviously too late, as on 27 August 2020, Ebru Timtik tragically died as a result of her hunger strike.

Today, we pay tribute to Ebru Timtik and her struggle in order to ensure that no other lawyer suffers the same fate simply for exercising the profession.

In this context, in November 2020, the CCBE granted a posthumous Human Rights Award to Ebru Timtik, and we were honoured by the online presence of her colleague Aytaç Ünsal who spoke on her behalf.

In this context, I would like to remind you that the CCBE has on many occasions raised serious concerns regarding the situation of lawyers in Turkey, where many lawyers have been identified with their clients' cause and unjustly charged with “being a member of a terrorist organisation” or “spreading terrorist propaganda”.

Alongside with our attempts to support the Turkish lawyers, the CCBE also granted two other its Human Rights Awards to honour the legal profession in Turkey. First, in 2013, the CCBE Human Rights Award was granted to the President and Bar Council members of the Istanbul Bar Association in recognition of their outstanding commitment, perseverance and courage in support of human rights in Turkey. Then, in 2016, the CCBE granted its Human Rights Award to four Turkish lawyers - Ayşe Bingöl Demir, Ayşe Acinikli, Ramazan

Demir and posthumously to Tahir Elçi - who have been particularly active in the defence of human rights and the rule of law in Turkey.

More recently, in memoriam of Ebru Timtik's struggle and to draw attention to the situation of those who, in various countries around the world, are prosecuted in circumstances where the principles of fair trial are not observed or respected, several International Bars and lawyers' organisations, including the CCBE, have decided to launch an annual "International Fair Trial Day" which will be observed every year on 14 June. This Day will also be the occasion to introduce a new annual Ebru Timtik Award to recognise an individual or an organisation who has or which has made an exceptional contribution towards securing fair trial rights.  
[https://www.ccbe.eu/fileadmin/speciality\\_distribution/public/documents/Human\\_right\\_portal/EN\\_20210614\\_International-Fair-Trial-Day-and-the-Ebru-Timtik-Award.pdf](https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/Human_right_portal/EN_20210614_International-Fair-Trial-Day-and-the-Ebru-Timtik-Award.pdf) .

These are all very important efforts, but we can see with the tragic fate of Ebru Timtik that this is not enough.

Lawyers play a crucial role as actors of the system of justice and through their contribution to protecting the rule of law, ensuring access to justice for fellow citizens, and protecting fundamental rights and freedoms. However, harassment, threats, imprisonments, surveillance, hindrances and murders against the legal profession continue to occur in EU and Council of Europe countries and are even increasing in some.

On the one hand, in Europe, we have a binding instrument with the European Convention on Human Rights (ECHR) which protects various critical rights associated with lawyers' role in maintaining the rule of law and should continue to do so unamended. But on the other hand, other rights and obligations specific to the legal profession remain outside the scope of the ECHR.

Whenever we write letters to the authorities of states where lawyers are harassed, jailed or even murdered, we refer to the UN Basic Principles on the Role of Lawyers and especially to Principles 16, 17 and 18, which should guarantee any lawyer around the world the right to exercise the profession in freedom and without harassment or threat. Principle 18 especially prohibits to identify lawyers with their clients. However, the problem with these principles is that they are not binding.

The same applies for the Recommendation No. R(2000)21 of the Council of Europe on the freedom of exercise of the profession of lawyer. You will find nice principles there, but they are not binding.

And we can see the result all over the world and in some states of the Council of Europe - there are numerous infringements of these principles and there is no possibility to take the breach of these non-binding rules to a court.

Therefore, in 2017, the CCBE submitted that there was a compelling case for establishing a European **Convention** on the Profession of Lawyer to create binding obligations for those rights envisaged by these existing specific non-binding instruments. This was followed, in January 2018, by a recommendation adopted by the Parliamentary Assembly of the Council of Europe (PACE) asking the Committee of Ministers to look into the possibility of drafting a European Convention on the Profession of Lawyer.

Since then, the CCBE has been actively calling for the establishment of such a binding legal instrument for the effective protection of the legal profession. Such a Convention would enable to translate the guarantees and teachings provided by the UN Basic Principles and other specific instruments related to the legal profession in a binding legal instrument. Such an instrument would not only protect lawyers themselves, but would also enable them to exercise their profession in complete independence, freedom and security, without prejudice and without hindrance.

As of today, the Council of Europe has carried out a feasibility study with the result that a binding instrument on the Profession of Lawyers would be possible. The study proposes to transfer the issue to a working group and let the working group decide whether the instrument shall be binding or not. The CCBE will of course continue to follow this very closely and lobby for a binding instrument. We definitely need more than recommendations and principles – we need hard law which can be taken to court.

I would like to conclude my speech by warmly thanking you for organising this important event and reiterate the CCBE's strong commitment to guarantee that all lawyers are able to carry out their professional duties without fear of reprisal, hindrance, intimidation or harassment, in order to preserve the independence, integrity of the administration of justice and the rule of law. Myself, coming from a jurisdiction – Germany – where the free exercise of the legal profession is basically guaranteed in the sense of the UN Basic Principles, it is with humility

that I observe your brave struggle to achieve a better situation for Turkish colleagues. I wish you all possible strength to achieve your aims and one day achieve a situation where you can conclude: Ebru Timtik has not died in vain - we have achieved what she was fighting for.