



European Association of Judges



Joint statement by lawyers, judges and journalists on the ongoing crackdown on the rule of law in Turkey

The Council of Bars and Law Societies of Europe (CCBE), the European Federation of Journalists (EFJ), and the European Association of Judges (EAJ) firmly condemn the ongoing widespread persecution of lawyers, journalists, judges and prosecutors in Turkey.

After the failed coup of 15 July 2016, the Turkish government declared a state of emergency and adopted 21 decree-laws, which led to a serious undermining of human rights and the rule of law across the country. Thousands of judges and prosecutors, and hundreds of journalists and lawyers have been dismissed from jobs, detained, or arrested. A widespread censorship on media has been put in place and hundreds of civil society organisations have been shut down. Several lawyers' associations and the independent judges' Association YARSAV have been closed down and their assets have been seized or frozen without compensation.

Currently there are around 2000 (out of 4088 dismissed) judges and prosecutors, 350 lawyers and 150 journalists and media workers being detained, with a further 867 lawyers being prosecuted. Most of them are being targeted solely for carrying out their professional activities, on the basis of alleged accusations of supporting terrorist organisations. In many cases, they are detained without charges and without being brought before a judge. When Turkish courts issue detention warrants, they order the freezing of assets, leaving the detained unable to support their families.

The adopted decree-laws undermine the right of the defence. In anti-terror legislation related cases, the detained have no access to a lawyer for the first five days of police custody, and this right can be suspended for up to six months. When access to a lawyer is authorised, lawyer-client confidentiality is violated: clients' interviews in prisons are recorded and often take place with the presence of a police officer in the room, and documents are confiscated and checked. Furthermore, several non-governmental organisations have expressed their concern about frequent episodes of mistreatment against detainees.¹

The undersigned organisations emphasise that an independent judiciary is an essential component in upholding the rule of law in a free society. It is guaranteed by the [United Nations Basic Principles on the Independence of the Judiciary](#), which provide that the independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. The Basic Principles provide that it is the duty of all governmental and other institutions to respect and observe the independence of the judiciary. The absolute necessity of and the requirements for an independent judiciary in a democratic state are clearly stated in the Recommendation 2010/12 of the Committee of Ministers of the Council of Europe, as well as in several Opinions of the Consultative Council of European Judges. The central element is the balance of powers which requires that any influence on the judiciary by the government, the president and the parliament is excluded.

Lawyers play a fundamental role in ensuring the protection of human rights and fundamental freedoms. As highlighted in the [Council of Europe recommendation on the freedom of exercise of the profession of lawyer N°R \(2000\) 21 from 25 October 2000](#)), "all necessary measures should be taken to respect, protect, and promote the

¹ In 2016, Amnesty International reported that it had credible evidence of torture, including severe beatings and rape in detention centres and urged Turkish government to allow independent monitors to access the detainees. In a report issued in October 2016, Human Rights Watch documented 13 specific cases of abuses against detainees, ranging from the use of stress positions and sleep deprivation to severe beatings, sexual abuse and the threat of rape. In December 2016, United Nations Special Rapporteur on Torture Nils Melzer warned, during a press conference in Ankara, that the environment in Turkey following the failed coup is conducive to torture.

freedom of exercise of the profession of lawyers without discrimination and without improper interference from the authorities or the public, in particular in the light of the relevant provisions of the European Convention on Human Rights". Furthermore, in accordance with the [United Nations Basic Principles on the Role of Lawyers](#), governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment, or improper interference (Principle 16). In addition, lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions (Principle 18).

"Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises", states Article 10 of the European Convention on Human Rights (ECHR). Moreover, the Council of Europe Commissioner for Human Rights Nils Muižnieks stated in a detailed [Memorandum on freedom of expression and media freedom in Turkey](#) of 15 February 2017, that "the overly wide application of the concept of terrorist propaganda and support of a terrorist organisation, including to statements and persons that clearly do not incite violence, reflects a mistaken belief that restricting freedom of expression in violation of international human rights norms will help solve these problems. Violence and the threat to use violence is the defining component of the concept of "terrorism", which must not be used as a catch-all label to punish statements that do not contain these elements, even when these statements are non-consensual, shocking or politically embarrassing".

In a [report on "The functioning of democratic institutions in Turkey"](#) from 8 March², the Monitoring Committee of the Council of Europe Parliamentary Assembly (PACE) stressed that: "it remains concerned by the situation of the media in Turkey, the extensive interpretation of the Anti-Terror Law, which contradicts Council of Europe standards, seriously undermines the democratic foundations of the country and leads to criminalisation and prosecution of human rights defenders and lawyers."³

Recalling that the judiciary, the legal profession and the media represent the cornerstone of a democratic state, the undersigned organisations urge the Turkish government to:

- **Restore an independent judicial system in accordance with the rule of law.**
- **Ensure freedom of expression and of the media.**
- **Guarantee to all citizens the fundamental right of access to justice and access to a lawyer.**
- **Respect its international commitments to protect human rights, as guaranteed under the European Convention of Human Rights and other international agreements.**
- **Uphold the rule of law and democracy in the country.**
- **Release all judges, prosecutors, lawyers, and journalists who have unduly been detained for carrying out their professional activities.**
- **Bring an end to the persecution of judges, prosecutors, lawyers, and journalists.**

² Provisional version

³ Paragraph 25

The EFJ

The European Federation of Journalists (EFJ) is the largest organisation of journalists in Europe, representing over 320,000 journalists in 71 journalists' organisations across 43 countries. The EFJ fights for social and professional rights of journalists working in all sectors of the media across Europe through strong trade unions and associations. The EFJ promotes and defends the rights to freedom of expression and information as guaranteed by Article 10 of the European convention on human rights. The EFJ supports its affiliates to foster trade union development, to recruit new members, and to maintain or create environments in which quality, journalistic independence, pluralism, public service values, and decent work in the media exist.

The EAJ

The European Association of Judges (EAJ) a regional group of the International Association of Judges (IAJ, founded in 1953) is an association of representative independent national judges' associations of 44 countries. EAJ is committed to safeguard the independence of the judicial authority as an essential requirement of the judicial function and guarantee of human rights and freedom and to safeguard the constitutional and moral standing of the judicial authority. EAJ/IAJ has observer status with the Council of Europe and the United Nations.

The CCBE

The Council of Bars and Law Societies of Europe (CCBE), founded in 1960, is an international nonprofit association which has been, since its creation, at the forefront of advancing the views of European lawyers and defending the legal principles upon which democracy and the rule of law are based. The CCBE is recognised as the voice of the European legal profession representing, through its members, more than 1 million European lawyers. CCBE membership includes the bars and law societies of 45 countries from the European Union, the European Economic Area, and wider Europe.

The CCBE granted its [2016 Human Rights Award](#) to four Turkish lawyers who have been particularly active in the defence of human rights and the rule of law in Turkey: posthumously to Tahir Elçi the President of the Diyarbakır Bar Association, murdered on 28 November 2015, Ayşe Bingöl Demir, Ayşe Acinikli, and Ramazan Demir.