

Court observation report

Trial on the assassination of Barrister Tahir Elçi

5th hearing, 15 June 2022

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1. Background

1.1 Barrister Tahir Elçi

Tahir Elçi was born in the city of Cizre in Turkey in 1966.

He is known for having handled and argued numerous cases as a lawyer related to the serious human rights violations perpetrated by the Turkish Gendarmerie Intelligence Organisation (JITEM) and similar bodies (acts of torture, summary and arbitrary executions, shelled or burned villages).

One such case involved the death of 38 civilians following an air strike by the Turkish Armed Forces (TAF) in the villages of Koçağılı and Kuşkonar (Şırnak province) in 1994, in which Tahir Elçi obtained a ruling from the European Court of Human Rights (ECtHR) condemning this serious violation¹ and calling for an investigation against the senior military officials.

In 1993, he was detained due to his commitments in practicing his profession as a lawyer, and was tortured at the JITEM headquarters in Diyarbakır for 18 days. As a result of this investigation, a case was brought against him. He appealed to the ECHR which led to a famous decision condemning Turkey for the deprivation of liberty and torture suffered due to conducting their work as a lawyer².

In 2012 Tahir Elçi was elected President of the Diyarbakır Bar Association.

Barrister Elçi has also been active as a human rights defender nationally and internationally and both co-founded and volunteered in several human rights organisations such as the Human Rights Foundation of Turkey, the Human Rights Scientific Council of the Turkish Bar Association, the European Lawyers Association, the Human Rights Agenda Association and the Turkish branch of Amnesty International.

Tahir Elçi frequently collaborated with national, international and non-governmental organisations on social issues such as the Kurdish resolution process (peace process) in Turkey and the rights of the people in the Kurdish region, mainly in Diyarbakır.

In 2015 he received the Social Democracy Foundation's Human Rights, Democracy, Peace and Solidarity Award, the Hrant Dink Foundation's International Hrant Dink Award, the Peace, Friendship and Democracy Award from the Diyarbakır Chamber of Physicians, the Council of European Bars and Law Societies' (CCBE) 2016 Human Rights Award, the Union of Bars and Law Societies of Turkey's 2018 Honorary Human Rights Award, and in 2020 the title of Honorary Member of the Paris Bar.

1.2 Circumstances surrounding the death of Barrister Tahir Elçi

1.2.1 Curfew period

Once the peace process on the Kurdish issue, which started in the spring of 2013 and is publicly known as the "resolution process", came to an end, major conflicts broke out in the south-eastern region of Anatolia, resulting in indefinite curfews in eastern and south-eastern Turkey, mainly in Sur, Silopi and Cizre.

¹ ECHR, *Benzer and Others v. Turkey* (No. 23502/06), 12.11.2013.

² ECHR, *Elçi and Others v. Turkey* (No. 23145/93 and 25091/94), 13.11.2003.

Tahir Elçi addressed both the state and the PKK at that time, calling for a ceasefire and peace between the parties. Members of the Diyarbakır Bar Association, which he headed, travelled to Cizre and other locations to observe and report on the breaches of freedoms that took place during the curfews announced by the Şırnak Governorate from 4 to 12 September 2015, and a lawsuit was consequently filed.

Ten days before his death, Tahir Elçi, who had been closely following the breaches of public freedoms committed during the curfews, even made a statement to the press regarding the autopsy report of Selamet Yeşilmen, a mother who was shot in the Nusaybin district of Mardin, referring to *the "use of special ammunition in the operations taking place in the Southeast."*

1.2.2 The beginning of the end: CNN Turk's programme and threats

In the aftermath of the shelling in Ankara on 10 October 2015 killing 100 people, a very tense climate at the time, Tahir Elçi was invited to a series of live TV programmes to express his views on the escalating terrorist attacks and the future of the Kurdish resolution process in Turkey.

On 14 October 2015, he was present on the set of the TV programme "Tarafsız Bölge" [Neutral Zone], hosted by Ahmet Hakan on CNN Türk. The programme was about the Ankara massacre and featured a panel of personalities. In a statement on polarisation in society, Levent Gültekin criticised the Nationalist Movement Party's (MHP) refusal to negotiate with other parties. MHP member Uygur Aktan responded to this criticism by saying that his party members *"will not meet anyone who does not condemn the PKK as a ruthless terrorist organisation. Everyone should identify and condemn the PKK as a terrorist organisation and keep it at bay. The people who refuse to do so are the ones who polarise society."* Levent Gültekin, who disagreed with Uygur Aktan, said: *"The Kurdish problem has not been solved with such a method and discourse for 40 years."*

Tahir Elçi went on to say *"Thousands of people have died because of the 40-year war, and the understanding that violence could not solve this problem led to a resolution process that was initiated to end the war. He also added: "The PKK is not a terrorist organisation. It is an armed political movement, even if some of its actions are of a terrorist nature. It is a political movement that has certain political demands and a very considerable support base in society."*

This last statement earned him the wrath of the other guests and the host Ahmet Hakan who saw it as a way of *"legitimising violence by misrepresenting the PKK as a separate state. Elçi then repeated what he had said in another TV show called "Türkiye'nin Nabzı" [Turkey's Pulse] broadcast on Habertürk Channel on 12 October 2015, namely, "I never consider guns as a solution and I reject their use. I believe that the Turkish and Kurdish people would live together in peace forever."*

Because of these statements, Tahir Elçi was then violently targeted, particularly on social networks, and exposed to numerous insults and death threats. He was also targeted by the pro-government media.

On 23 October 2015, barely ten days after the broadcast, the Bakırköy Chief Prosecutor rushed, unusually quickly, to issue an indictment, charging Tahir Elçi with *"spreading propaganda for a terrorist organisation by means of the press"* and requested a one and a half to seven and a half years' prison sentence.

1.2.3 Murder of Tahir Elçi

Tahir Elçi was shot dead on 28 November 2015 under the so-called "four-legged" Minaret in the Sur district located in the centre of Diyarbakır while holding a press conference he had organised to call for an end to the serious human rights violations committed during the curfews in Cizre, Sur, Silopi and

Nusaybin and make a public appeal for the protection of cultural property and heritage during the conflict.

On that day, PKK militants Mahsum Gürkan and Uğur Yakışır were in taxi bearing licence plate number 21 TT 0980 which was intercepted by police. They retaliated by firing shots at police officers intercepting the taxi, Ahmet Çiftaslan and Cengiz Erdur, and killed them.

Mahsum Gürkan and Uğur Yakışır, armed, started to flee taking Yenikapı Street, where Tahir Elçi was delivering his press statement at the four-legged Minaret. Anadolu Agency journalist Aziz Aslan was injured and Tahir Elçi lost his life hit by a bullet during the crossfire.

1.3 The investigation and the first hearings

1.3.1 The investigation phase

Allegedly for security reasons, the crime scene investigation, which should have been carried out immediately, could only be conducted on 17 and 18 March 2016, several months after the incident.

Although prosecutors did not visit the scene for months - again, for alleged security reasons - the crime scene was opened to the public very quickly, and the press published photographs of people walking around the scene among the forensic evidence and loading the empty bullet casings onto a wheelbarrow. Thus, the exact location of the evidence at the crime scene was altered, some of it was most likely removed, lost, and it cannot be ruled out that false evidence may have been introduced. This made it impossible to find the bullet that killed Tahir Elçi, which in turn made it impossible to identify the weapon and the perpetrator.

The best view of the shooting and death of Tahir Elçi could have been obtained from camera num. 4 installed at the Mardin Kebap house, facing the four-legged minaret. Of the three cameras in the Mardin Kebap house, camera 4 was indeed the only one facing the "four-legged" Minaret, and yet it was the only one that turned out to be non-functional.

Similarly, the CCTV recordings of camera num. 5 at the post office on Yenikapı Street, which also faced the crime scene, showed a 17-minute break between 11:34 and 11:51 on the day of the incident.

The only camera recording that captured the moment of the shooting belonged to the security forces, and it was also found to have a 13-second gap at the very moment of the killing.

Despite persistent requests from the defence, no thorough investigation has been launched in this regard by the prosecution.

As for the individuals who were to be intercepted that day, it should be noted that the first PKK member, Mahsum Gürkan, was killed on 13 March 2016 in a shootout in the Sur district. The second, Uğur Yakışır, was arrested and is one of the defendants being questioned by video-hearing.

The Diyarbakır General Prosecutor's Office has taken numerous witness statements as part of the investigation. For four years, however, excluding the two PKK militants, there was only one "suspect" in the investigation file, namely taxi driver Ahmet Sanlı. A subsequent ruling ordered he not be prosecuted. Despite the evidence in the case file and Tahir Elçi's family lawyers' insistent requests, the statements of three police officers present were taken as mere "witness" statements without further investigation despite the fact that they were in the same street, close to the Barrister Elçi, and had undoubtedly fired their weapons at the time of the shooting in which he was killed.

The Tahir Elçi Investigation Commission of the Diyarbakır Bar Association commissioned Forensic Architecture (FA), a research agency working within the University of London's *Goldsmiths College*, to prepare a report on the murder of Tahir Elçi. The report was published on 13 December 2018. Based on video footage taken by members of the press and police, testimonies of civilians and police officers, as well as audio-visual material contained in the case file, the report reached the following conclusions:

"Tahir Elçi was killed when he was hit by a single bullet fired in the time frame of 7.12 seconds (07:12), at approximately 10:55 on 28 November 2015.

Neither PKK member appears to have fired the fatal shot.

All the shots fired in the time interval under investigation have similar sound profiles and there is no auditory evidence of a long-range weapon firing at a significantly different distance.

Three police officers had a direct line of fire to Elçi, and are seen discharging their weapons on several occasions. Although the investigation does not determine which of the police officers present at the scene was responsible for Elçi's death, it identifies them as the most likely suspects. The investigation does not determine whether the fatal shooting was done with the intention of hitting Elçi."

Following the FA report that the organisation's militants could not be held responsible for Tahir Elçi's death, on 9 January 2020 police officer Sinan Tabur, and on 10 January 2020 police officers Fuat Tan and Mesut Sevgi gave their testimonies as "suspects" for the first time, four years after the events.

The plaintiffs' lawyers have made numerous requests for the precise circumstances of the murder to be clarified, but most of them have not been met.

The lawyers of Tahir Elçi's family and the Diyarbakır Bar Association were not the only ones to express doubts about the circumstances of the death.

Ahmet Davutoğlu, former Prime Minister, thus declared in September 2021:

"This is an assassination plot against Tahir Elçi. The target is clear, it is Turkey. The second possibility is that, following the terrorists' attack, our police officers fired shots in order to protect the people there and Tahir Elçi was caught in the crossfire. There will be no unsolved murders during our mandate.

Four years and six months after the murder of Tahir Elçi on 28 November 2015, an indictment regarding his death was served on 20 March 2020. The Diyarbakır Prosecutor General's Office requested a sentence of three to nine years' imprisonment against the three policemen Mesut Sevgi, Fuat Tan and Sinan Tabur for "*causing death by conscious recklessness*", and a sentence of three times aggravated life imprisonment for militant Uğur Yakışır for "*murdering two policemen*", "*attempted murder of a policeman*" and "*potentially intentionally murdering Elçi.*"

It appears from the indictment that "*Elçi was killed accidentally by three policemen, and intentionally by Uğur Yakışır.*" **However, he was killed by a single bullet.**

1.3.2 The trial phase: the first four hearings

The first hearing of the case was held before the 10th Diyarbakır Criminal Court on 21 October 2020.

The hearing did not go smoothly. The panel of judges rejected all the requests of the civil parties and threatened to remove the plaintiff Türkan Elçi, Tahir Elçi's wife, and her lawyers from the courtroom,

thus triggering the filing of a request for recusal. The Court's attitude changed partially from the second hearing onwards.

Nevertheless, the Court continued to reject all significant claims that would shed light on Tahir Elçi's death.

At the fourth hearing, held on 12 January 2022, the Court rejected both requests to hear witnesses in person rather than via the SEGBİS video conferencing system, as well as requests to hear intelligence officers and the officers in charge of the cameras, who were at best extremely negligent.

With regard to the requests for further investigation, it should be recalled that there are two e-mails in the case file, one dated 8 January 2016 sent to info@adalet.gov.tr, and the other dated 27 January 2016 sent to cigm@adalet.gov.tr. These two e-mails, sent by apparently different people, nevertheless contain clear information such as: *"The terrorist who carried out the action had been under technical surveillance for a year. And by whom? The intelligence services. So they even knew what this man was eating and drinking. This terrorist had launched an attack in front of the hospital the day before the action. Then he carried out the action in Sur the next day...The intelligence teams followed the terrorist's vehicle for 8 km. The intelligence team was also following Elçi. (...) The most intriguing thing is why he did not inform the police about the presence of a terrorist in the car.*

Despite the presence of such correspondence from the informed persons, the Court also rejected all requests to verify the accuracy of these letters and to investigate the follow-up to these notifications.

Finally, the Court systematically rejected the requests for a hearing by the prosecutor previously in charge of the proceedings, Kenan Karaca, who however, according to witness statements, *"pressured them and threatened them to make false statements about the perpetrators of the murder"*.

2. The course of the 15 June 2022 hearing

The day before the hearing one of the delegates had a fruitful exchange with the President and Vice President of the Diyarbakir Bar Association, as well as with some members of the Board.

Before the hearing, a working breakfast was organised in a hotel near the Court, giving the delegation the opportunity to meet all the civil parties' counsel, who had come from all across Turkey.

On this occasion, we were able to meet with our colleague Ramazan DEMİR, a lawyer prosecuted by the authorities in the ÖHD trial, a trial that the International Observatory of Lawyers at Risk (OIAD) has been observing for a long time.

The arrival at the Court took place at around 09.45. People in plain clothes were filming the arrivals just before the entrance to the Court with a mobile phone.

There was a strong police presence as well as many journalists.

Despite our bags being passed through a metal detector - lawyers are traditionally exempt from this - we entered the premises without difficulty once our identities had been checked, as the President of the Diyarbakir Bar and his group of co-defenders had organised our arrival well in advance, informing the escorts of our status and requests for access to the hearing.

The courtroom, in the basement, was modern, air-conditioned, equipped with video hearing devices and large screens, and crowded, but had enough seats to allow many colleagues in robes as well as the few diplomats present to be seated. Bottles of water were also distributed to all those who wished to drink.

We asked whether we should introduce ourselves to the judges and prosecutor. The lawyers told us that we should not talk to them (foreign or local lawyers) because this could be misinterpreted.

The hearing started at the scheduled time of ten o'clock.

The panel on the Court consisted of three magistrates, one President and two judges all of whom are very young for a trial of this size and importance. A litigator would later explain that the President is in his forties, while his two assistants are not yet thirty years old, and that they certainly carry no weight in a ruling.

The hearing followed the steps detailed below but was at times somewhat disjointed, without a clear programme being presented to us - the President of the Bar himself did not seem able to give it to us with any certainty.

2.1 Brief hearing of the four defendants

Uğur Yakışır

A few rare questions were put to this former PKK member, Uğur Yakışır, who was heard via video conference from his place of detention. This defendant admitted, among other things, that he had killed the two policemen shortly before the death of Barrister Tahir Elçi. At the hearing, he stated that he was not sure about the cause of that death as too many shots were fired that day. He also referred to another PKK suspect who allegedly recognised yet another PKK member (in addition to the two main suspects) on the crime scene videos. He confirmed this via video conference without being able to give further details.

Fuat Tan

He did not wish to make a statement and was not assisted by a lawyer.

Sinan Tabur

The third defendant refused to answer any questions, as did his counsel.

Mesut Sevgi

He was not questioned.

2.2 Preliminary questions raised by the twenty-three lawyers representing the various civil parties

The civil parties (although to our knowledge this concept does not exactly overlap with that of Romano-Germanic law) are the following:

1. The family of Bar President Tahir Elçi, including his widow, who has herself become a lawyer since she widowed;
2. The Diyarbakir Bar Association;
3. The Union of Bar Associations of Turkey (admitted as of the 4th hearing).

The clerk read the minutes of the 4th hearing.

The floor was given to lawyers from the Diyarbakir Bar Association, the Turkish National Bar Association and the family, as well as to a number of Turkish Bar Association presidents who took turns to make five to fifteen minute submissions on various aspects of the failings of the investigation. Often

challenging the Court and the Prosecution Service, they vigorously made several requests detailed below.

In order to facilitate the reading of this report, only the intervention of the President of Diyarbakir is reported *in extensor*. The other interventions and multiple requests of the other lawyers are summarized.

2.3 Intervention of the President of the Diyarbakir Bar

The President of the Diyarbakir Bar Association recalled that he was intervening on behalf of his Bar, a party to the proceedings, and not on behalf of Tahir Elçi's family.

He expressly welcomed and emphasised the presence of international observers at the hearing, including members of the OIAD, lawyers from Paris and Geneva, as well as observers from the Netherlands, Canada and the United States. He further stressed that the presence of international judicial observers called for the indispensable respect of the rules guaranteeing a fair trial by the Court.

He underscored that the crowd present at the hearing demonstrated the importance of this trial, and, in his opinion, the public opinion's desire to help the Bar to solve and judge this case.

The President of the Bar reminded those present that the former Prime Minister, Ahmet Davutoğlu, had already had the opportunity to say that the death of the former President of the Bar could be either the consequence of a planned political assassination or the result of a crossfire.

According to the President of the Bar, there was no doubt that this was a trial of a political assassination case and, moreover, a case fraught with human rights violations.

The President of the Bar also turned back to the fourth and final hearing, saying that the decisions rendered had been extremely disappointing in that the Court had not granted any of the lawyers' requests.

He also expressed his anger at the difficulty of obtaining a copy of and examining the video, the 13 seconds of which those most important to the case had been amputated, and considered such a delay unacceptable.

He asserted that the case was clearly manipulated and signalled the magistrates, expressing that such a delay in obtaining an expert opinion was not acceptable.

He considered that, in view of the evidence in the case file, it was also clear that police forces, probably the secret services, had come to the detention centre to meet one of the suspects, a PKK member, and forced him to admit to the murder of Barrister Tahir Elçi.

The President of the Bar read out in full the letter addressed to him on this subject by the prisoner.

It should be recalled that this detained PKK member reported in his letter that members of the Turkish secret services (MIT) called him to the visiting room on the pretext of being lawyers. Once in their presence, they interrogated him and forced him to admit, under the threat of life imprisonment if he refused, that he was the perpetrator of the assassination of Barrister Tahir Elçi. They also threatened to order the detention of his lawyers.

The President of the Diyarbakir Bar Association considers that after such a letter, his Bar Association cannot be satisfied with the hypothesis that was intended, however, to be presented to the civil parties, namely that of a negligent homicide on the part of one of the three accused policemen.

He also noted that it was inconceivable that the former prosecutor, who was directly implicated, had never been sanctioned.

Importantly, the judges took no notes of the facts contained in the letter.

The demands of the President of the Bar were therefore as follows:

- Independence of judges;
- A hearing by the Court of the 59 main witnesses considering that an in-person hearing is essential for such a trial;
- A hearing of the Prosecutor who had the former PKK member make his false testimony;
- A hearing of this former PKK member;
- A hearing of all other police officers present at the scene of the shooting;
- A hearing of the coordinating police officer at the time of the events;
- A hearing of former Prime Minister Ahmet Davutoğlu;
- Investigations to verify the anonymous allegations sent by e-mail that the PKK members present at the scene of the crime as well as Barrister Tahir Elçi were under surveillance by the intelligence services, and to seek the identity of the author of the anonymous e-mail;
- Testimony from members of the intelligence services;
- Addition of the intelligence file to the procedural file (in addition to the roughly 50-page report already in the file referring to police interrogations which cannot be read in full because they are not in the case file).

2.4 Intervention of other lawyers

The requests, criticisms and interventions of other lawyers include the following:

- Some lawyers of the family and of the Diyarbakir Bar Association stated that they themselves had been subjected to pressure and threats by the prosecutor. Attorney Mahsuni Karaman, for instance, revealed at the hearing that the prosecutor in charge of the investigation had locked him in his office when he had discovered that the images had been cut. Attorney Mahsuni Karaman could only be released thanks to the intervention of his colleagues who came to forcefully knock on the door of the prosecutor to release him;
- Attorney Oran Cengiz, a lawyer, journalist and human rights activist, called for the three accused police officers to be physically present at the hearing and for the judges to show independence in investigating the legitimate claims;
- Attorney Aktar criticised the Prosecutor for having kept to himself the documents in the case, in particular the police files and recordings on the day of the events. He pointed out in passing that no effort had been made by the Court to investigate this case. The Judges' rejection of most of the lawyers' previous requests is all the more unacceptable considering the judges' mandate to demonstrate their independence;

- The lawyer of the Turkish Bar Association pleaded that the civil parties were not asking for money or compensation but for a fair trial and an impartial decision, and stated that the civil parties did not want revenge but an end to a trial that had gone on too long;
- The other colleagues mainly asked the following questions:
 - Importantly, there was no analysis of the crime scene, after the fact, was this intentional?
 - How is it that 12 seconds of the video surveillance tapes are missing?
 - Is it really a coincidence that five lawyers have been murdered in Turkey, all of whom were defended by Tahir Elçi.?
 - How is it that the indictment communicated to the lawyers is incomplete, and why do the lawyers suddenly have knowledge of a report from the Ministry of the Interior more than 9 years after the facts?
 - If you judges feel under pressure, why don't you resign?
 - How can we explain the fact that the police officers whose involvement is suspected, as trained and disciplined professionals, are not able to report the orders received? How can such a failure be explained?
- Finally, the pleadings ended with repeated requests to hear the radio operator and the senior police officer in charge of security on the day of the events.

2.5 Intervention of the prosecutor and deliberation of the court

After the 23 interventions of the lawyers, the Prosecutor broke his silence and gave the following explanations in his closing remarks:

- The prosecutor was unable to obtain the expert reports from the forensic institute from the 12 seconds of the surveillance videos because the institute did not have time to prepare them.
- He wished the Court refuse to hear the various witnesses at this stage and considered that hearing them by video-conference was not a problem.
- On the other hand, he did not object to the including the annexes to the 23 June 2017 "investigation report" concerning the investigation ordered by the Ministry of the Interior in the case file.

After a two-hour recess, the Court deliberated on the applications submitted by the lawyers:

1. The Court **accepted** the request for including in the case file the annexes of the 23 June 2017 "investigation report" pertaining to the investigation ordered by the Ministry of the Interior.
2. The Court **agreed that** former Prime Minister Ahmet Davutoğlu would be heard as a witness at the next hearing.
3. The Court **rejected** the hearing of the police witnesses, as their hearing was not considered essential for the resolution of the case because in their earlier statements police officers Abuzer Türk, Emre Murat Arı, Yunus Emre Bektaş and Ümit Mardin stated that they had not seen the moment of the shooting of Tahir Elçi.
4. With regard to video surveillance cameras, the experts' reply from the forensic institution is expected.

5. The Court **rejected** the request to identify the authors of the emails referring to the involvement of the intelligence services on the grounds that the search for the authors could jeopardise their security.
6. The Court **rejected** the request for a hearing of police officer Ahmet Soylu (pseudonym) and Aynur Güzel, who appear to have e-mailed the denunciation letters in the investigation file.

The case was adjourned to 23 November 2022 at 10:00.

3. Critical analysis of the trial and the hearing

It appears that, as in previous hearings, the vast majority of requests for the investigation documents, although legitimate, are still rejected by the Court without any substantive grounds, or even superficial reasons (i.e. on the pretext of a lack of connection with the case, although the contributions of these documents and their connection with the case were clearly explained). This holds, for instance, for the rejection of the request to access the police radios of officers present at the crime scene as well as that of the coordinating police officer.

Another procedural problem was the parties' inability to immediately appeal the Court's decisions in response to requests for documents. This opens the door to the same applications being reintroduced at each hearing and argued differently although always reconsidered by the same Court, thus generating a procedural burden by artificially lengthening the time taken to reach a decision.

Having stated this, we can only welcome the organisation and determination of the colleagues assisting the civil parties. They are perfectly familiar with the case, particularly its technical aspects, and show a constantly revived desire to try to make up for the shortcomings of the investigation in order to obtain establish the facts in this case.

4. Recommendations

As was welcomed by the President of the Diyarbakir Bar (who had also travelled to the OIAD General Assembly of the in Rome), our presence and that of the other non-governmental or diplomatic, foreign delegations was essential to make this hearing the place of a debate where all the lawyers assisting the civil parties were able to make demands and fully express the criticisms that they felt were warranted by the shortcomings of the investigation and the denounced political influences.

Although they anticipated a large number of refusals of their requests for documents, our colleagues were able to obtain some progress and confirmed that due to the international presence and observation, the atmosphere of the hearings changed drastically and pre-empted the incidents that marked the previous hearings. As the both the media and the police forces were mobilised on that day. to a certain extent, public statements by our colleagues outside the court were also facilitated.

Because it is apparently not possible for the OIAD to intervene either voluntarily or with *amicus curiae* status in this trial, we must maintain both our role as observers and the IOAD's ties with this extremely courageous group of lawyers who wish to benefit from our presence throughout the proceedings and in particular during the forthcoming hearings where there may be important developments hinging around the forensic analysis of the video and the hearing of the Prime Minister at the time.

In order for there to be any follow-up, one or two of the people involved in the mission will need to be present at the next hearing.

See the section below on post-hearing developments and the drafting of these recommendations.

5. Post-hearing developments

At the end of September 2022, the Diyarbakir Court did an important about-face. While it had agreed to hear the then Prime Minister at the next hearing on 23 November 2022, it informed the parties that, following a request by the Prosecutor, this hearing would not take place as it would not contribute to the determination of the facts at this stage.

The President of the Diyarbakir Bar Association then requested the recusal of the President of the Court.

While the hearing of 23 November 2022 remains scheduled, we note that as the Court, in violation of the civil parties' right to be heard, has arbitrarily reversed its decision to hear this witness, made after hearing the parties. The observers can only conclude that the judge has been subjected to intense pressure during this period and that the meagre progress made at the 15 June 2022 hearing has thus been virtually wiped out.

This makes what may happen next all the more worrying.



