

Dear Presidency,

As it was planned we had a great HRC meeting in Bilbo Dec 15, 2018. Into the meeting was implemented the training in accordance to our Trial Observation Project let by Nardy Desloover from Holland. Beneath you find the minutes.

Next HRC working meeting is planned in Barcelona Feb. 14,2019 (put that day into your calendars, please)

Bilabo, Spain, Dec 15, 2018, HRC Commission Working session started 10.00 a.m.

Meeting chaired by Artur.

Present: Sara, Maasimiliano, Yordanka, Piergiuseppe, Maria Begoña, Ignacio, Donovan, Enrico, Togce, Aitzol, Artur.

Apologies: Monique, Marc, Karina

The HR Commission Meting in Bilbao was preceded by the training done by our quest Mr Nardy Desloover from Netherland. I was already planned by the Commission in accordance to HRC Trial Observation Project (trials observation with Presidency permission led by HRC Members).



1. After this Training we need to discuss how to organize a delegation of observers to trials in Turkey. We will have to ask the FBE Presidency. The training slides will be shared with Commission members, so they can use it in their Bar Associations .



2. Artur attended :

A) Fundamental Rights in European Commission colloquium in Brussel
Nov 26/27, 2018

B) International Press Institute in Berlin (EU Hosue) about Jurnalist
situation in Turkey Nov 28, 2018

3. George Clooney foundation charitable grants for monitoring trials for human rights violations. With American Bar Association. It will be known as TrialWatch.

4. Artur went to Istanbul with Dominique Attias Sept 6-9, 2018. They spoke about Rule of Law: organised by Istanbul Bar Association. 13 deans from Turkish Bars. The conference was called Dark Side of the Moon. Talked about situation of lawyers and journalists.

5. Yordanka gave us an update on Bulgaria and same sex couples and rights of women. Bulgaria did not accept the Istanbul Convention on domestic violence. In Bulgaria they think that is about “3rd” gender but do not define what this is. It went to Supreme Court, lawyers supported the Istanbul Convention. Som3 lawyers went on strike and demanded that the support statement was withdrawn and it was. Only some NGOs supported ratification. Council of Europe, European Parliament

members came to try and convince. But could not change. Domestic violence is not a crime it is only a civil case. In Bulgarian when people go to the Sara police for protection, the police tell them they have to go to court by themselves. Stalking is in criminal law, thanks to the efforts of NGOs. MPs who spoke said DV does not exist and is a private matter between couples. Others said that we only discuss because of pressure from EU/ EC, it does not exist here. Now first stage has been passed and they are waiting for 2nd stage.

6. Artur encouraged the members to raise any projects they would like for work of the Commission.

7. Sara reported on the case in Colombia where the brother of the former President Uribe is on trial. FBE has supported human rights lawyers at risk in Colombia. Artur, Piergiuseppe, Massimiliano and Sara are members of the Colombia Caravana which has 3 members observing the trial of this Uribe. The case is about the organisation of para militaries against the human rights defenders.

The meeting closed at 2.20 p.m.

Minutes taken by Sara



Best greetings, ARTUR

Artur Wierzbicki
President
Human Rights Commission
FBE

WE ALL WERE VERY WELL HOSTED BY BILBAO BAR ☺



Trial observation in Turkey (report done by Ms Sara Chandler)

20 m people population of Turkey. Spans West / East.

Political situation: lack democracy, control of media, suppression of criticism, Erdogan election/ Kurdish situation. Talks PKK collapsed then deteriorated.

Rule of law: 15.07.16 attempted coup. Emergency state, special laws and powers. When state of emergency ended emergency laws became normal laws.

Control of justice system, police prosecution, lawyers and judges.

Position of lawyers: extra powers : Entering the law offices: by police or prosecution, monitor phone calls, confiscate files. Several times entered, change locks etc, but almost no limitation on police. Come in the night and break in and take files.

In case of suspicion: secrecy; no evidence shown to suspect; long period of pre trial detention, their defending lawyer does not receive information, do not know why arrested. All kinds of restriction, passport confiscated, report to police station etc; politician cases can be prohibited, no right to defend; limited access for defence, lawyers do not get privacy, shared cell, harsh conditions in jail; once a week for one hour can see lawyers if room available, the meeting is recorded, someone in room from prison staff. Against the UN principles of confidentiality, communications not private, applied arbitrarily;

Stigmatisation: defence lawyer for political suspected client will become suspected as also political; Domino effect, creates fear and silence; many people do not have a defence lawyer.

Political situation 15.07.16: before focus was on Kurdish, after focus after it was on Fetullah Gulen cases; many people in public sector dismissed and/ or arrested. Cases against both now.

What to do: trial observation, contact lawyers lawyer orgs, bar reps, and other relevant people.

KCK TRIAL: 46 lawyers arrested in 2007 reps for Kurdish community organisations; related to defence of Abdullah Ercolan; accused of being messengers who gave instructions to people who set off bombs. Based on their professional role. Since 2011 been in detention, trial still continues, 2.5 years in detention, restrictions, no passport, report to police stations. Different prosecutors and judges since the beginning, Judges get detained supposedly sympathisers, accused of fabricating allegations; same evidence is held against the lawyers.

The Presidents case: Istanbul Bar are Atatürk Fans, and not Erdogan. The court fired lawyers and asked President of Istanbul Bar to appoint new lawyers, President refused to send new lawyers because their should be free choice of lawyers. President got arrested and prosecuted, as well as the court of the Bar. He was involved in the famous organised crime case, President asked to speak in court and. Court refused. President said we are the Istanbul Bar and want to speak for the defenders. Eventually resolved OK.

EHB case lawyers in pre trial detention for more than a year. Represented family members of people who were fighting in Syria v ISIS. Asked for return of bodies asked for facts about how they were killed, and attended the funeral. This was why they were accused for accruing as lawyers for the families. Small office 2 out of 5 detained.

AYDIN: lives in Istanbul. His client a police officer was arrested, accused of political, Gulen sympathiser supposedly, was investigating son of Erdogan. Diagnosed with cancer, back problems, Mr AYDIN was not treated. CCBE campaigned for him and he was released. Ostracised in their home area.

AT COURT: special rules, large crowd waiting to go in, need lawyers pass, CCBE issue one, European lawyers ID, Lawyer killed 3 judges in Supreme Court, another time a prosecutor was killed. So more security at court bag check etc. Once you are in you can go everywhere's. Can take phone, can take photos, but not in court.

ROLE OF INTERNATIONAL DELEGATION: observe, nothing else. Outside take photos of delegates, press, demonstrations, Turkish lawyers demonstrate in Thursdays. Police use tear gas and remove the demonstrators. International delegation take photos.

Picture outside court with Nardy Desloover from Rotterdam Bar, and Tony Fisher from Law Society of England & Wales and many others in an international delegation.

Coordination Dutch lawyers and Law Society of E & W.

OBSERVE: need to be briefed, study the case, try to be there for pre trial detention. Solidarity for lawyer. Need to know people in the country.

Need local contact, fact finding, INTERPRETER needed; specific info re case from local civil rights orgs, NGOs, lawyers and bar associations. Need consular contact in case help needed. Discuss with consulate who sometimes come to court as well.

REPORT: important for continued support also fundraising, important for new participants; other monitoring parties; eg Lawyers for Lawyers, Judges for Judges, official institutions; contribute to Universal Periodic Review, EU, E Council, home government.

UPR: every four years each country is evaluated, somTurkish, Cathy Perry Special Rapporteur for European Parliament.

SHOW SOLIDARITY: stay political neutral, unless rule of law is violated; support the lawyers who are prosecuted and their lawyers, also the lawyers' organisations. Also visit judges if possible. List of the delegation is given in to the court and so it is known that they are their.

Picture of French Delegation with Dominique Attias.

Fact finding with lawyers in their firms and bar associations. Academics, lot have been fired; also journalists.

No fair trials, however judges are scared so postpone or convict. Bar Associations also scared. Is a balance between what can be done and what is too risky.

HOW do trials PROCEED? : chaos, unpredictable, passive role for prosecutor, crowded, people going in and out, noise, lawyers go in and out, not involved, big difference depending on the judges presiding, not all of the three judges are present all the time, even the prosecutors may come in late, it seems it is no importance what the defending lawyers says. Not listening. No deliberation, just give the decision, which seems to be decided in advance.

REMARKABLE OBSERVATIONS: judges disappear, averse to making @ decision and so postpone various times, strange evidence, passive prosecutors and can make a decision and their office opposes it and wants it changed; activist approach from defence lawyers, challenge the interpreters, who make make a wrong translation; widely represented armed forces; handcuffed suspect in court, including in the canteen. Police take suspect with them, and the suspect is not allowed TO EAT.

CONCLUSIONS: about 1500 lawyers arrested after attempted coup. 189 in detention after verdict. Stigmatisation identification of lawyers with their clients' causes and victimisation of the lawyers. Repression against lawyers and their organisations, harassment and attacks on lawyers. Disrespect on confidentiality

Makes monitoring and solidarity very important.

Some Turkish lawyers have asylum in other countries, but cannot return because now refugees.

Case in E C of HR. Article 18 case. Chief of Turkish party in detention: decided was political motivated cases. November 2018. Erdogan says do not respect the decision, we pay fine but we do not follow the remedy. Eg Turkey has to release the Chief of Turkish party. Court then did a quick conviction, he is not under detention now, he is convicted. 45% of judgements are not fulfilled, only pay compensation.

Case: judge decides person to be released. Artist and his lawyer. Prosecutor asked the court to re detain the suspect. Afterwards the judges were removed to another cities court.

Another case: 3 judges decided on Friday released a suspect. Next day 2 of the 3 judges were removed and sent to another city. And suspect was re detained.
