

ECBA Statement on Human Rights Lawyer Tahir Elçi's Murder

Tahir Elçi was a leading human rights lawyer in Turkey who was the chair of Diyarbakır Bar Association when he was shot with a single bullet on 28 November 2015 while delivering a statement condemning the clashes between the PKK militants and Turkish security forces. Five years after his brutal murder, the perpetrator(s) of this heinous attack has still not been brought to justice. The European Criminal Bar Association calls for a swift and fair trial proceedings in which justice is fully served for Tahir Elçi and the perpetrator(s) are identified and punished.

During the heavy armed clashes between Turkish security forces and PKK militants that took place in south-eastern cities of Turkey after the peace negotiations were halted in 2015, Tahir Elçi was critical of the government-imposed curfews as well as PKK's practice of erecting barricades and trenches in cities.

Despite his firm stance advocating for the return to dialogue and peace negotiations, in the weeks leading up to his murder, Tahir Elçi was charged with "propaganda making for a terrorist organization" due to his statements on a live television show that aired on 15 October 2015. Shortly after his statements, he was detained in his office at Diyarbakır Bar Association and later released on probation.

He was facing up to 7.5 years in prison for his statements, which clearly fell within the protection of free speech as per ECtHR case-law, whereas in the trial for his murder, the accused police officers face between two to six years in prison for "causing death by culpable negligence".

Although the start of the trial after five years provided a glimmer of hope for justice in Tahir Elçi case, the first hearing on 21 October 2020 did not have the procedural guarantees of a fair trial. The accused were not brought to the courtroom and their defence statements were decided to be taken via the SEGBIS system, a video conferencing tool, and without the presence of a delegated judge.

Moreover, the court decided to hear the defendants' statements before making a decision regarding the intervention requests of the affected parties. Although Tahir Elçi's lawyers objected to this procedural anomaly, their objections were denied in, what appears to be, an attempt to preclude the affected parties from effectively examining the accused.

During the hearing, Tahir Elçi's lawyers were warned several times for "disrupting the flow of the hearing" and were attempted to be thrown out of the courtroom as the security forces stormed the room.

In the face of the clear breaches of criminal procedural guarantees in Turkish Criminal Procedure Code, as well as the Turkish Constitutional Court and European Court of Human Rights precedents, Tahir Elçi's lawyers submitted a request for recusal. The request will be examined by Diyarbakır 11th Heavy Penal Court, and the next hearing of the case will be held on 3 March 2021.

The European Criminal Bar Association is deeply concerned about the negligent attitude of the Turkish court and the breaches of procedural law in the first hearing which has cast doubt on the impartiality of the judges. Tahir Elçi was brutally murdered in broad daylight and no perpetrator was brought to justice for five years as a result of an ineffective investigation in which crucial evidence could not be obtained.

Along with the international community, The European Criminal Bar Association is closely monitoring the trial process and calls for a fair and swift proceedings. Tahir was key figure in the advancement of human rights in Turkey, he fought against the culture of impunity for decades and in order to honour his legacy, impunity cannot prevail in the case of his murder.