

A Profession on Trial: The Systematic Crackdown Against Lawyers in Turkey



Human Rights
Institute



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A. The Sentencing of 553 Lawyers to 3386 Years Imprisonment

Province	Number Of Convicted Lawyers	Province	Number Of Convicted Lawyers	Province	Number Of Convicted Lawyers
Adana	19	Gümüşhan e-Bayburt	2	Mersin	11
Adıyaman	4	Giresun	3	Muş	1
Afyon	16	Hakkari	1	Muğla	1
Ankara	40	Hatay	2	Niğde	3
Antalya	30	Isparta	8	Ordu	1
Aydın	6	İstanbul	135	Osmaniye	1
Balıkesir	6	İzmir	27	Sakarya	4
Batman	1	K.Maraş	2	Samsun	14
Bilecik	1	Karabük	1	Siirt	1
Bolu	2	Kayseri	24	Sivas	10
Bursa	17	Kırıkkale	3	Şanlıurfa	12
Çorum	2	Kırşehir	2	Şırnak	1
Denizli	15	Kocaeli	7	Tokat	4
Diyarbakır	23	Konya	27	Trabzon	4
Düzce	3	Karaman	1	Tunceli	1
Erzincan	2	Kütahya	2	Usak	4
Erzurum	11	Malatya	3	Zonguldak	1
Eskişehir	14	Manisa	11	TOTAL	553
Gaziantep	3	Mardin	3		

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

B. Systematic Crackdown against Lawyers in Turkey

i. Overview:

1. Since Turkey's 2016 coup attempt, the legal profession across the country has faced an unyielding campaign of arbitrary detention, imprisonment, unfair trials, and widespread harassment *from authorities*, often charged with overbroad and vague counter-terrorism offences, in violation of UN Basic Principles on the Role of Lawyers. In 77 of Turkey's 81 provinces, lawyers have been detained, prosecuted, and convicted due to alleged terror-linked offenses, resulting in the prosecution of over 1700 lawyers including 700 lawyers remanded to pretrial detention. So far, at least 553 lawyers have been sentenced to a total of 3380 years in prison, with sentencing passed on the basis of counter-terrorism legislation, especially on the grounds of membership to an armed terrorism organization or of spreading terrorist propaganda.

ii. Abuse of Anti-Terrorism Legislation

2. All 553 persecuted lawyers have been charged with terror-related offenses; with the two main accusations imputed to them being (a) *membership of an armed terrorist organisation*, and (b) *forming and leading an armed terrorist organisation*.

3. Turkey's anti-terrorism legislation consists of two separate laws: the Turkish Penal Code no. 5237 (TPC) and the Anti-Terrorism Law No. 3713. Sub-section 1 of Article 314¹ of the Turkish Penal Code criminalises the establishment and/or commanding of an armed

¹Article 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](http://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2016)011-e)

terrorist organisation, and Subsection 2 criminalizes membership of an armed organization. Under the Turkish Penal Code, these two offences carry a penalty of 7.5 to 22.5 years imprisonment.

4. Turkey has been arbitrarily using these anti-terrorism laws to target dissidents, particularly lawyers, journalists, and opposition politicians. The law's overly ambiguous and broad definition of terrorism and membership to a terrorist organisation enables the classification of lawyers, including human rights defenders, as "terrorist offenders", increasing arbitrary prosecutions and judicial intervention.

iii. Turkey at the European Court of Human Rights

5. The misuse of counter-terrorism legislation also led to a multitude of case rulings against Turkey at the European Court of Human Rights² (ECtHR) concerning Turkish authorities conviction of individuals on the basis of the TPC without clear and convicting evidence that alleged criminal acts have been committed.³

6. On the matter, 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.⁴ 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 on Human Rights as proof of criminal activity ... what is*

² On the definition of an armed terrorist organisation, the European Court of Human Rights has stated "With respect to Article 314 (Membership [of] an armed organisation), the established criterion in the case law of the Court of Cassation that acts attributed to a defendant should show 'in their continuity, diversity and intensity' his/her 'organic relationship' to an armed organisation or whether his/her acts may be considered as committed knowingly and wilfully within the 'hierarchical structure' of the organisation, should have a strict application. ..." Para. 128; *Selahattin Demirtaş v. Turkey* (No. 2), App. no. 14305/17 (2020).

³ See *Öner and Türk group* (Application No. 51962/12), *Nedim Şener group* (Application No. 38270/11) and *Altuğ Taner Akçam group* (Application No. 27520/07) v. Turkey; CM/Del/Dec(2020)1369/H46-33, 5 March 2020.

⁴ *Selahattin Demirtaş v. Turkey* (No. 2), App. no. 14305/17 (2020), *Isikirik v Turkey* (2017), *Imret v Turkey* (2018), *Parmak & Bakir* (2019).

*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 ”.*⁵

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.⁶ The vague formulation of the criminal provisions on the security of the state and terrorism, and their overly broad interpretation⁷ by Turkish judges and prosecutors, make all lawyers and other human rights defenders a prospective victim of judicial harassment as a result of carrying out their legitimate professional duties.

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. Further, that Art. 314 does not afford adequate protection against arbitrary interference by national authorities, and that its broad interpretation, without concrete evidence, equates freedom of expression with belonging to or leading an armed organisation.⁸

9. In September 2023, the Grand Chamber delivered a landmark judgment in the case of Yüksel Yalcinkaya⁹ v. Turkey which, according to the ECtHR, concerns more than 8,000 pending and 100,000 potential cases. In this judgment, the Grand Chamber found that the conviction of a teacher under Art. 314 of the Turkish Penal Code, violated the principle of no punishment without law; and the right to a fair trial and freedom of association. The Grand Chamber

⁵ <https://www.coe.int/en/web/commissioner/-/turkey-needs-to-put-an-end-to-arbitrariness-in-the-judiciary-and-to-protect-human-rights-defenders>

⁶ 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)

⁷ <https://rm.coe.int/third-party-intervention-10-cases-v-turkey-on-freedom-of-expression-an/168075f48f>

⁸ 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>

⁹ [Yüksel Yalcinkaya v. Türkiye \(no. 15669/20\)](#)

also ordered a retrial of the applicant and the adoption of general measures to prevent similar violations.¹⁰

10. This blurred area under the Turkish Penal code is actively used by the Turkish government to investigate, prosecute, and convict opponents. This has become common practice since 2016, with the implantation of emergency regulations, where 693,162 individuals have since been investigated¹¹, 332,884¹² of those have been arrested, and at least 155,000 have been convicted for terrorism offences stipulated in Article 314 of the Turkish Penal Code.¹³ More than 94,000 persons are still either under investigation or on trial for terrorism.¹⁴

C. Violations of International and Domestic Legal Safeguards Governing Lawyers

i. Prosecution only under special procedure

11. The conduct and practice of lawyers within the legal profession of Turkey is regulated by Law No. 1136, which is also known as the Code of Lawyers (Avukatlık Kanunu).¹⁵ Article 1 of the Code of Lawyers classifies the legal profession as an independent public service and a liberal profession. As per the Code (Arts. 58- 60), a lawyer can only be prosecuted under a special procedure. Under 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*¹⁶, where if a lawyer is caught *in flagrante delicto*, he/she can be

¹⁰ Yildiz, Ali: Strasburg Weighs In On Political Persecution In Turkey, VerfBlog, 2023/10/31, <https://verfassungsblog.de/strasburg-weighs-in-on-political-persecution-in-turkey/>,

¹¹ <https://www.adalet.gov.tr/bakan-tunc-15-temmuz-u-anlatti>,

<https://www.tgrthaber.com.tr/gundem/adalet-bakani-tunc-darbe-girisimi-bilancosunu-acikladi-693-bin-162-kisi-hakkinda-adli-islem-yapildi-2896752>

¹² <https://www.aa.com.tr/tr/turkiye/icisleri-bakani-soylyu-garaya-giden-hdpli-vekili-acikladi/2151784>

¹³ See, footnote 9

¹⁴ See, footnote 9

¹⁵ Attorneyship Act No. 1136 of 1969 (AA)

¹⁶ 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;

prosecuted without seeking authorization for prosecution and can be detained and remanded for pretrial detention.¹⁷

12. However, in violation of the special procedure, some 1700 lawyers have been arrested and prosecuted without the ex-ante authorization that should be given by the Minister of Justice in order to prosecute them. Moreover, at least 655 lawyers have been remanded to pretrial detention through the widespread misinterpretation of *in flagrante delicto*¹⁸ and the misapplication of Art. 314 of Penal Code.

ii. Effective Criminalisation of lawyers' Legitimate Professional Activities

13. Lawyers have particularly been targeted due to the identity or affinity of their clients. The *United Nations High Commissioner for Human Rights* reported that the OHCHR 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.¹⁹

14. Such patterns come in direct contradiction to the UN Guiding

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.

¹⁷ 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. (<https://arrestedlawyers.org/2021/07/05/ecthr-arrest-and-pretrial-detentions-of-justices-erdal-tercan-and-alparslan-altan-is-unlawful/>)

In the judgments of *Alparslan Altan v Turkey* (App no. 12778/17) and *Erdal Tercan v Turkey* (App no. 6158/18), the ECtHR rendered that the Turkish Judiciary's interpretation of in flagrante delicto is not only problematic in terms of legal certainty, but also appears manifestly unreasonable.

¹⁸ *Alparslan Altan v. Turkey* (Application No. 12778/17) and **Baş v Turkey (Application no. 66448/17)**

¹⁹ 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

Principles on the Role of Lawyers, particularly paragraphs 16 and 18, which protect legal professionals from identification with their clients and the right to legal recourse. It stipulates in Paragraphs 16, “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; and (18) Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.”

15. Additionally, lawyers charged with terrorism-related offences face a reversed burden of proof, in violation of the presumption of innocence. The Turkish Court of Cassation has ruled 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 organization.²⁰ In 2023, in response to this systematic practice by the courts and its adjudication over the use of the ByLock app, the ECtHR ruled that such an approach violated Art. 7 of the ECHR which is to provide effective safeguards against arbitrary prosecution, conviction and punishment, thereby affecting more than 8,000 cases pending before the ECHR arising out of convictions as per Article 314 of Turkish Penal Code.²¹

16. However, in total disregard of the ECtHR rulings, which serve as directly applicable precedents for the case at hand, the Ankara Appeals Court sentenced 19 lawyers to more than 125 years for entirely lawful activities on 27 December 2023, including client representation.²²

17. The Ankara Regional Appeal Court stated: “*Although some of the defendants and their legal counsels have claimed in their oral and*

²⁰ The Law Society of England and Wales, and others, Joint Stakeholder Submission to the UN HRC’s Universal Periodic Review – TURKEY, paras 34, 36

²¹ Yüksel Yalçınkaya v. Türkiye (Application no. 15669/20)

²² <https://arrestedlawyers.org/2024/01/31/ankara-appeal-court-defies-echr-sentences-19-lawyers-to-125-years/>

*written submissions that the judgment of the ECtHR in Yüksel Yalçinkaya v. Turkey constitutes a precedent for them, there is no final judgment of the ECtHR regarding the violation of the European Convention on Human Rights (ECHR) and its additional protocols concerning the defendants. In light of the ECtHR judgment in Yüksel Yalçinkaya v. Turkey, ... it has been concluded that the violations referred to in that judgment relate only to the finding of violations specific to the application in that particular case and that the violations of the principles of the right to a fair trial under Article 6, ECHR, and the principles of legality in criminal matters and punishment under Article 7 ECHR referred to in the judgment are not applicable to the defendants”.*²³

18. According to an Amnesty International report²⁴ 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.

19. Further to this, a delegation of 27 bar associations, human rights organisations and legal groups conducted a fact-finding mission in 2023 on the Turkish government’s treatment of criminal law and human rights lawyers. In their findings, they report that lawyers in Turkey are arrested, detained, and imprisoned simply due to their legal work - including clients they represent and professional bodies to which they belong” and that “the Turkish government is systemically targeting lawyers who defend the fundamental human rights of the people of Turkey.”²⁵

²³ Ankara Regional Appeal Court’s 22nd Criminal Chamber, 27 December 2023

²⁴ <https://www.amnesty.org/en/documents/eur44/3221/2020/en/>

²⁵ <https://www.lawsociety.org.uk/contact-or-visit-us/press-office/press-releases/widespread-mistreatment-of-lawyers-in-turkey>

20. 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.²⁶ This in turn has led to the use of vaguely defined offences to arrest and prosecute lawyers, politically motivated prosecutions without sufficient evidence, and unfair trials before courts lacking independence and impartiality.²⁷ Not only do these systematic patterns of convictions against lawyers severely violate the UN Guiding Principles, especially Paragraph 16, but combined with the use of criminal law and anti-terrorism legislation, they effectively criminalize lawyers' legitimate professional activities, severely undermining the rule of law in the country.

D. Unlawful Restrictions on Admission to the Legal Profession

i. Statistics on Admission Denial

21. In addition to the systematic mistreatment facing practicing lawyers, there has also been increasing barriers facing prospective lawyers and their admission to the bar. As it stands, there are 1252 cases²⁸ that 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- a nearly 300% increase between 2018-2019. In 376 cases, the licences of the lawyers were annulled. In 175 cases, the Ministry's request was denied. 701 cases were still pending.²⁹ In the transition of legal training, a total of 891 intern lawyers have been denied lawyers' licenses by the Turkish Ministry of Justice since 2015.³⁰

²⁶ The Law Society of England and Wales, and others, Joint Stakeholder Submission to the UN HRC's Universal Periodic Review – TURKEY, paras 34, 36

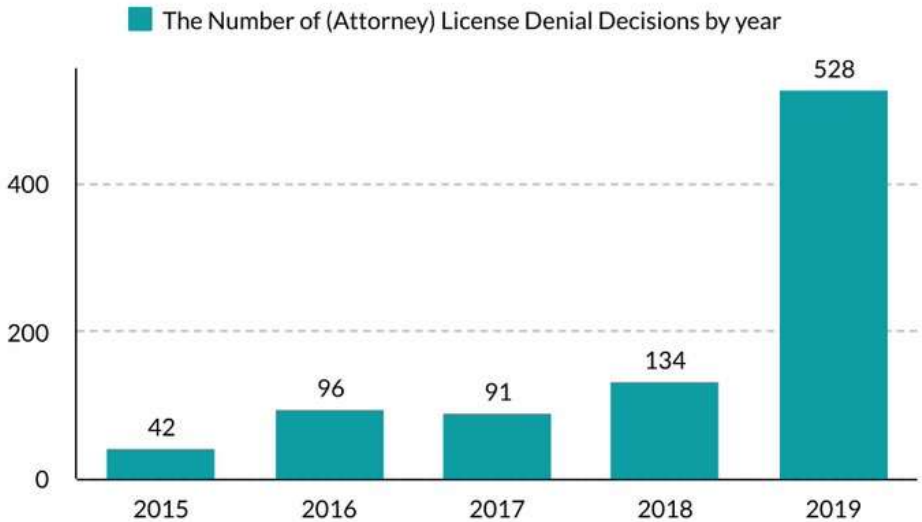
²⁷ Ibid

²⁸ Benan Molu, Idil Özcan; Lawyers Without Licences, [https://www.tahirelcivakfi.org/storage/files/ac36e3a1-90bd-44bf-8817-08321ade8533/Ruhsatsiz-Avukatlar---INGILIZCE-\(1\).pdf](https://www.tahirelcivakfi.org/storage/files/ac36e3a1-90bd-44bf-8817-08321ade8533/Ruhsatsiz-Avukatlar---INGILIZCE-(1).pdf)

²⁹ <https://www.lrwc.org/turkey-concerns-about-access-to-the-legal-profession/>

³⁰ <https://twitter.com/ruhsatsizlar/status/1264239760094179333?s=20>

22. In referencing incoming lawyers to the bar, the ‘*Lawyers without License*’³¹ study justifiably concluded that “*interference with the legal profession 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.*”³²



ii. Curtailment of Young Lawyers and Public Servants

23. Pursuant to the requirement of legal practice of Law No. 1136 (the Code of Lawyers), all persons who successfully fulfil their apprenticeship 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 however, the Turkish Justice Ministry has been preventing dismissed public servants from becoming a practicing lawyer. The Justice Ministry argues that the dismissed public servants cannot be

³¹ Benan Molu, Idil 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)

³² *Ibid.*

lawyers and cannot be admitted to an apprenticeship as a lawyer, stating under the Article of the Decree Laws that “those dismissed from service under paragraph one shall no longer be employed in public service”. Through this interpretation of the decree, the Justice Ministry has refused to issue lawyers’ licenses to school academics, judges and prosecutors who were dismissed under the Emergency Regime, despite fulfilling all legal requirements.³³

E. Diminishing Independence of Bar Associations

i. Restricting the Role of Bar Associations

24. Increasing interference by the government in the functioning of bar associations, including through the imposition of regulatory measures and administrative constraints, has curtailed the ability of bar associations to act as effective bulwarks for the legal profession. The Special Rapporteur on the Independence of Judges and Lawyers noted that in Turkey, over 34 lawyers’ associations’ had been shut down by decrees and had all their assets confiscated without compensation following the declaration of the state of emergency in June 2016. The chairs, board members and ordinary members of those associations have also been prosecuted and sentenced to long-term imprisonment.³⁴

25. The closure, or imminent threat of closure, by authorities has had a chilling effect on the ability of lawyers’ associations to act independently; and in the interest and protection of the legal profession. Prominent bar associations in Turkey have played an increasingly important role in documenting human rights abuses and the deep erosion of the rule of law and fair trial rights, and as a result have been especially targeted for their work by the government.

³³ <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/>

³⁴ A/73/365, Para.36.

ii. Executive Interference in the functioning of Bar Associations

26. Other means in diminishing their independence include the passing of a controversial law amending the Law on Lawyers (Law no. 7249) by greatly reducing the representation of lawyers from Turkey's main cities.³⁵ It thereby disempowers large existing bar associations,³⁶ which happen to be those that have criticized the government for breaches of human rights and the rule of law.

27. This law is in clear 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.

28. Bar Associations have been further targeted through investigations and smear campaigns for exercising their legitimate functions and roles. In 2022, the Interior Minister publicly accused the Diyarbakır Bar Association of supporting terrorism several times, without providing sufficient evidence, witnesses, or legal grounds,³⁷ prompting criminal investigations into its board. In one instance, Penal Code Article 301, "*Insulting the Turkish nation, state, government, Parliament, and its judicial bodies*", was applied following the release of a press statement by the bar that referenced the Armenian Genocide.³⁸ Article 301 is infamously used to threaten and target

³⁵ <https://www.hrw.org/news/2020/07/07/reform-bar-associations-turkey-questions-and-answers>

³⁶ 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.

³⁷ <https://www.hrw.org/news/2020/07/07/reform-bar-associations-turkey-questions-and-answers>

³⁸ <https://www.duvarenglish.com/seven-investigations-three-lawsuits-launched-on-diyarbakir-bar-for->

members of the public who voice an opinion contrary to the official position of the government.³⁹ Prior to this, Turkish authorities invoked Art. 216 of the TPC to investigate the Diyarbakır Bar Association following their release of a press statement condemning anti-LGBTQ+ rhetoric by the President of Religious Affairs, further interfering in the functions of the Bar.

29. Although some of these prosecutions later resulted in acquittals, the initiation of these prosecutions itself significantly caused a chilling effect over the independence of bar associations.

30. In another case, following its report on torture to the Ankara security directorate by the Ankara Bar Association in July of 2019, the Deputy Interior Minister accused the Bar Association of having links with the Gülen movement, followed by a wave of arrest against lawyers for using the ByLock App.⁴⁰

31. Under Article 135 of the Constitution, Bar Associations are independent professional bodies having the characteristics of public institutions.⁴¹ However, by Presidential Decree No. 5 (Presidential Decree as to the State Inspection Institution) the Turkish Presidency acquired the authority to inspect Bar Associations and to suspend their chairpersons and board members (Article 6).⁴²

32. The powers conferred unto the Turkish Executive, particularly this ability to suspend a Bar Association's elected executives has significantly impaired their independence, impartiality, and ability to challenge systematic human rights abuses of the State, especially those

[armenian-genocide-remembrance-in-last-six-years-news-63498](https://www.al-monitor.com/originals/2019/10/turkey-nationalism-killer-penal-code-article-has-come-back.html)

³⁹ <https://www.al-monitor.com/originals/2019/10/turkey-nationalism-killer-penal-code-article-has-come-back.html>

⁴⁰ Ibid.

⁴¹ 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.

⁴² <https://arrestedlawyers.org/2018/09/24/erdogan-gets-infinite-authority-over-the-national-and-provincial-bar-associations/>

targeting the legal profession.

F. Conclusion

33. In conclusion, the Turkish government's sustained assault on the legal profession and bar associations has cast a dark shadow over the pillars of justice and the rule of law in the country. The systematic crackdown has resulted in the erosion of the independence of legal institutions, undermining the very foundations of a democratic society. This alarming trend not only violates the fundamental principles of human rights but also raises serious concerns about the country's commitment to its international obligations.

34. The Turkish government's actions are in clear violation of several United Nations conventions that explicitly safeguard the independence of the legal profession. Notably, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights emphasise the crucial role of an independent judiciary and legal profession in upholding the rights and freedoms of individuals. By suppressing dissent within the legal community and targeting bar associations, Turkey is flouting its obligations under these conventions, compromising the checks and balances that are fundamental to a well-functioning democracy.

35. The diminishing independence of the legal profession in Turkey has far-reaching implications for accountability and governance in the country. Without a robust and impartial legal system, the protection of citizens' rights becomes precarious, and the potential for unchecked executive power increases. The erosion of judicial independence undermines the crucial role of the judiciary in holding the government accountable for its actions, thereby jeopardising the democratic principles upon which Turkey ostensibly stands.

36. Moreover, the stifling of dissent within the legal community has broader consequences for civil society and the protection of human rights. A weakened legal profession diminishes the capacity of

individuals and groups to challenge arbitrary governmental actions and injustices. This not only endangers the rights of Turkish citizens but also sets a dangerous precedent that could encourage authoritarian tendencies and undermine the democratic fabric of the nation.

37. In the long term, the Turkish government's crackdown on the legal profession may lead to a chilling effect on free speech, democratic participation, and the overall health of civil society. It is imperative that the international community closely monitors these developments, urging the Turkish government to adhere to its commitments under international law and safeguard the independence of the legal profession. The future of Turkey's democracy hinges on its ability to reverse the current trend, uphold the rule of law, and ensure that its legal institutions serve as bulwarks against abuses of power.

G. Recommendations:

38. We urge the Turkish Government to:

- a. Guarantee the independence of the judiciary and the prosecution services, in accordance with the international law (UDHR, ICCPR), 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 and sufficient evidence is presented in proceedings that comply with international fair trial standards and the burden of proof;

- 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.

39. To International Civil Society:

- a. To continue efforts and cooperation of international organizations, which is paramount in exerting pressure on Turkey to respect its obligations under International Human Rights Law and to bring its domestic criminal law in line with the standards specified by the European Convention on Human Rights and in past rulings of the European Commission and the European Union.
- b. To project a unified front of, and for, Bar Associations and other legal organizations, particularly within the European region, in ending the criminalisation of the Turkish legal profession, which is crucial for the existence of the rights to defence; and separation of powers in Turkey. Persecuted lawyers and human rights defenders who have suffered inhumane treatment at the hands of Turkish officials

desperately need such collective action from international civil society, and especially from European legal and democratic institute.

