

Fevzi Demirel, Court President
Şırnak 2nd Heavy Penal Court
Atatürk mahallesi, A. Gaffar Okan Caddesi,
Hükümet Konağı yanı/Şırnak- Turkey

Cc:

- President of the Republic of Turkey, Mr Recep Tayyip Erdoğan
- Minister of Foreign Affairs, Mr. Mevlüt Çavuşoğlu
- Minister of Justice, Mr. Abdulhamit Gül
- Minister of Interior, Mr. Süleyman Soylu
- Minister of Health, Mr. Fahrettin Koca

18 March 2020,
Copenhagen, Denmark

Your Excellency,

I am writing to you on behalf of the International Rehabilitation Council for Torture Victims (IRCT) regarding the criminal case against Dr. Serdar Küni currently pending before your court. Dr. Küni was arrested and detained on October 19, 2016 on charges that he provided medical treatment to alleged members of Kurdish armed groups while they occupied parts of the city in January and February 2016.

Dr. Küni, who is originally from Cizre, has worked as a physician in Cizre since 2005 with the Biseng Public Health Centre, 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 subsequently charged 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.

On April 24, 2017, Dr Küni was sentenced to 4 years 2 months imprisonment but this decision was later reversed by the Gaziantep Regional High Court. The proceedings were

re-launched on April 25, 2018 in Sirnak and at the 6th hearing of the case on February 19, 2020, the Prosecutor demanded that Dr Küni should be sentenced to imprisonment between seven and a half and fifteenth years.

The IRCT has closely followed the case since Dr Küni's arrest in 2016 and we remain deeply concerned with the continued denial of international fair trial standards and the context of harassment and reprisals against health professionals and human rights defenders in which the case is pursued.

The IRCT believes that the charges against Dr. Küni are groundless because they seek to penalise his diligent exercise of his obligations as a health professional according to fundamental aspects of the code of medical ethics, recognised worldwide. International humanitarian law and international human rights law both mandate the protection of health professionals in order to allow them to fulfil their duties to provide care for those in need, without regard to any element of identity, affiliation, or political opinion.

International Humanitarian Law and customs affords special protections to health professionals to discharge their duties in such contexts. For example, the Geneva Conventions and their protocols assign health professionals the responsibility to provide healthcare and assistance to all in need and in all circumstances. These principles have also been upheld by the World Medical Association, the International Committee of Military Medicine, the International Council of Nurses and the International Pharmaceutical Federation.

Therefore, legal action, 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.

The IRCT is also deeply concerned by the admission and consideration of evidence, which we witnessed as member of the international delegation observing the court on 24 April 2017. The prosecution relied on anonymous witnesses and hearsay evidence, which, by its nature, is not possible to verify during the court hearing. Even more concerning, the four identifiable witnesses all alleged that they were forced to sign their testimonies under torture, an allegation that the prosecution has not credibly dispelled. On this basis, we see no reliable evidence to substantiate the allegations brought by the prosecution and therefore no reason for the continuation of the case.

For these reasons, we urge you to ensure that the case against Dr. Küni upholds and promotes full compliance with national and international human rights standards by the Turkish Government. In particular, we urge you to:

1. Fully guarantee Dr. Küni's fair trial rights including in relation to the admission and evaluation of evidence;
2. To ensure that no evidence obtained through torture or ill-treatment is admitted in the process and to order prompt and independent investigations into all allegations that witnesses have been tortured or ill-treated; and
3. Ensure that Turkey's obligation to protect the right to health, medical neutrality, and freedom of association and expression are respected and fulfilled by rejecting the groundless charges against Dr. Küni.

Yours sincerely,



Lisa Henry

Secretary General

International Rehabilitation Council for Torture Victims (IRCT)