

(...) I cannot pack up and leave this life  
as if leaving a cinema  
during the finest scene of the film (...)

while life offers me so many grounds  
to excuse myself  
I cannot even consider death (...)\*

### TO WHOM IT MAY CONCERN

**Erol Zavar**, born in 1967 in Zonguldak, Turkey, is married with two children.

On 27 June 2001 Erol Zavar was sentenced Ankara State Security Court No 2 of "attempting, as a member of the illegal organization Resistance Movement, and in accordance with the aims thereof, to overthrow the existing constitutional order by force," and sentenced to death in accordance with article 146/1 of the Turkish Criminal Code. The sentence was commuted to life imprisonment.

Erol Zavar, who's first book of poetry is about to be published, is the owner and editor of Odak (Focus) Magazine which has been published since 1990 under the logo "A different world is possible."

In 1999 Erol Zavar was diagnosed with '**Bladder Cancer**' at Ankara's Etlik SSK Hospital, where he underwent TUR-T surgery (trans-urethral resection of a bladder tumor) and was told that he should avoid stressful situations, and undergo a regular quarterly cystoscopic checkup. Erol Zavar informed officials of these facts during the three days of intense torture he underwent following his initial police detention in January 2001, and during the following years of custody. Neither he, nor his lawyer and family who support him, received appropriate official response to their appeals.

Quite apart from the cancer, Erol Zavar's health is generally poor, yet he was transferred into an F-type Prison where inmates are held under a regime of small-group or solitary isolation. He was denied any cystoscopic checkup for the next three years, on the pretext that there was no cystoscope available, or that the procedure was not necessary in his case. The delays and superficial physical examinations seemed almost deliberately intended to permit the disease to develop to an irreversible stage. With persistent migraine and asthma episodes, and abdominal and gall bladder problems, Erol Zavar's entire body seemed to be giving a cry for help from **the isolation of the F-type prison**.

Finally, in February 2004, as a result of the efforts of his wife, friends and lawyers, Erol Zavar was referred to a university hospital where the cystoscopy investigation could be carried out. He was admitted as an in-patient at Trakya University Medical Faculty from 9 – 25 February 2004 (Document 2) where multiple malignant tumors were identified, and on 17 February an operation carried out. The diagnosis based on biopsy samples was "**Transitional Cell Carcinoma showing submucosal invasion, WHO Grade II, bladder, TUR-T**" (Document 3).

Almost all the cystoscopic examinations in the last four years resulted in operations, so that **Erol Zavar has now undergone sixteen surgical interventions, fourteen of which revealed multiple cancerous tumors**. Besides all these operations, his gall bladder was taken off in March 2007, too.

Erol Zavar should be in an appropriate care environment for the protection of his physical resistance and immune system, and should not be exposed to stress. Yet in the past 46 months he has repeatedly been attacked while being transported for medical referral, has been chained to his bed during recovery from operations, and has been subjected to such severe privations in hospital that on several occasions he preferred to sign discharge papers to return to his isolation cell.

On the request of his wife Elif Zavar, **Ankara Medical Chamber** prepared a report on 31 May 2005 which contained an expert opinion (Document 4) stating that "(...) *since the existing tumor has progressed to the stage of an advanced tumor, the patient should be referred to one of the Health Ministry Education and Research Hospitals for re-evaluation, or to one of the University Medical Faculties.*" **The report emphasizes that the disease is in a state of continuous advance** (Document 5).

In the last four years since that time, the disease has indeed progressed, and Erol Zavar's doctor has told him that the extensive damage to the bladder wall will require that, if the tumor reappears, **the bladder will have to be entirely removed**. Understandably, nobody is eager to contemplate what may lie further ahead.

The evaluation of the Human Rights Foundation of Turkey (TIHV) and the International Federation of Human Rights Associations (FIDH), given in June 2006, are as follows:

\* **TIHV** believes that the health of Erol Zavar, which is clearly not going to improve under prison conditions, has reached a stage in which urgent intervention has now become necessary. It is our view that Erol Zavar should be released, under the provisions of relevant law, so that he can be treated under more appropriate conditions before his disease reaches the terminal stage" (Document 6).

\* **Deputy President of FIDH Akin Birdal**: "I am hopeful that the necessary concern and sensitivity will be shown in order to create a humane solution in recognition of Erol Zavar's right to life, notwithstanding his fundamental and other rights, and providing for his release" (Document 7).

**Gökçe Otlı**, board member of the Ankara branch of the Human Rights Association, has also been closely monitoring Erol Zavar's situation, and her observations and findings are attached as Document 8.

#### **Relevant National and International Law:**

Article 399 of the old Criminal Procedure Code contained the following provision: "Custody sentences shall be served by mental patients once they have recovered from their illness. Where a convicted prisoner has an illness in which serving a custody sentence would present a life-threatening danger, the same provisions shall apply in that illness also."

Article 16/2 of the New Law on the Execution of Punishments says: "*In the case of other illnesses, the execution of punishments shall continue in those areas of official health institutions reserved for convicted prisoners. However, even in this case, the execution of the prison sentence may, if it presents a life threatening danger, be postponed until the prisoner has recovered.*"

It is very clear that **Erol Zavar** should not be held in a Cell Type Prison. The articles of this law are a legal expression of this fact. His wife and legal counsel have repeatedly made applications to the Justice Ministry under former Criminal Procedure Code article 399 and the new Law on the Execution of Punishments article 16/2 for the urgent release of Erol Zavar, without success.

The responsibility of the state in this matter is not based on national law alone.

**Article 2 of the European Human Rights Convention** states: "*Everyone's right to life shall be protected by law.*"

**Article 6/1 of the United Nations International Covenant on Civil and Political Rights** states: "*Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.*"

The fact that **Erol Zavar** is in prison is putting his life at serious risk, and this amounts to a violation of his right to life, safeguarded by various international instruments. Prison is no place for a cancer patient who has undergone sixteen major operations, and certainly no person, doctrine or theory could be adduced to defend this person's continued imprisonment. If there is any virtue in any prison sentence, there is certainly none in the case of **Erol Zavar**, because of him it is less a prison sentence and really only a form of death sentence.

A glance at our list of political and common criminal prisoners who died as a result of serious neglect in Turkey's prisons in recent years provokes sadness and anger (Documents 9).

A documentary film (*I Stood Death Up At Our Meeting Place*) was prepared about Erol Zavar, which in October 2007 made it into the final 15 among 400 films in the biggest film festivity of our country. His first poetry book with the same title is going in its second print. There are press statements almost every week. 17th to 25th of November 2007 was the "Solidarity Week for Erol Zavar". We are collecting signatures by hand and through the Internet and we'd like to give you the web address of the signature campaign, actually announcing a second international start for this campaign: [www.freezavar.org](http://www.freezavar.org) . His web site is [www.erolzavar.com](http://www.erolzavar.com) .

Maybe most importantly step in the recent period is that, the Turkish Medical Association accepted to prepare an Alternative Forensic Report for Erol Zavar. Prior official reports kept repeating that "a patient with cancer is to be accepted as healed after an operation and nobody can claim that the condition will recur", ignoring the basic fact that the cancer progressed from Grade I to Grade II within the last four years, turning gradually more aggressive. Frankly, the authorities are trying to prevent a release before his condition reaches the terminal period – as they did in all former examples.

The general practice is, that ill prisoners are given the possibility to spend their last days with their relatives, if the bureaucratic procedures can be completed in time. None of these "conditional releases" has lived more than one month outside of the prison walls up until now. It might be able to show, based on medical reports, how solitary confinement sickens people in every aspect, be it bio-psycho-social and that it is therefore an enforcement regime which contradicts human nature and elemental human rights. This could be a step to protect all imprisoned people from that kind of torture, from the 'silent dead', starting with the ill ones.

We have prepared this text and addressed you, not so far away on the surface of this shrinking globe, in the hope that you will give your strong support for the struggles and efforts of Erol Zavar's wife and loved ones against the treatment to which he is being subjected (Documents 10 to 20). As friends who have not lost their belief in humanity, human honor and human conscience, we call upon you to demonstrate your solidarity.

### **Recommended Actions:**

Please take individual, group or institutional action with the urgency appropriate to the gravity of Erol Zavar's health situation, and the threat currently posed to his life. We would recommend that you use all means at your disposal to inform your members, and other journalists or health professionals and encourage them to act.

You are in the best position to formulate interventions most appropriate for you, your profession or for your institution. Nevertheless, we present a list of suggested actions, which may be of some assistance:

- \* Write letters to the President of the Republic of Turkey and to the Justice Minister asking them to use their legal powers to secure the release of prisoner Erol Zavar's situation, and ask for a reply;
- \* Send similar letters to the Prime Minister and to the President of the Human Rights Commission of the Turkish Grand National Assembly;
- \* Write to the head of state of your own country, as well as to the President of the European Parliament, asking them to write letters to the President of the Turkish Republic requesting that he 'intervene to achieve a humane solution,' and ask for a reply;
- \* Take similar action to your own Minister of Justice and relevant bodies or individuals within the European Parliament, asking them to write to the Justice Minister of the Republic of Turkey;
- \* Ask for 'Medical Letters' to be sent to the same bodies in Turkey and throughout the world;
- \* Organize a delegation of health professionals, journalists and human rights defenders to visit Erol Zavar, and apply for permission to carry out such an investigative visit at Sincan F-type Prison by applying to the Ministry of Justice.
- \* Write letters and cards to Erol Zavar. This will give him and his immune system a great boost as they struggle for life in a hostile environment;
- \* Please also write personal letters and cards to Erol Zavar's wife Elif Zavar and their 9 years old daughter Ozgecan and his 7 years old son Ozgur Deniz;
- \* Finally please inform the headquarters of the Human Rights Foundation of Turkey and the Human Rights Association of any action you have taken.

**Erol Zavar's situation is grave... and action taken tomorrow may just be too late.**

*"Coordination Group for Erol Zavar's Right to Life"*

\* From Erol Zavar's poem "I Stood Death Up, May It Take Root There At Our Meeting Place" (Document 1), 17.02.2004, Convict's Ward No 6, University of Thrace Medical Faculty Hospital

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\*The prisoner's wife,

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