



ON THE DETENTION OF 60 LAWYERS IN ANKARA ON SEPTEMBER 11, AND 32 LAWYERS IN IZMIR ON SEPTEMBER 22, 2020 / TURKEY

23.09.2020

Through the new “alternative bar associations” legislation and President Recep Tayyip Erdogan’s own words; *“Those who serve as the lawyers of terrorists should not act like terrorists themselves. If they do, there must be a price to pay”*, which he said in the presence of judges and prosecutors at the opening ceremony of the new judicial year, the Turkish government had already signaled that a new phase in the persecution of lawyers was about to start. Only a few days after President Erdogan’s speech, on Friday, 11 September 2020, the Ankara Chief Public Prosecutor ordered the detention of 48 lawyers, seven legal interns, three purged judges and 1 law school graduate for “membership in a terrorist organization.”

Ten days after this decision, on September 22, 2020, the Izmir Chief Public Prosecutor's Office ordered the detention of 32 lawyers including law faculty students. Lawyers detained in a police operation are still being held in police units and will likely be detained for 12 days.

Lawyers and jurists detained in the operations and also other lawyers to be detained possibly in Istanbul and other provinces of Turkey are being detained for acting as advocates of those whom the government considers dissidents and accuses of involvement in “terrorism.”

In the operation carried out by the Ankara Prosecutor's Office, it was said that the lawyers and legal interns would not be allowed to see anyone for 24 hours and they would be detained for 12 days, contrary to the law. It was also among the information that there were irregularities during the search and detention procedures, and that female lawyers were subjected to ill-treatment by being handcuffed from behind despite their lack of resistance.

39 of the lawyers detained in Ankara were referred to the Criminal Judgeship of Peace with a request for arrest on the last day (12th day) of their detention period. Following the statement that lasted until 05:00 a.m. on Wednesday, September 23, Ankara 3rd Criminal Court of Peace decided to arrest 6 lawyers,

hold 15 lawyers under house arrest by wearing electronic handcuffs, and 18 lawyers to go to the police station twice a week to show up and sign.

39 lawyers were deprived of their liberty because of their professional activities. The lawyers were questioned for their professional activities, and for practicing their jobs in accordance with international norms, which have been shown as evidence of a crime. The questioning, detention, or arrest of the lawyers for these reasons is also a violation of the European Convention on Human Rights.

Some of the questions cited as a justification of the lawyers' arrest and house arrest

- Where, when and in which law office have you completed your legal internship?
- Do you have a partner lawyer in your law office?
- Have you ever served at another law office?
- Which type of cases do you take on / litigate?
- How many cases have you taken on so far, how many of those about FETO members?
- What is the address of your law Office?
- How do your clients reach/find you?
- Do you make a contract with your clients?
- How many contracts have you made so far?
- How do your clients pay your fee?
- Do you give a payment receipt to your clients?
- What is your average fee? How do you determine the fee?
- Why didn't you receive a payment from a particular client?
- Why do you suggest your clients change his/her statement?
- Which schools, courses, and prep schools did you go during your education?
- Which schools, courses and prep schools did your spouse and children go?
- Do you use social media platforms?
- If yes, which social media networks do you use, and since when?
- What kinds of posts do you share?

As can be seen from these questions, a terror investigation has been launched against the lawyers for their professional activities. They were detained by hundreds of police officers. The decisions on arrest and house arrest were made solely because of the activities of the lawyers.

In Turkey lawyers have been arrested and prosecuted on a massive scale since an attempted coup on 15 July 2016 (3). It started with the arrest of 20 lawyers including the president of the Konya Bar Association and has continued since then without pause.

To date, more than 1,600 lawyers have been arrested and in excess of 600 of them have been imprisoned. Four hundred forty-one lawyers have, on the other hand, been convicted of “membership in a terrorist organization.” The mass arrests are carried out to intimidate and deter lawyers as they serve a critical purpose in the fight against various unlawful actions on the part of the police and the judiciary, including torture and ill-treatment.

The persecution of lawyers facilitates the torture and ill-treatment of detained persons and prevents them from demanding that their fundamental human rights be respected.

The fact that the arrests in question have taken place in the cities, which have the highest numbers of COVID-19 infections, is another cause for concern. This has occurred at a time when the Council of Europe and UN human rights bodies have stressed that custodial measures such as arrest and detention should not be carried out during the pandemic unless such measures are absolutely necessary.

According to the UN Basic Principles on the Role of Lawyers, governments shall ensure that lawyers:

- a. are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference;

- b. 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
- c. shall not be identified with their clients or their clients' causes as a result of discharging their functions.

These safeguards are not a professional luxury granted to lawyers, but a necessity to protect the rights and freedoms of individuals. Hence, criminal investigations into lawyers are to be carried out under a specific procedure that involves additional safeguards as long as there is not a situation of “flagrante delicto.”

As established by the European Court of Human Rights in the cases of *Alparslan Altan vs Turkey* and *Hakan Bas vs Turkey*, the Turkish judiciary’s interpretation and application of flagrante delicto violate the principle of legality and the right to liberty. Accordingly, the detentions of lawyers in police raids, which has become the new normal in Turkey since July 15, 2016, is a flagrant violation of the law.

The detention of the lawyers and jurists, the majority of whom are women, is an important part of the objective to silence lawyers. Remaining silent about this will deprive all citizens of their rights and liberties.

Please don't remain silent about this lawlessness ...

We present our respects, wishing you to show the honorable stance and professional solidarity you have shown so far in the most effective way in the face of this event.

Lawyers and jurists who signed the letter:

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5. Ammar Yılmaz
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48. Nurullah Albayrak
49. Ömer Turanlı
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