

THE ARRESTED LAWYERS INITIATIVE

ARRESTED 1600+
DETAINED 600+
CONVICTED 450



MASS PROSECUTION OF LAWYERS IN TURKEY

(2016-2021)

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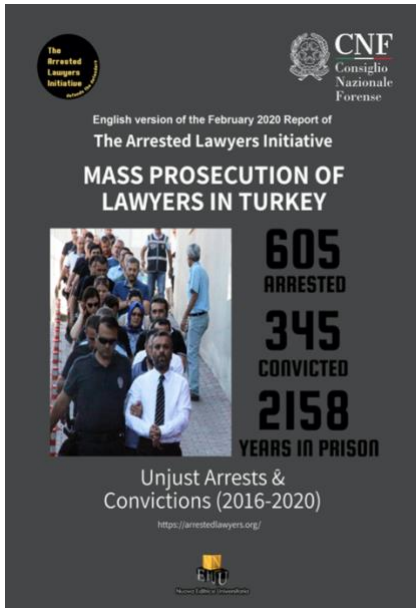
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Preface For The Previous Version Of The Report

The publication of the 2019 edition of the report *Arrested Lawyers Initiative* on the repression of lawyers in Turkey, curated by the Consiglio Nazionale Forense, is one of the many initiatives undertaken for 2020, declared “Year of the endangered lawyers across the world”. Cases of violence and repression against lawyers, who are threatened, hurt, killed, or unfairly arrested and convicted only for having freely and diligently defended their clients, are not, alas, limited to a small number of States, but constitute an expanding and ever more concerning phenomenon in different geographical areas. Despite the current global emergency caused by the spread of the Covid-19 virus, we decided to publish the report on Lawyers Day, celebrated in Turkey every 5th of April. The Consiglio Nazionale Forense has been following closely the situation of Turkish lawyers, especially of those who are detained, some since many years, following court proceedings often held in spite of the basic rules of fair trial and those of international conventions, for example, resorting to prosecution witnesses who had their face covered or their voice distorted, and without any cross-examination by the defence. The C.N.F. is concerned with this issue also through the action of the International Observatory for Lawyers in Danger, founded in 2016 together with the French, Spanish and Parisian Bar Association, today counting more than 30 Bar Associations as its members, 12 of which are Italian.

Through constant contact with free or exiled Turkish lawyers, such as the members of the Arrested Lawyers Initiative, the monitoring of some of the major trials held in Turkey has been set up by sending “observers” to attend court hearings or by deploying fact-finding missions to jails, in order to raise awareness among lawyers and the public opinion, and by publishing reports, which often are the only reliable source of information. In some cases, support to lawyers applying for asylum in an EU Country has been provided, assisting them throughout the application process and helping them coping with first needs.

The reading of this report provides a quick, yet accurate picture of the price that Turkish lawyers, together with journalists, academics and human rights defenders in general, are paying in their fight for the freedom to exercise their profession and the rule of law.

We will always stand by their side, aware that their struggle and their sacrifices testify of a determination to defend not only their rights, but those of all of us.

Avv. Andrea Mascherin,
President of the Consiglio Nazionale Forense

Introduction For The Previous Version Of The Report

The cover of this report shows the dramatic figures of the repression against lawyers in Turkey. Colleagues unjustly stripped of their families, their friends, their profession, their freedom. An unbearable reality. Years of preventative detention inflicted on the basis of vague accusations, heavy sentences issued at the end of summary proceedings, held in spite of any standard imposed by the rule of law. Arrested Lawyers Initiative has been denouncing for years the systematic repression of public dissent seeping out of the gag imposed on lawyers in Turkey. The report shows how the absolute vagueness of the crimes ascribed to lawyers, among which the promotion of and participation in armed terrorist organisations, together with the lack of specific charges and the impossibility to know the identity of prosecution witnesses, made any attempt at a defence in court impossible. A wicked mechanism often extends the crime of which defendants are accused to the lawyers defending them. It takes a tweet or the subscription of an appeal on social media criticising a government decision to be accused and convicted. In October last year, the Consiglio Nazionale Forense took part in a fact-finding mission at Sliviri detention centre, 70 km away from Istanbul, together with lawyers coming from all European countries, to look into the circumstances that, on 20 March 2019, brought to the sentencing, up to 18 years and 6 months of prison, of 18 Turkish lawyers members of the ÇHD, Çagdas Hukukçular Derneği (Progressive Lawyers Association), to ascertain their detention conditions and find out about the grave breaches to the principles of fair process and equality of arms, which clearly emerged during the ensuing debate with state officials. Many convicted lawyers have been on hunger strike since 3 February 2020 and, pending the ban imposed by the spread of COVID-19, there is no way to know about their health conditions.

Let's not forget them!

Avv. Francesco Caia

C.N.F. Coordinator for Human Rights and International Relations

V. President of the International Observatory of Endangered Lawyers (OIAD)

RELENTLESS CRACKDOWN AGAINST LAWYERS IN TURKEY

1. Since 2016's coup attempt, there has been a relentless campaign of arrests which has targeted fellow lawyers across the country. In 77 of Turkey's 81 provinces, lawyers have been detained, prosecuted and convicted due to alleged terror-linked offenses. As of today, more than 1600 lawyers have been arrested and prosecuted while 615 lawyers have been remanded to pretrial detention. So far, **450 lawyers have been sentenced to a total of 2786 years** in prison on the grounds of membership of an armed terrorism organization or of spreading terrorist propaganda.

15 PROVINCIAL BAR ASSOCIATIONS' PRESIDENT HAVE BEEN ARRESTED OR DETAINED

2. 15 of the persecuted lawyers are presidents (or former presidents) of their respective provincial bar associations, for example;

- President of the Konya Bar Association, Fevzi Kayacan,
- President of the Trabzon Bar Association, Orhan Öngöz,
- President of the Siirt Bar Association, Cemal Acar,
- President of the Gumushane Bar Association, Ismail Tastan,

were arrested and unlawfully unseated. Furthermore, the presidents of the Aksaray and Kahramanmaras Bar Associations, Levent Bozkurt and Vahit Bagci, respectively, and the former presidents of the Yozgat Bar Association, Hacı İbis and Fahri Acikgoz, were detained for a certain time before they were released on bail. In January 2021, former president of Diyarbakir Bar Association, Mehmet Emin Aktar was sentenced to six years and three months in prison under Art. 314 of Penal Code.



President of the Konya Bar Association, Fevzi Kayacan, was arrested 23 July 2016 and was sentenced to 10.5 years in October 2017.



President of the Siirt Bar Association, Cemal Acar, was arrested on 23 September 2016 and was sentenced to 8 years on May 2018. (L)

President of the Trabzon Bar Association, Orhan Öngöz was arrested on 27 September 2016 and was sentenced to 6 years and 3 months in April 2019. (R)



Cemalettin Ozer, former president of the Erzincan Bar Association, was sentenced to 8 years and 9 months.



Zeynel Balkiz, former president of the Manisa Bar Association, was sentenced to 2 years and 1 month in October 2018.

450 LAWYERS WERE SENTENCED TO 2786 YEARS IN PRISON

Province	Number Of Convicted Lawyers	Province	Number Of Convicted Lawyers	Province	Number Of Convicted Lawyers
Adana	12	Eskişehir	14	Mardin	3
Adıyaman	4	Gaziantep	3	Mersin	11
Afyon	15	Gümüşhane-Bayburt	2	Muş	1
Ankara	30	Hakkari	1	Mugla	1
Antalya	13	Giresun	3	Niğde	3
Aydın	6	Isparta	1	Ordu	1
Balıkesir	6	İstanbul	107	Sakarya	4
Batman	1	İzmir	18	Samsun	13
Bilecik	1	Kayseri	22	Siirt	1
Bolu	2	Kırıkkale	3	Sivas	10
Bursa	17	Kırşehir	2	Şanlıurfa	7
Çorum	2	Kocaeli	7	Şırnak	1
Denizli	15	Konya	27	Tokat	4
Diyarbakır	18	Karaman	1	Trabzon	4
Düzce	3	Kütahya	2	Tunceli	1
Erzincan	2	Malatya	2	Usak	1
Erzurum	11	Manisa	11	TOTAL	450

TURKEY: THE NUMBER OF LAWYERS CONVICTED SINCE JULY OF 2016 BY PROVINCES

ABUSE OF ANTI-TERROR LEGISLATION

3 All of the persecuted lawyers are being charged with terror- linked offenses; the two main accusations imputed to them are membership of an armed terrorist organisation, and forming and leading an armed terrorist organisation.

4 Turkey’s anti-terrorism legislation consists of two separate laws: the Turkish Penal Code (5237) (“TPC”) and the Anti- Terrorism Law (3713). Sub-section 1 (Article 314/1) of Article 314¹ of the Turkish Penal Code criminalises the establishment and/or commanding of an armed terrorist organisation, and Subsection 2 (Article 314/2) criminalizes the membership of an armed organization. Under the Turkish Penal Code, these two offences **carry a penalty of 7.5 to 22.5 years imprisonment.**

5 Since 2014, Turkey has been arbitrarily using the anti- terrorism legislation to oppress its dissidents, particularly lawyers, journalists and politicians. The Commissioner for Human Right of the Council of Europe said: “Laws with an overly broad definition of terrorism and membership of a criminal organisation and the judiciary’s tendency to stretch them even further is not a new problem in Turkey, as attested in numerous judgments of the European Court of Human Rights.”²

6 This problem has reached unprecedented levels in recent times. Prosecutors, and increasingly also the courts, consider lawful and peaceful acts and statements protected under the European Convention

¹ Armed Organisation

Article 314 (1) Any person who establishes or commands an armed organisation with the purpose of committing the offences listed in parts four and five of this chapter, shall be sentenced to a penalty of imprisonment for a term of ten to fifteen years. (2) Any person who becomes a member of the organisation defined in paragraph one shall be sentenced to a penalty of imprisonment for a term of five to ten years. (3) Other provisions relating to the forming of an organisation in order to commit offences shall also be applicable to this offence.

<http://www.venice.coe.int/webforms/documents/?pdf=CDL-> REF(2016)011-e

² Selahattin Demirtaş v. Turkey (No. 2), App. no. 14305/17 (2020), Isikirik v Turkey (2017), Imret v Turkey (2018), Parmak & Bakir (2019).

on Human Rights as proof of criminal activity ... what is used as evidence is sometimes so inconsistent and arbitrary ... that it has become virtually impossible to foresee in good-faith the legal consequences of actions ... this uncertainty discourages legitimate dissent and criticism”.³

7. Art. 314 of the Penal Code does not contain a definition of either an armed organization or an armed group. The lack of legal definitions and criteria for an armed terrorist organization and the crime of membership in such an armed terrorist organization, make them prone to arbitrary application.⁴ The vague formulation of the criminal provisions on the security of the state and terrorism, and their overly broad interpretation⁵ by the Turkish judges and prosecutors, make all lawyers and other human rights defenders a prospective victim of judicial harassment.

8. In 2020, The Grand Chamber (GC) of the European Court of Human Rights concluded that Art. 314 was not foreseeable and did not bear the quality of law.⁶

9. This blurred area under the Turkish Penal code is actively used by the Turkish government to investigate, prosecute and convict opponents. This has become a common practice since the 15th July Coup attempt, and 540.000⁷ individuals have been detained for terrorism offences stipulated in Article 314 of the Turkish Penal Code.

10. According to the survey⁸ by the Arrested Lawyers Initiative, which was carried out using the Turkish Justice Ministry's statistics,

- Turkey indicted more than 392,000 people under Art. 314 of the Turkish Penal Code (membership of an armed terrorist

³ <https://www.coe.int/en/web/commissioner/-/turkey-needs-to-put-an-end-to-arbitrariness-in-the-judiciary-and-to-protect-human-rights-defenders>

⁴ CDL-AD(2016)002-e Opinion on articles 216, 299, 301 and 314 of Penal Code of Turkey, [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2016\)002-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)002-e)

⁵ <https://rm.coe.int/third-party-intervention-10-cases-v-turkey-on-freedom-of-expression-an/168075f48f>

⁶ Selahattin Demirtaş v. Turkey (No. 2) (Application no. 14305/17), <https://ahvalnews.com/selahattin-demirtas/turkeys-abuse-its-anti-terror-laws-and-significance-echrs-demirtas-judgment>

⁷ <https://arrestedlawyers.org/2019/07/15/chief-of-turkish-national-police-admits-that-540000-detentions-have-been-made-without-legal-ground/>

⁸ <https://arrestedlawyers.org/2020/07/06/abuse-of-the-anti-terrorism-laws-by-turkey-is-steadily-increasing/>

- organization) between 2013 and 2019,
- Statistics also indicate that, in 2017, Turkish prosecutors opened investigations against 527,154 individuals under Articles 309-316, this number was 456,175 in 2018,
 - What is more alarming is that between 2016 and 2019 more than 220,000 individuals were sentenced for membership of an armed terrorist organisation.

LEGAL SAFEGUARDS FOR LAWYERS HAVE BEEN IGNORED

11. The conduct and practice of lawyers within the legal profession is regulated by Law No 1136, which is also known as the Code of Lawyers (Avukatlık Kanunu). Article 1 of the Code of Lawyers classifies the legal profession as an independent public service and a liberal profession. As per the Code of Lawyers (arts. 58- 60), a lawyer can be prosecuted under a special procedure.
- The right to a fair trial is contained in Chapter Two, Section XIII of the Constitution which relates to the protection of rights. Article 36 states: ‘Everyone has the right of litigation either as plaintiff or defendant and the right to a fair trial before the courts through legitimate means and procedures.’ Art 14 ICCPR envisages the right to fair trial. Independence of profession of lawyers is backbone to ensure the right to fair trial is effectively exercised.**

According to this special procedure,

- a) lawyers cannot be detained and remanded for pretrial detention,
- b) a lawyer can be prosecuted only if the Minister of Justice gives authorization.
- c) Art. 61 of the Code of Lawyers exempts the situation of

*flagrante delicto*⁹, if a lawyer is caught *in flagrante delicto*, he / she can be prosecuted without seeking authorization for prosecution, and can be detained and remanded for pretrial detention^{10, 11}.

However, some 1600 lawyers have been arrested, 615 have been remanded to pretrial detention through the use of a misinterpretation of *in flagrante delicto* and the abuse of Art 314 of Penal Code. Moreover, those more than 1600 lawyers have been prosecuted without the ex-ante authorization that should be given by the Minister of Justice in order to prosecute them.

12 Lawyers have particularly been targeted due to the identity or affinity of their clients. The **United Nations High Commissioner for Human Rights** reports that the OHCHR has observed a pattern concerning the persecution of lawyers representing individuals who are accused of terrorism offences, where they are associated with their clients' political views (or alleged political views) in the discharge of their professional duties and are consequently prosecuted for the same, or other related offences of which their clients are being accused.¹²

13 Those charged with terrorism-related offences, including lawyers, face a reversed burden of proof, in violation of the presumption of innocence. The Court of Cassation has decided that the mere use of a certain bank account or secure messaging app constitutes evidence of membership of, as well as aiding and abetting, a terrorist

⁹ Article 2 of the Criminal Procedures Code defines the *flagrante delicto*: “...

(j) the following shall be classified as cases of discovery in *flagrante delicto* (suçüstü):

1. an offence in the process of being committed;
2. an offence that has just been committed, and an offence committed by an individual who has been pursued immediately after carrying out the act and has been apprehended by the police, the victim or other individuals;
3. an offence committed by an individual who has been apprehended in possession of items or evidence indicating that the act was carried out very recently.

¹⁰ In cases of discovery in *flagrante delicto* falling within the jurisdiction of the assize courts, the investigation shall be conducted in accordance with the rules of ordinary law.

¹¹ In the judgment of *Alparslan Altan v Turkey* (App no. 12778/17), ECHR rendered that Turkish Judiciary's interpretation of *in flagrante delicto* is not only problematic in terms of legal certainty, but also appear manifestly unreasonable. (para 115).

¹² Office of the UN High Commissioner for Human Rights. “Report on the impact of the state of emergency on human rights in Turkey, including an update on the South-East. January-December 2017”.
www.ohchr.org/Documents/Countries/TR/2018-03-19_Second_OHCHR_Turkey_Report.pdf

organization.¹³ Lawyers' representation of certain clients, visiting them in prison, making statements to the press, tweeting about ECtHR cases, contacting international organizations, and criticizing state practices, have all been used as a basis for convicting lawyers.¹⁴ The use of criminal law and anti-terrorism legislation to criminalize lawyers' legitimate professional activities undermines the rule of law. Specifically, the use of vaguely defined offences to arrest and prosecute lawyers, politically motivated prosecutions with a lack of evidence, and trials before courts lacking independence and impartiality.¹⁵

14. For instance, according to an Amnesty International report¹⁶ on the most recent mass-arrest of lawyers in Ankara, lawyers were mainly questioned in relation to or about (i) their professional activities such as the types of cases they litigate and the number of cases related to suspects alleged to have links with the Gülen movement; (ii) contractual and monetary relations with their clients; (iii) how they find their clients and the average fee charged to the clients; their professional relations with other lawyers arising from basic lawyering practices, such as attending each other's hearings or allocating case files to each other implying an organizational relationship.

15. A large amount of data that is controlled by the Ministry of Justice's National Judiciary Informatics System (UYAP) is also being used to target lawyers, i.e., lawyers have been subjected to profiling through the processing of the data on the charges imputed to their clients. This profiling is used to produce the list of lawyers who are to be prosecuted.

¹³ The Law Society of England and Wales, and others, Joint Stakeholder Submission to the UN HRC's Universal Periodic Review – TURKEY, paras 34, 36

¹⁴ Ibid

¹⁵ Ibid

¹⁶ <https://www.amnesty.org/en/documents/eur44/3221/2020/en/>

THE INDEPENDENCE OF THE BAR ASSOCIATIONS HAS BEEN DIMINISHED

16. Since prominent bar associations have played an increasingly important role in documenting human rights abuses and commenting on the deep erosion of the rule of law and fair trial rights in Turkey, they have been a thorn in the flesh of the current government. President Erdoğan has expressed open dissatisfaction with the bar associations over the past year.¹⁷

17. Likewise, in June, 2018, the Interior Minister twice publicly accused the Diyarbakır Bar Association of supporting terrorism, without providing any evidence, prompting criminal investigations into its board. After the Ankara Bar Association reported on torture at the Ankara security directorate, in July, 2019, the Deputy Interior Minister accused the Bar Association of having links with the Gülen movement, which Turkey accuses of masterminding the 2016 coup attempt.¹⁸

18. Under Article 135 of the Constitution, Bar Associations are independent professional bodies having the characteristics of public institutions.¹⁹ However, by Presidential Decree No:5 (Presidential Decree as to the State Inspection Institution / Devlet Denetleme Kurumu – DDK), the Turkish Presidency acquired the authority to inspect Bar Associations, and to suspend their Chairpersons and board members (Article 6).²⁰ The Turkish Presidency’s power to suspend a Bar Association’s elected executives has significantly impaired their independence.

¹⁷ <https://www.hrw.org/news/2020/07/07/reform-bar-associations-turkey-questions-and-answers>

¹⁸ Ibid.

¹⁹ **ARTICLE 135** - Professional organizations having the characteristics of public institutions and their higher bodies are public corporate bodies established by law, with the objectives of meeting the common needs of the members of a given profession, to facilitate their professional activities, to ensure the development of the profession in keeping with common interests, to safeguard professional discipline and ethics in order to ensure integrity and trust in relations among its members and with the public; their organs shall be elected by secret ballot by their members in accordance with the procedure set forth in the law, and under judicial supervision.

²⁰ <https://arrestedlawyers.org/2018/09/24/erdogan-gets-infinite-authority-over-the-national-and-provincial-bar-associations/>

NEW LEGISLATION: MULTIPLE BAR ASSOCIATIONS

- 19.** Moreover, with Law no. 7249 dated 11 July, 2020, the independence of bar associations in Turkey has further been diminished. The Law has dramatically reduced the influence of the Bar Associations of big cities within the union, whose next election is due to take place in December, 2020.²¹ The purpose of the Law is to disempower the Bar Associations of big cities which are critical of the Government and have been playing an increasingly important role in documenting human rights abuses.²²
- 20.** Law no. 7249, dated 11 July, 2020, is clearly in breach of the UN Basic Principles on the Role of Lawyers and the Council of Europe Committee of Ministers' Recommendation No. R (2000) 21, which require, respectively, that:
- a.** A bar association must be able to exercise its functions without external interference from government or other actors,
 - b.** bar associations, or other professional lawyers' associations, should be self-governing bodies, independent of the authorities and the public.

INVESTIGATION OR PROSECUTION AGAINST ISTANBUL, ANKARA, DIYARBAKIR AND URFA BAR ASSOCIATIONS

- 21.** Incumbent or former executives of Turkey's most important and

²¹ <https://www.hrw.org/news/2020/07/07/reform-bar-associations-turkey-questions-and-answers>

²² Ibid: After the Law no. 7249 dated 11 July, 2020 a provincial bar association with less than 100 lawyers such as Ardahan in northeastern Turkey will be able to send 4 delegates, where it used to be able to send 3, but a bar association like Izmir in western Turkey with over 9500 lawyers, which used to be able to send 35, will now be able to send just 5 delegates. A delegate from Ardahan would, therefore, represent less than 25 lawyers, while a delegate from Izmir would represent approximately 1900. Such a radical imbalance which disproportionally gives power to bar associations that have very few members and seriously diminishes the influence of bars with thousands of members is neither more democratic nor more pluralistic, despite the government's claim.

vocal bar associations, namely Istanbul, Ankara and Diyarbakir Bar Associations, are under criminal investigation due to their press statements or actions unpleasant to the Government.

- 22.** Former president of the Diyarbakir Bar Association Ahmet Özmen and the members of the board Mahsum Bati, Nuşin Uysal Ekinci, Cihan Ülsen, Sertaç Buluttekin, Muhammet Neşet Girasun, Serhat Eren, İmran Gökdere, Velat Alan, Ahmet Dağ and Nahit Eren are on trial for insulting Turkish nation because of a press statement titled ‘We share the unmitigated great sorrow of Armenian People’.²³
- 23.** In April 2020, separate investigations were initiated against the board members of Ankara and Diyarbakir Bar Associations. The reason for the investigations is the press statements of Ankara and Diyarbakir Bar Associations denouncing Turkey’s top mufti Ali Erbaş who, during his Friday sermon on April 24, alleged that LGBT people were the source for evil and epidemic.²⁴
- 24.** In September 2020, Istanbul Bar Association was informed that its board members including the president were under investigation because of the picture of late lawyer Barkin Timtik displayed on balcony of the Bar building.²⁵
- 25.** On 7 October 2020, it was reported that a criminal investigation has been launched into the Urfa Bar Association President Abdullah Öncel and 25 lawyers registered with the bar association, after they participated in a peaceful sit-in to demonstrate against the amendments to Turkey’s Law on Lawyers.²⁶

²³ <https://arrestedlawyers.org/2019/12/08/former-board-of-the-diyarbakir-bar-association-to-be-prosecuted-over-a-press-statement-on-april-24/>

²⁴ <https://arrestedlawyers.org/2020/04/28/ankara-bar-association-is-under-investigation-for-its-statement-denouncing-turkeys-top-mufti/>

²⁵ <https://twitter.com/ArrestedLawyers/status/1307636489417887745?s=20>

²⁶ <https://lawyersforlawyers.org/en/criminal-investigations-into-bar-associations-in-turkey/>

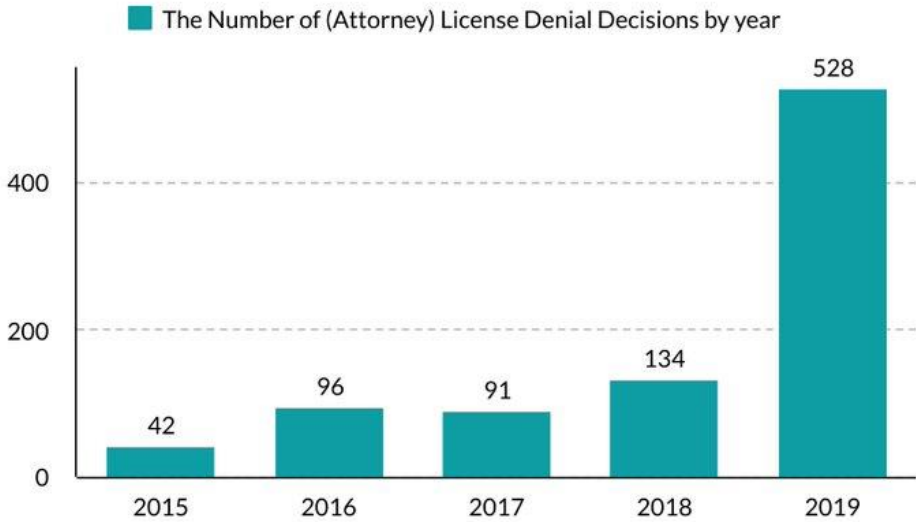
UNLAWFUL RESTRICTIONS ON ADMISSION TO THE PROFESSION OF LAWYER

26. Pursuant to the Law No.1136 (the Code of Lawyers), everyone who successfully fulfils the internship as a lawyer, or who serves as a judge or prosecutor for at-least five years, is admitted to the profession of lawyer. Since July 2016, the Turkish Justice Ministry has been preventing dismissed public servants from being a lawyer. The Justice Ministry argues that the dismissed public servants cannot be lawyers and cannot be admitted to an internship as a lawyer, under the Article of the Decree Laws, as follows “those dismissed from service under paragraph one shall no longer be employed in public service”. Having misinterpreted this provision, The Justice Ministry refuses to issue lawyers’ licenses to school academics, judges and prosecutors who were dismissed under the Emergency Regime.²⁷

27. According to the Coordination Group Against License Denial, since 2015 those who are considered to be 'unfavorable citizens', in the Regime's eyes, have been denied a lawyer’s license by the Turkish Ministry of Justice, although they fulfill all legal requirements.²⁸ Total of 891 intern lawyers have been denied lawyers’ licenses by the Turkish Ministry of Justice since 2015.

²⁷ <https://arrestedlawyers.org/2018/02/14/erdogan-regime-grasps-control-of-the-recruitment-mechanism-for-the-profession-of-law-with-the-cooperation-of-metin-feyzioglu/>

²⁸ <https://twitter.com/ruhsatsizlar/status/1264239760094179333?s=20>



28. According to a recent report titled ‘Lawyers Without Licences’²⁹ there 1252 cases have been filed by the Ministry of Justice against the decisions of the Union of Turkish Bar Association admitting certain individuals to the profession of lawyer. In 376 cases the licences of the lawyers were annulled. In 175 cases, the Ministry’s request was denied. 701 cases were still pending. The report justifiably concluded that *“interference with the profession of lawyer aims to dissuade dissident students at universities from exercising their rights and freedoms, to exclude from the profession individuals who are not deemed “agreeable”, to “cleanse” the future of the profession of lawyer from individuals with certain opinions, and to leave “a certain group of people” defenceless, without lawyers.”*³⁰

THE FREEDOM OF ASSOCIATION OF LAWYERS HAS BEEN DIMINISHED

29. The Turkish Government’s crackdown on lawyers has targeted not only their rights to liberty and security, but also their freedom of association. 34 (of the 1412) associations (NGOs) operating in 20

²⁹ Benan Molu, İdil Özcan; Lawyers Without Licences, [https://www.tahirelcivakfi.org/storage/files/ae36e3a1-90bd-44bf-8817-08321ade8533/Ruhsatsiz-Avukatlar---INGILIZCE-\(1\).pdf](https://www.tahirelcivakfi.org/storage/files/ae36e3a1-90bd-44bf-8817-08321ade8533/Ruhsatsiz-Avukatlar---INGILIZCE-(1).pdf)

³⁰ Ibid.

different provinces of Turkey that were founded by lawyers were permanently dissolved under Emergency Decrees, all the assets of these NGOs were confiscated, without any compensation. What is worse, almost all of the members of these lawyers' associations' have been prosecuted under Anti-Terrorism Laws.³¹

CONCLUSION

30. UN Basic Principles on the Role of Lawyers stipulates 'Guarantees for the functioning of lawyers.' As per these principles

- Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics, (Para 16)
- Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions, (Para 18)
- Lawyers shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional activities, (Para 20)
- It is the duty of the competent authorities to ensure lawyers effectively access to appropriate information, files and documents on the cases they perform their profession, (Para 21)
- Governments shall recognize and respect lawyers' professional privileges, (Para 22)
- Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly, (Para 23)
- The executive body of the professional associations of lawyers shall be elected by its members and shall exercise its functions without external interference, (Para 24)
- Charges or complaints made against lawyers in their

³¹ <https://arrestedlawyers.org/2017/10/11/the-right-to-free-association-vanished-in-turkey/>

professional capacity shall be processed expeditiously and fairly under appropriate procedures. Lawyers shall have the right to a fair hearing, including the right to be assisted by a lawyer of their choice. (Para 27)

31. The Turkish Government's ongoing crackdown against lawyers breaches:

- a.** Arts. 58-61 of the Code of Lawyers, which aims to ensure their independence and to provide protection and a guarantee for lawyers against acts of judicial harassment,
- b.** The rights to liberty and security and the freedom of association of lawyers,
- c.** Paras 16, 18, 20, 21, 22, 23, 24, 27 of the UN Basic Principles on the Role of Lawyers,
- d.** Art 36 of the Constitution, and Art 14 ICCPR,
- e.** Art 135 of the Constitution, and Para 24 of the UN Basic Principles on the Role of Lawyers.

32. The Turkish Government's ongoing crackdown against lawyers

- a.** abolishes safeguards against torture,
- b.** constitutes an illegal obstacle to the right of access to justice and the rights to legal counsel and a fair trial.

33. Presidential Decree No. 5 and the Law no. 7249 dated 11 July, 2020:

- a.** diminish the independence of Bar Associations,
- b.** intervene in election procedures for the executive body of the Union of Turkish Bar Associations, and breach Art 135 of the Constitution, and Para 24 of the UN Basic Principles on the Role of Lawyers.

RECOMMENDATIONS & EPILOGUE

We urge the Turkish Government to:

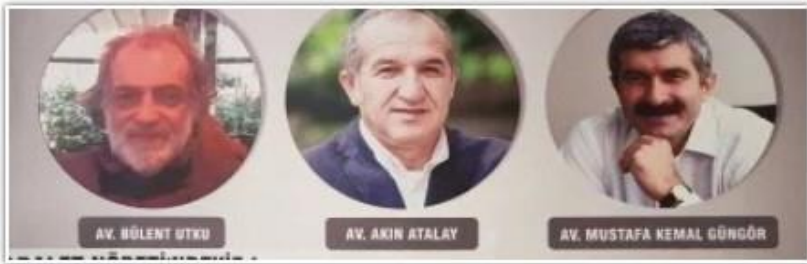
- a. Guarantee the independence of the judiciary and the prosecution services, in accordance with the UN Basic Principles on the Independence of the Judiciary, and the UN Guidelines on the Role of Prosecutors.
- b. Ensure that lawyers can effectively perform their professional functions in accordance with the guarantees provided for in Article 14 of the ICCPR, the UN Basic Principles on the Role of Lawyers, and Articles 5 and 6 of the ECHR
- c. Amend the anti-terror legislation (including the new Anti-Terrorism Bill adopted on 25 July, 2018), and the provisions in the Criminal Code, as recommended by the Council of Europe, the European Court of Human Rights, and the European Union,
- d. Ensure that lawyers are not identified with their clients or clients' causes and can perform their duties without intimidation, hindrance, harassment or improper interference, in accordance with the UN Basic Principles on the Role of Lawyers;
- e. Immediately end the arbitrary and systematic arrest, prosecution and detention of lawyers, drop the charges against those arbitrarily accused, and release those who are detained, unless credible evidence is presented in proceedings that comply with international fair trial standards;
- f. Ensure the independent and prompt investigation and prosecution of all cases of torture and ill-treatment of lawyers committed by law enforcement officers, in accordance with applicable international standards;
- g. Immediately end the interference in, and systematic persecution of, bar associations and lawyers' associations and the arbitrary arrest and prosecution of their members; and
- h. Ensure that lawyers are entitled to form and join independent and self-governing professional associations, as protected by Principle 24 of the UN Basic Principles on the Role of Lawyers,
- i. End the administrative praxis that prevents dismissed law school academics, judges and prosecutors from being lawyers,

- j. Repeal Presidential Decree No. 5 and Law no. 7249 dated 11 July, 2020.

The efforts and cooperation of the international organizations, together with any others which may join them in the future, is paramount in exerting pressure on Turkey to respect universal human rights and to bring its criminal law in line with the standards specified by the European Convention on Human Rights and that is acceptable to the European Commission and the European Union. The unified front of the Bar Associations and other legal organizations in the European Countries which will be shown to the Turkish authorities to make them stop criminalizing Turkish lawyers, is absolutely crucial for the existence of the rights to defense and the separation of powers in Turkey. Persecuted lawyers and human rights defenders who have to suffer inhumane treatment at the hands of Turkish officials desperately need such action from European organizations. Any efforts in support of arrested lawyers, human rights defenders and other victims of the Turkish government's unlawful actions is highly appreciated.

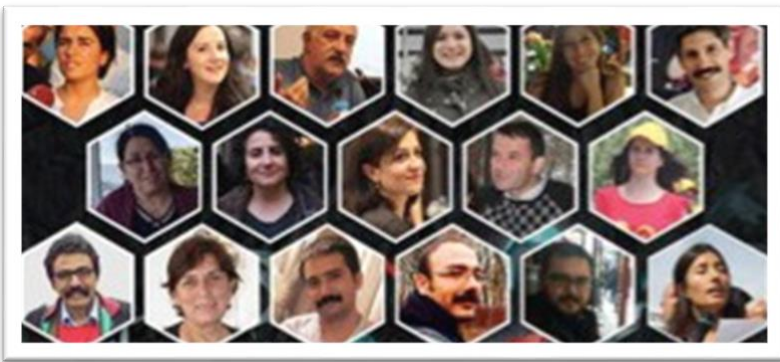
EXCERPTS FROM OUR REPORTS ON THE MASS TRIAL OF LAWYERS

ISTANBUL | 106 lawyers have been convicted:



Lawyers to *Cumhuriyet Daily*, [Bulent Utku](#), [Akin Atalay](#) and [Mustafa Kemal Gungor](#), were convicted under Turkey's Anti- Terror Law.³²

Members of [the Contemporary Lawyers' Association \(ÇHD\)](#) and [People's Law Bureau \(HHB\)](#) were sentenced to some 160 years in prison in March, 2019.³³



³² <https://arrestedlawyers.org/2018/08/20/21-lawyers-were-sentenced-in-istanbul/>

³³ <https://arrestedlawyers.org/2019/10/17/istanbul-regional-appeal-court-upheld-159-years-prison-term-given-to-18-lawyers/>



Burak Karaduman



Hacı Salih Boyalı



Ali Rıza Mete



Coşkun Taşkın



Selim Özkan



Kamil Ata



Mustafa Çağlar Akgün



Yılmaz Çiçek



Suphi Bat



Yakup Başer

Under Article 314(2) of the Turkish Penal Code,

- Lawyer Suphi Bat was sentenced to 8 years & 9 months
- Lawyer Burak Keskin was sentenced to 7½ years,
- Lawyers Burak Karaduman, Özge Elif Hendekçi, were sentenced to 7 years,
- Lawyer Yılmaz Çiçek was sentenced to 7¼ years,
- Lawyers Kamil Ata, Turan Öztürk, Yakup Başer, Hacı Salih Boyalı, Mustafa Çağlar Akgün, Ali Rıza Mete, Selim Özkan, Coşkun Taşkın, were sentenced to 6¼ years.³⁴

³⁴ <https://arrestedlawyers.org/2018/08/20/21-lawyers-were-sentenced-in-istanbul/>

ANKARA | 30 lawyers have been convicted:



Ankara 22nd Heavy Penal Court sentences 21 lawyers to some 150 years in prison. Lawyers who were detained on 3rd and 26th of August 2016, were convicted under Article 314§2 of the Turkish Penal Code which criminalizes membership to an armed terrorist organization. Two of the 21 lawyers are remanded by the Court while the other 19 lawyers were released.³⁵

³⁵ <https://arrestedlawyers.org/2019/03/29/court-sentences-21-lawyers-to-150-years-in-prison/>

KONYA | 27 lawyers have been convicted:



The Konya 6th High Assize Court [sentenced](#) Fevzi Kayacan¹⁸, who is the former president of the Konya Bar Association, and 19 other lawyers, to imprisonment for up to 14 years. The Court sentenced;

- Lawyer Fevzi Kayacan to 10 years 6 months imprisonment,
- Lawyers Berat Alper Kösterik, Erhan Şahin, Osman Buğur, Ahmet Bal, Mehmet Yıldırım, Mehmet Şimşek, Özgür Solak, to 9 years,
- Arif Özer, Veysel Köylü, Erdal Soydaş, Hatice Erdem, to 7 years 6 months,
- Nihat Karahan, Elşad Mehmethanlı, Hasan Hüseyin Avcı, to 6 years 3 months,
- İbrahim Bakım, Ramazan Arı, Mehmet Balta, Orhan Özkavak, Muhammed Tahra, to sentences ranging from 2 to 4 years imprisonment.³⁶

³⁶ <https://arrestedlawyers.org/2017/10/27/the-20-members-of-konya-bar-association-including-former-president-kayacan-were-sentenced-range-to-2-and-11-years-imprisonment/>

IZMIR | 18 lawyers have been convicted:



Lawyer Nurten Egercioglu, the member of Izmir Bar Association, was sentenced to 6 years and 8 months on 29 March, 2019 on grounds of allegedly downloading an i-message app named ByLock.

KAYSERI | 22 lawyers have been convicted: ³⁷

Crackdown Against Lawyers: Turkish Court sentences the Law School Dean to 12 years in prison

BY THE ARRESTED LAWYERS INITIATIVE on 4 NOVEMBER 2018



Kayseri 4th High Penal Court sentenced lawyers HŞ and HHA 6 years 3 months prison sentence with the charge to be the member of the armed terrorist organization only for allegedly downloading the Bylock i-message app.

³⁷ <https://arrestedlawyers.org/2017/11/21/two-lawyers-were-sentenced-to-6-years-in-kayseri/>
<https://arrestedlawyers.org/2018/11/04/crackdown-against-lawyers-turkish-court-sentences-the-law-school-dean-to-12-years-in-prison/>

MANISA | 11 lawyers have been convicted:



Manisa 3rd Heavy Penal Court has sentenced 11 lawyers to long imprisonment after two-year trial. Members of Manisa Bar Associations Ali Özcel, İsa Koşar, Besim Yücel, Gökhan Çelik, Kadir Çelik, Hüseyin Azman, Yalçın Cabar, Haluk Bedel, Hasan Gürhan Onat, Sadettin Yılmaz, and former president of Bar Association, Zeynel Balkız who were first taken into custody on August 2016 were sentenced under the article 314§2 of Turkish Penal Code that punishes membership of an armed terrorist organization.³⁸

³⁸ <https://arrestedlawyers.org/2018/10/17/persecution-of-turkish-lawyers-october-2018-14-lawyers-were-sentenced/>

SAMSUN | 13 lawyers have been convicted:



Samsun 3rd High Assize Court convicted thirteen (13) lawyers of the membership to the armed terrorist organisation and sentenced them to ranging from two to ten and half years.

DIYARBAKIR | The Court sentences thirteen lawyers to 38-month incarceration



Mesut Aydın



Asik Vangölü



Sultan Uruk



Mahsun Kaya



Azat Tanışman



Faruk Bozan



Veysel Kadandir



Seyhan Ciltepe
Al



Hüseyin İzol



Berivan Örenc
Sezgin



Emin Bozkurt



Serdar Ataman



Metin Adıyaman

Mesut Aydın, Sultan Uruk, Seyhan Ç. Al, Faruk Bozan, Veysel Kadandir, Serdar Ataman, Emin Bozkurt, Aşık Vangölü, Metin Adıyaman, Hüseyin İzol, Mahsun Kaya, Azat Tanışman and Berivan Örenc were sentenced to three years, one month and fifteen days incarceration because of the peaceful protest that they participated in while they were law school students.³⁹

³⁹ <https://arrestedlawyers.org/2020/02/22/diyarbakir-court-sentences-thirteen-lawyers-to-38-month-incarceration/>

Persecution of a Decent Lawyer: The Case of Turan Canpolat⁴⁰



In response to our [call for action](#), twelve organisations sent a [letter](#) to the Ministry of Justice of Turkey, General Director of Prisons and Detention Houses, Chief Judge of the Court of Cassation's 16th Chamber with respect to lawyer [Turan Canpolat](#) has been in prison for 50 months and has been held in solitary confinement. His appeal is still to be considered by the Court of Cassation after 14 months.⁴¹

The Council of Bars and Law Societies of Europe (CCBE) sent a separate letter of concern to the Turkish Government on the detention of Mr Canpolat.⁴²

⁴⁰ <https://arrestedlawyers.org/2020/05/09/the-case-of-turan-canpolat/>

⁴¹ <https://arrestedlawyers.org/2020/05/15/letter-by-twelve-organisations-immediately-release-adv-turan-canpolat/>

⁴² https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/HUMAN_RIGHTS_LETTERS/Turkey - Turquie/2020/EN_HRL_20200519_Turkey_Detention-of-lawyer-Turan-Canpolat.pdf