

THE ARRESTED LAWYERS INITIATIVE

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THE RIGHTS TO DEFENSE AND FAIR TRIAL UNDER TURKEY'S EMERGENCY RULE

The Arrested Lawyers Initiative
February 2018

<http://www.arrestedlawyers.org/>

THE 14 PROVINCIAL BAR ASSOCIATIONS' PRESIDENTS HAVE BEEN ARRESTED OR DETAINED



14 of the persecuted lawyers are were presidents of their respective provincial bar associations, namely;

President of Konya Bar Association Fevzi Kayacan,

President of Trabzon Bar Association Orhan Öngöz,

President of Siirt Bar Association Cemal Acar,

President of Gumushane Bar Association Ismail Tastan,

were arrested and unlawfully unseated.

Former Presidents of Manisa, Erzurum, Erzincan, Afyon Bar Associations Zeynel Balkiz, Mehmet Güzel, Cemalettin Özer, Mehmet Akalın have also been arrested.²

On the other hand, presidents of the Aksaray and Kahramanmaraş Bar Associations, Levent Bozkurt and Vahit Bağcı respectively, and former presidents of Yozgat Bar Association Hacı İbis and Fahri Acikgoz were detained for a certain period of time before they were released on bail.

² <https://arrestedlawyers.org/2017/07/24/14-presidents-or-former-presidents-of-provincial-bar-associations-were-detained-or-arrested-in-turkey/>

80 LAWYERS WERE SENTENCED RANGE TO 4 AND 14 YEARS

So far, [80 lawyers have been sentenced to long imprisonment](#)³:

- [Konya 6th High Penal Court sentenced Fevzi Kayacan](#)⁴ who is former president of Konya Bar Association and 19 other lawyers to imprisonment for up to 14 years.



- [Erzincan 2nd High Penal Court sentenced](#) lawyers Cemalettin Ozer, former president of Erzincan Bar Association, and Talip Nayir, a former board member of the same organisation, to 8 years 9 month and 10 years in prison respectively.⁵



³ <https://arrestedlawyers.org/category/convictions/>

⁴ <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/>

⁵ <https://arrestedlawyers.org/2017/07/27/judicial-persecution-former-president-of-erzincan-bar-association-and-former-board-member-were-sentenced-to-9-and-10-years-imprisonment/>


80 LAWYERS WERE SENTENCED RANGE TO 4 AND 14 YEARS

- [Erzurum 2nd High Penal Court](#) have given [Mehmet Güzel](#), former president of Erzurum Bar Association, and four other lawyers custodial sentences varying from 1 to 13 years in prison,⁶

5 Lawyers including former president of the Erzurum Bar Association sentenced range to 1 and 13 years

BY THEARRESTEDLAWYERS on 10 OCTOBER 2017 • (6)

On 10th October, former President of Erzurum Bar Association, lawyer Mehmet Guzel who is under arrest since 4th August 2016, was sentenced to 13 years imprisonment with charge of to run armed terrorist organisation; along with him, 4 other lawyers (MSB, SA, ŞYL, HD) also were sentenced range to 1 and 5 years imprisonment.



Lawyer Mehmet Güzel, Former President of Erzurum Bar Association (2010-2012)


- [Eskisehir 2nd High Penal Court](#) have sentenced 11 lawyers between 4 and 12 years in prison,⁷
- [Sivas 2nd High Penal Court](#) have sentenced nine lawyers between 3 and 2 years in prison,⁸

9 Lawyers in Sivas were sentenced ranging from 3 to 9 years imprisonment

BY THEARRESTEDLAWYERS on 20 NOVEMBER 2017 • (5)

9 of 13 defendant lawyers were sentenced to ranging from 3 to 9 years imprisonment with charge on being member of armed terrorist organisation by Sivas 2nd High Penal Court; the remaining four lawyers acquitted.

Omer N., Halil Ibrahim D, Fatih S., Erdal O, Dilek F.T. and other 4 lawyers were sentenced to ranging from 3 to 9 years on the hearing dated 25th September. The Court released the four lawyers (who are under arrest for more than one year) at the end of the summary judgement.



⁶ <https://arrestedlawyers.org/2017/10/19/report-the-persecution-on-turkish-lawyers-10-19-october/>

⁷ <https://arrestedlawyers.org/2017/07/26/judicial-persecution-11-lawyers-were-sentenced-to-range-4-to-12-years-imprisonment/>

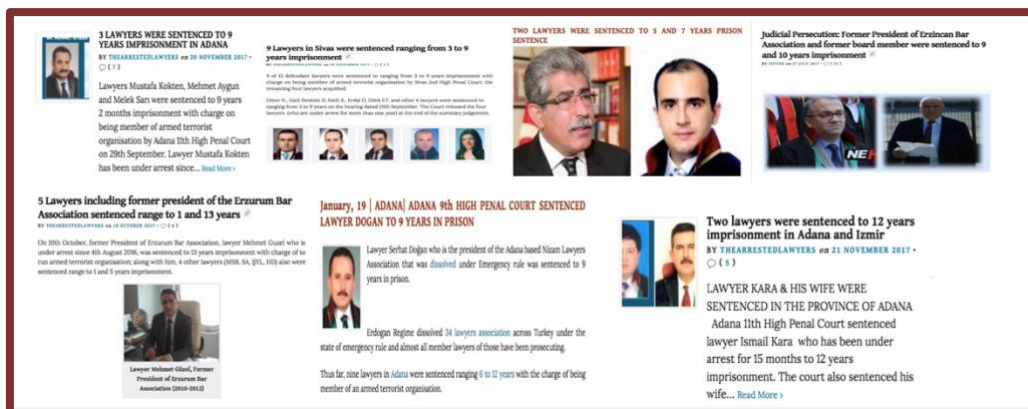
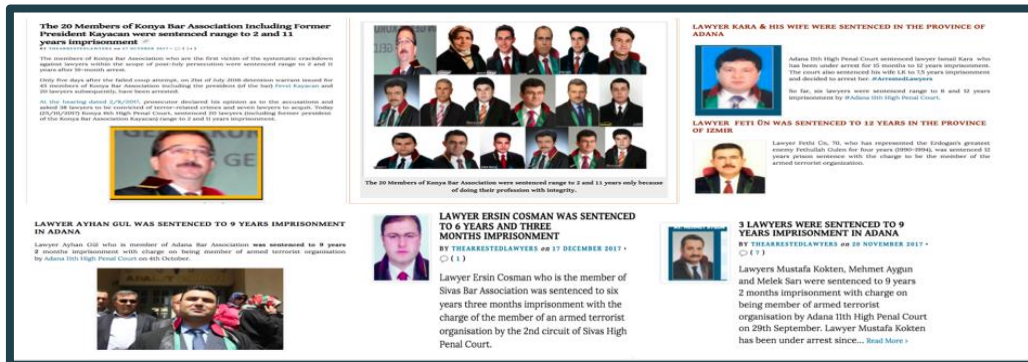
⁸ <https://arrestedlawyers.org/2017/11/20/9-lawyers-in-sivas-were-sentenced-ranging-from-3-to-9-years-imprisonment/>

80 LAWYERS WERE SENTENCED RANGE TO 4 AND 14 YEARS

- [Adana 11th High Penal Court](#) have sentenced EIGHT lawyers between 3 and 9 years in prison,⁹



- Different courts in Istanbul, Bolu, Antalya, [Kocaeli](#), Nigde, Kirsehir, Kayseri, Izmir have also given fellow Turkish lawyers long prison sentence to fellow lawyers.



⁹ <https://arrestedlawyers.org/2017/11/20/3-lawyers-were-sentenced-to-9-years-imprisonment-in-adana/>

80 LAWYERS WERE SENTENCED RANGE TO 4 AND 14 YEARS

5 Lawyers including former president of the Erzurum Bar Association sentenced range to 1 and 13 years

BY THEARRESTEDLAWYERS on 10 OCTOBER 2017 · (14)

On 10th October, former President of Erzurum Bar Association, lawyer Mehmet Güzel who is under arrest since 4th August 2016, was sentenced to 13 years imprisonment with charge of to run armed terrorist organisation, along with him, 4 other lawyers (MSB, SA, ŞYL, HD) also were sentenced range to 1 and 5 years imprisonment.



Lawyer Mehmet Güzel, Former President of Erzurum Bar Association (2010-2012)

3 LAWYERS WERE SENTENCED TO 9 YEARS IMPRISONMENT IN ADANA

BY THEARRESTEDLAWYERS on 20 NOVEMBER 2017 · (1)



Mustafa Kökten, Mehmet Aygün, Melik Sarı (left-to-right)



The Arrested Lawyers
@ArrestedLawyers

Lawyer M.A.C was sentenced to 6 years 3 months in jail because of allegedly downloading ByLock i-message app. #Turkey He is the 72nd lawyer who was sentenced due to faked up terrorism charges.

10:15 PM · Jan 15, 2018

LAWYER MELİH DİKAYAK WAS SENTENCED TO 7,5 YEARS IMPRISONMENT

BY THEARRESTEDLAWYERS on 17 DECEMBER 2017 · (2)



Lawyer Melih Dikayak who is the member of Izmir Bar Association was sentenced to seven and half years imprisonment with the charge of the member of an armed terrorist organisation by the 2nd circuit of Izmir High Penal Court because of (allegedly)

LAWYER NAZMI DEĞİRMENCI WAS SENTENCED TO 6 YEARS IMPRISONMENT IN ADANA

Lawyer Nazmi Değirmenci who is member of Adana Bar Association was sentenced to 6 years 3 months imprisonment with charge on being member of armed terrorist organisation by Adana 11th High Penal Court on 4th October.



Two lawyers were sentenced to 6 years in Kayseri

BY THEARRESTEDLAWYERS on 21 NOVEMBER 2017 · (5)



All persecuted lawyers are being charged with terrorism offences such as being the member of an armed terrorist organisation or even leading such an organisation. Under the Turkish Penal Code, these two offences are punishable with up to 22,5 years in prison.

PROVINCE	NUMBER OF CONVICTED LAWYERS
Adana	8
Antalya	5
Bolu	1
Erzurum	6
Eskişehir	13
İstanbul	2
İzmir	3
Kayseri	2
Kırşehir	2
Kocaeli	1
Konya	20
Malatya	1
Niğde	2
Sivas	10
Tokat	4
TOTAL	80

80 lawyers have been sentenced to long imprisonment

THE RIGHTS TO DEFENCE & FAIR TRIAL WERE ERADICATED

On 21 July 2016, the state of emergency and derogation from the ECHR were declared by Turkish government "to preserve the democratic order." The 3-month state of emergency has been extended six times and is still in effect.

Under the state of emergency rule, 30 emergency decrees (KHK) were issued by the Cabinet. 30 emergency decrees that consist of 1194 articles, of which more than thousand introduce new legislation or amendment on the law in effect. The Turkish Constitutional Court has ruled that the decrees are not in the scope of its jurisdiction and recognizes the decrees as an exemption from judicial review despite its previous rulings.

THE AMENDMENTS MADE WITH THE DECREE LAWS AS TO THE RIGHT TO DEFENCE AND THE CRIMINAL PROCEEDING RULES

1. Article 96 of the Decree Law No. 696 changed the heading of Article 209¹⁰ of Turkish Penal Procedure Law (CMK) "Documents and records to be read mandatorily during the hearing" to "Documents and records to be told mandatorily during the hearing". Under this amendment, documents, records and other writings which can be used as evidence in judgement will only be told (in summary) and not be (completely) read during hearings.
2. Article 5 of the Decree Law No. 676 has made "to hold hearing without the participation of the defendant's lawyer" possible.¹¹

¹⁰ Article 209 of the Turkish Penal Procedure Law before the Decree Law as follows:

Documents and records to be read* mandatorily during the main hearing

Article 209 – (1) The records of interrogation of the accused conducted by a delegated member of the court or through the letter of rogatory, the records of hearing of the witness conducted by a delegated member of the court or through the letter of rogatory, as well as documents such as records of bodily examination and records related to the crime scene investigation that are to be used as evidence, and other written papers, excerpts from criminal records and personal status registers concerning the personal and economic state, shall be read during the main hearing.

(2) If there is an explicit request, documents containing personal data about the accused and the victim shall be read out in a closed trial session, upon the decision of the court.

* "to be read" was changed as "to be told"

THE RIGHTS TO DEFENCE & FAIR TRIAL WERE ERADICATED

3. Article 1 of the Decree Law No. 676 has stipulated that in the hearings of organised crime trials a defendant can be represented by maximum three lawyers.¹² Prior the state of emergency, this restriction was in effect only for investigation stage, with the above-mentioned amendment the three-lawyer restriction is carried into effect also for the prosecution stage.

4. Article 2 of the Decree Law No. 676 has unduly expanded the boundaries of the rule as to banning a lawyer to attend the criminal proceedings.¹³ Prior the Decree Law 676, a lawyer would be banned from to attend the criminal proceedings only in case where there is a pending prosecution¹⁴ against him / her; by the amendment with the decree, the existence of a pending investigation has been made sufficient to ban a lawyer. And also, prior the Decree Law 676, the scope of to ban could comprise only “lawyer of the arrestee and convict”. By changing the wording of *"may be banned from acting as a defense counsel or as a representative of the arrestee or the convict"* as *"may be banned from acting as a defense counsel or as a representative of the suspect, the arrestee or the convict"*; the restriction has become applicable for whole stages of investigation and prosecution procedures.

¹² Decree Law 667, Article 6:

ğ) Within the scope of the investigations and prosecutions, at the most three lawyers shall be present during statement - taking and questioning periods or hearings.

¹³ **Article 150/3 of the Turkish Penal Procedure Law before the Decree Law as follows:**

(3) In cases where there is a pending **prosecution*** because of crimes listed in this subparagraph against a lawyer who has been selected according Art. 149, or has been appointed according Art. 150, and who is defending or representing an individual who has been arrested with a warrant because of crimes, or has been convicted of crimes as listed in Art. 220 and 314 Turkish Criminal Code, or terrorism crimes, may be banned from acting as a defense counsel or as a representative of **the arrestee or the convict****.

*** “prosecution” was changed as “investigation”**

(The prosecution or investigation with regard to the offences enumerated under Fourth, Fifth, Sixth and Seventh Sections of Fourth Chapter of Second Volume of the Turkish Criminal Code no. 5237 dated 26 September 2004, the offences falling under the Anti-Terror Law no. 3713 dated 12 April 1991 and the collective offences.)

**** “the arrestee or the convict” was changed as “the suspect, the arrestee or the convict.”**

¹⁴ With regard to the offences enumerated under Fourth, Fifth, Sixth and Seventh Sections of Fourth Chapter of Second Volume of the Turkish Criminal Code no. 5237 dated 26 September 2004, the offences falling under the Anti-Terror Law no. 3713 dated 12 April 1991 and the collective offences.

THE RIGHTS TO DEFENCE & FAIR TRIAL WERE ERADICATED

In August 2017, the Turkish Ministry of Justice issued an order under Article 6/g¹⁵ of the Decree 667 regarding the banning of certain lawyers from representing certain suspect. In the order in question which was sent to all provincial public prosecutors, lawyers who themselves were under criminal investigation were asked to be banned for 2 years. So far, in only Istanbul at least 400 lawyers have been banned by the two separate decisions issued by Peace Criminal Judges.

Istanbul Cumhuriyet Başsavcılığı Terör ve Örgütlü Suçlar Soruşturma Bürosu'nun 19/10/2017 tarih ve 2017/28997 soruşturma sayılı talebi ile; İstanbul C.Başsavcılığı'nın 2011/3377 ve 2017/105607 numaralı soruşturma dosyaları kapsamında işlem yapılan avukatlar hakkında ilgili kararname uyarınca DHKP/C terör örgütüne yönelik yürütülmekte olan 2017/28997 sayılı soruşturma kapsamında müdafilik görevlerinin kısıtlanmasına dair karar verilmesi kamu karar verilmesi talep edilmiş olmakla,

Talep ve talebe dayanarak evrak incelendi.

GEREĞİ DÜŞÜNÜLDÜ:

Dosyanın incelenmesinde; MLKP (Marksist Leninist Komünist Parti) terör örgütünün faaliyetlerinin deşifresine yönelik yürütülen soruşturma kapsamında terör örgütü propagandası yapmak, 2911 SKM suçlarından yargılamaları bulunan avukatlar ile haklarında soruşturma yürütülen avukatların şüphelilerle görüşmelerinin engellenmesine dair karara ihtiyaç duyulduğu belirtilmiş olmakla 667 Sayılı Kanun Hükmünde Kararname'nin 6.maddesinin g bendindeki "Yürütülen soruşturmalarda, 4/12/2004 tarihli ve 5271 sayılı Ceza Muhakemesi Kanununun 149 uncu maddesine göre seçilen veya aynı Kanunun 150 nci maddesine göre görevlendirilen müdafii, hakkında bu maddede sayılan suçlar nedeniyle soruşturma ya da kovuşturma bulunması halinde müdafilik görevini üstlenmekten yasaklanabilir. Cumhuriyet savcısının yasaklamaya ilişkin talebi hakkında, sulh ceza hâkimliği tarafından gecikmeksizin karar verilir. Yasaklama kararı, şüpheliye ve yeni bir müdafii görevlendirilmesi için ilgili baro başkanlığına derhal bildirilir." uyarınca yukarıda ismi belirtilen şüphelilerin müdafilik görevlerinin yasaklanmasına dair karar vermek gerekmiş ve aşağıdaki şekilde hüküm kurulmuştur.

The decision to ban regarding 110 lawyers by the 8th Istanbul Peace Criminal Judge dated October 2017

5. The Decree Law 668 has stipulated that the right of the person who taken under custody to see a lawyer may be restricted for five days^{16 17} by the prosecutor, (but no formal statements shall be taken during this time from the accused.).
6. The Decree Law 667 introduced that oral consultations between the detainees and their lawyers may be recorded for security reasons, and the documents they

¹⁵ Decree Law 667, Article 6:

g) Within the scope of the investigations performed, the defence counsel selected under Article 149 of the Criminal Procedure Code no. 5271 of 4 December 2004 or assigned under Article 150 thereof may be banned from taking on his/her duty if an investigation or a prosecution is being carried out in respect of him /her due to the offences enumerated in this Article. The Office of Magistrates' Judge shall render a decision on the public prosecutor's request for a ban without any delay. Decision on banning shall be immediately served on the suspect and the relevant Bar Presidency with a view to assigning a new counsel. [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2016\)061-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2016)061-e)

¹⁶ Decree Law no. 668, Article 3-m) "The right of the suspect in custody to see a defense counsel may be restricted for five days by the decision of the public prosecutor. No statement shall be taken during this time."

¹⁷ Decree Law no. 676, dated 29 October 2016, it (five days) was changes as one day.

THE RIGHTS TO DEFENCE & FAIR TRIAL WERE ERADICATED

exchange may be seized; the timing of such consultations may be regulated.¹⁸ With the Decree Law 676, this restriction was carried into effect also for consultations (between the detainees and their lawyers after the detainees) in the prison.

7. The Decree Law 667 introduced that the lawyer of the suspect, the arrestee or the defendant may be replaced, at the request of the prosecution, by the Bar.¹⁹
8. The Decree Law 668 introduced that if the purpose of the investigation may be compromised, the defence counsel's right to examine the contents of the case-file or take copies may be restricted by the decision of the prosecutor.²⁰ Prior to state of emergency, such a restriction could only be decided by the judge.²¹

¹⁸ Decree Law 667, Article 6/d) "Where there is a risk that public security and the security of the penitentiary institution is endangered, that the terrorist organization or other criminal organizations are directed, that orders and instructions are given to them or secret, clear or crypto messages are transmitted to them through the remarks during the interviews between the detainees and their lawyers; the interviews may be recorded auditorily or audio - visually via technical devices, the officers may be made present during the interviews between the detainee and his/her lawyer with a view to monitoring the interview, documents or document templates and files given by the detainee to his/her lawyer or vice versa and the records kept by them concerning the interview between them may be seized, or days and hours of the interviews may be limited upon the public prosecutor's order. In the event that the interview of the detainee is understood to be made for the aim set out above, the interview shall be immediately ended, and this fact shall be recorded into minutes together with the grounds thereof. The parties shall be warned about this issue prior to the interview. In the event that such minutes are drawn up in respect of a detainee, the Office of the Magistrates' Judge could ban the detainee from interviewing with his/her lawyers, upon the public prosecutor's request. Decision on banning shall be immediately served on the detainee and the relevant Bar Presidency with a view to assigning a new lawyer. The public prosecutor may ask for replacement of the lawyer commissioned by the Bar. The commissioned lawyer shall be paid in accordance with Article 13 of the Law no. 5320 on the Enforcement and Application Procedure of the Criminal Procedure Code of 23 March 2005."

¹⁹ Decree Law 667, Article 6/d) "The public prosecutor may ask for replacement of the lawyer commissioned by the Bar. The commissioned lawyer shall be paid in accordance with Article 13 of the Law no. 5320 on the Enforcement and Application Procedure of the Criminal Procedure Code of 23 March 2005."

²⁰ Decree Law 668, Article 3/l) "The defense counsel's right to examine the contents of the case file or take copies of the documents can be restricted by the decision of the public prosecutor, if the purpose of the investigation may be compromised"

²¹ **Article 153/2 of the Turkish Penal Procedure Law prior the Decree Law as follows:**

(2) The power of the defense counsel may be restricted, upon motion of the public prosecutor, by decision of the Justice of the Peace,* if a review into the contents of the file, or copies taken, hinder the aim of the ongoing investigation.

* "upon motion of the public prosecutor, by decision of the Justice of the Peace,*" was changed as by decision of the prosecutor.

THE RIGHTS TO DEFENCE & FAIR TRIAL WERE ERADICATED

9. Article 1-a of the Decree Law no. 667 introduced that the dead-line for bringing an arrested person to a judge is extended to 30²² days.²³ ²⁴ Prior the state of emergency, the person arrested or detained shall be brought before a judge within at latest forty-eight hours and in case of offences committed collectively within at most four days.
10. Article 3-ç of the Decree Law no. 668²⁵ introduced that review of detention or examination of the applications for release may be conducted on the basis of written materials contained in the case-file (i.e. without hearing the person concerned or his / her lawyer). Prior to the state of emergency, the judge had to hear oral defence statement of defendant or his / her counsel before reaching a decision.
11. The Decree Law no. 667 introduced that the prosecution may seize and inspect correspondence between defendants and “privileged witnesses” (such as spouses and lawyers, for example). Prior the state of emergency, it was impossible.²⁶
12. Article 4 of the Decree 676 introduced that the judge or the court might refuse to listen the witness or the expert produced by the defendant. Prior the the Decree

²² **Article 1-a of the Decree Law no. 667** “a) The period of custody shall not exceed thirty day ..”

Prior the state of emergency, the dead-line was (maximum) four days.

²³ With the article 10-a of the Decree Law no. 684, dated 23 January 2017, it (30 days) was changed as 14 days.

²⁴ According to the Government memorandum, p. 70, by 28 October 2016, out of 45,225 persons who were arrested within the scope of FETÖ/PDY investigations, 61,1% (27,514 persons) remained in detention without access to a judge for 1-5 days, 24,1% (11,042 persons) for 6-10 days, 9,4% (4,139 persons) for 11-15 days, 3,7% (1,760 persons) for 16-20 days, 1,2% (478 persons) for 21-25 days, and 0,5% (292 persons) for 26-30 days.

[http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)037-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)037-e)

(footnote_103)

²⁵ Article 3-ç of the Decree Law no. 668: ç) Requests for release shall be concluded over the case file within a maximum period of thirty days, along with a review of the detention.

²⁶ Decree Law 667, Article 6/d) “.. the interviews may be recorded auditorily or audio - visually via technical devices, the officers may be made present during the interviews between the detainee and his/her lawyer with a view to monitoring the interview, documents or document templates and files given by the detainee to his/her lawyer or vice versa and the records kept by them concerning the interview between them may be seized, or days and hours of the interviews may be limited upon the public prosecutor’s order.”

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676, the judge or the court had to listen the witness or the expert if they were made available for the hearing by the defendant.²⁷

13. Article 3/1 of the Decree Law 668 stipulated that any appeal against a detention order shall be examined within ten days²⁸ by the magistrate who took the Prior the decree, the maximum term to examine the appeal was three days²⁹
14. Article 142 of the Decree Law 694 renders “to listen ‘the undercover investigator’ as a witness in a closed hearing without attendance of the defendant or his / her lawyer” possible.
15. Article 147 of the Decree Law No. 694 gives authority to the judge to interrogate the defendant by video conference connection without bringing him to the courtroom, even if he wanted to attend the hearing personally.
16. Article 148 of the Decree Law 694 has made the delivering of the verdict possible even if the lawyer for the defence is not present at the hearing

²⁷ **Article 178 of the Turkish Penal Procedure Law prior the Decree Law as follows:**

Directly bringing the witness and expert whose summons was denied

Article 178 – (1) In cases where the president of the court or the trial judge denies the written application of summoning the witness or the expert shown by the accused or the intervening party, the accused or the intervening party may bring these individuals along to the main hearing. These individuals shall be heard at the main trial.

²⁸ Decree Law 668, Article 3:

c) The office of the magistrate or court, whose detention order has been objected to, shall revise its order if it deems relevant; otherwise, it shall refer, within ten days, the objection to the authority competent to examine the objection.

ç) Requests for release shall be concluded over the case file within a maximum period of thirty days, along with a review of the detention.

²⁹ **Article 105 of the Turkish Penal Procedure Law prior the Decree Law as follows:**

The procedure

Article 105 – (1) In cases where there is a motion filed according to the provisions of Arts. 103 and 104, the decision on approving the motion, denying the motion or ordering judicial control shall be rendered by the competent authority **within three days**, after the opinions of the Public Prosecutor, suspect, accused or defense counsel have been obtained. These decisions may be subject to a motion of opposition.

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17. Article 141 of the Decree Law 694 has increased the maximum pre-trial detention term from five to seven years.
18. Article 93 of the Decree Law 696 gives to the prosecutor and the intervening party the authority to appeal against the decisions to release of the arrestee. Prior the decree, the decisions to release given by the court was final.³⁰

Turkey: Re-arrest of Amnesty chair devastates family, disgraces justice

1 February 2018, 10:27 UTC

The decision to renew the detention of Amnesty International's Turkey Chair mere hours after a court ordered his release must be immediately reversed and Taner Kılıç set free, said Amnesty International.

"Over the last 24 hours we have borne witness to a travesty of justice of spectacular proportions. To have been granted release only to have the door to freedom so callously slammed in his face is devastating for Taner, his family and all who stand for justice in Turkey," said Amnesty International's Secretary General, Salil Shetty.

"To have been granted release only to have the door to freedom so callously slammed in his face is devastating for Taner and his family"

Salil Shetty

On 1 February 2018, Taner Kılıç who is the chair of the Amnesty International's Turkey Branch was re-detained even before released from Izmir Sakran Prison then rearrested by the same court which decided to release him.

19. Article 6.e of the Emergency Decree Law 667 has brought about significant restrictions as to the detainees' right of communication with the outer world and visiting rights. It narrowed down the range of relations who are allowed to visit a detainee and the detainees' rights to be visited by 3 persons he could freely chose

³⁰ Taner Kılıç who is the chair of the Amnesty International's Turkey Branch was re-detained even before released from Izmir Sakran Prison then rearrested by the same court which decided to release him. Taner Kılıç was taken into custody on 6 June 2017 and subsequently arrested by Izmir Peace Criminal Judgeship on 9 June 2017. On 31 January 2018, Istanbul 35th High Penal Court decided to release him at the third hearing of trial. But after the prosecutor's appeal against the court's decision, his release procedure was frozen and Mr. Kılıç was re-detained by prison guards, taken into the courthouse and re-arrested by the same court which decided to release him only hours ago

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have been taken away. On the other hand, detainees' right to a telephone call per week has been reduced to a telephone call per fortnight.³¹

20. Other essential changes introduced by Decree Law no. 667 and 668 are as follows:³²

- i. the prosecution may bar an advocate from taking up his/her duties if an investigation is pending against this person related to enumerated offences;
- ii. a bill of indictment or “documents which substitute for the bill of indictment” may be “read out or summarized and explained³³” before the start of the trial;
- iii. in urgent cases searches in private premises and offices (including lawyers’ offices) may be authorised by a prosecutor; such seizures should be submitted to a judge for review within five days; this procedure also applies to inspection of computers, databases, software, etc.;
- iv. in urgent cases a prosecutor may order undercover investigative measures (such as wiretappings) which are subject to ex-post judicial examination.

³¹ Decree Law 667, Article 6:

e) The detainees may only be visited by his/her spouse, relatives of the first and second degrees and the first-degree relatives - in - law and his/her guardian or trustee only where the relevant documents are submitted. The powers of the Ministry of Justice and the Chief Public Prosecutor’s Office shall be reserved. The detainees shall enjoy the right to telephone conversations for once every fifteen days and for a period not exceeding ten minutes, limited to the persons set out in this subparagraph.

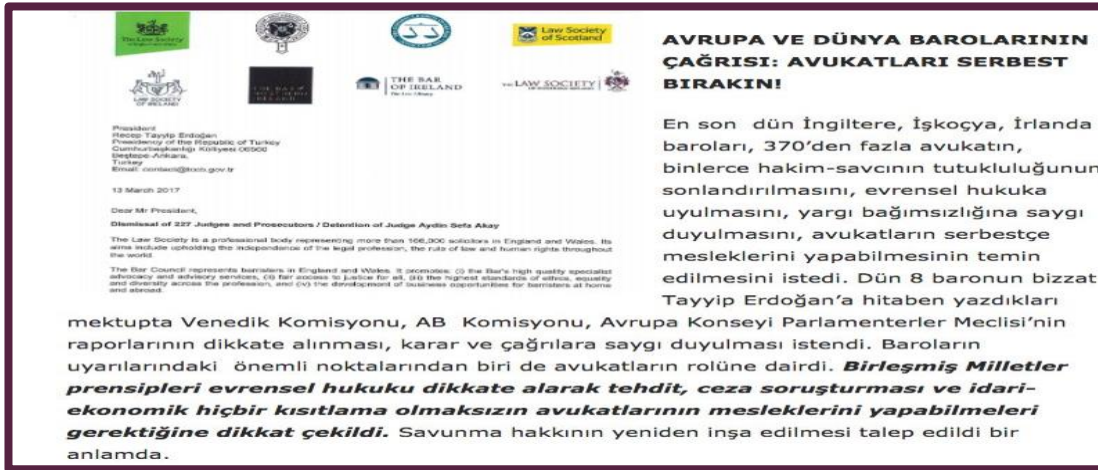
³² [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)037-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)037-e)

³³ Decree Law 667, Article 6:

h) Prior to the hearings before the criminal courts, bill of indictment or the document which substitutes for bill of indictment shall be read out or summarized and explained.

INTERNATIONAL REACTIONS

The Bar of Ireland, The Bar of N.Ireland, The Law Society of N.Ireland, The Law Society of England and Wales, Law Society of Scotland, Law Society of Ireland, The Bar Council, Faculty of Advocates³⁴, The Council of Bars and Law Societies of Europe (CCBE)³⁵, German Federal Bar (Bundesrechtsanwaltskammer)³⁶, The Italian Bar Council (Consiglio Nazionale Forense)³⁷, The International Observatory for Lawyers in Danger (OIAD)³⁸ Belgium Francophones & Germanophone (Avocats.be) Bar Association and Belgium Flemish (Orde van Vlaamse Balies) Bar Association³⁹, Athens and Paris Bar Associations⁴⁰ the International Bar Association's Human Rights Institute (IBAHRI) denounced the crackdown against the Turkish lawyers and the right to defence with the joint or separate letters and declarations on various times.



Joint letter of The Bar of Ireland, The Bar of N.Ireland, The Law Society of N.Ireland, The Law Society of England and Wales, Law Society of Scotland, Law Society of Ireland, The Bar Council, Faculty of Advocates.

³⁴ <https://arrestedlawyers.org/2017/07/23/bar-associations-law-societies-of-united-kingdom-wrote-a-joint-letter-regarding-arrested-turkish-lawyer-and-mass-dismissal-of-judges-and-prosecutors/>

³⁵ <https://arrestedlawyers.org/2017/07/23/the-ccbe-wrote-a-letter-of-concern-regarding-arrested-turkish-lawyers/>

³⁶ <https://arrestedlawyers.org/2017/07/23/german-federal-bar-president-asks-bozdog-to-guarantee-lawyers-to-perform-their-duties/>

³⁷ <https://arrestedlawyers.org/2017/07/23/italian-bar-council-slams-turkish-government-over-arrested-lawyers/>

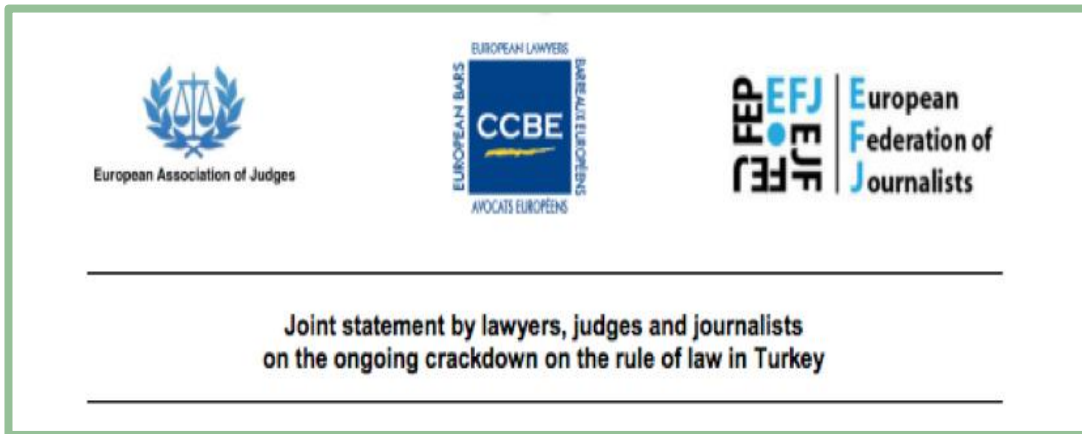
³⁸ <https://arrestedlawyers.org/2017/07/24/the-international-observatory-for-lawyers-in-danger-oiad-denounced-arbitrary-arrests-of-turkish-lawyers/>

³⁹ <https://arrestedlawyers.org/2017/07/24/belgium-bar-associations-react-arbitrary-arrests-of-lawyers/>

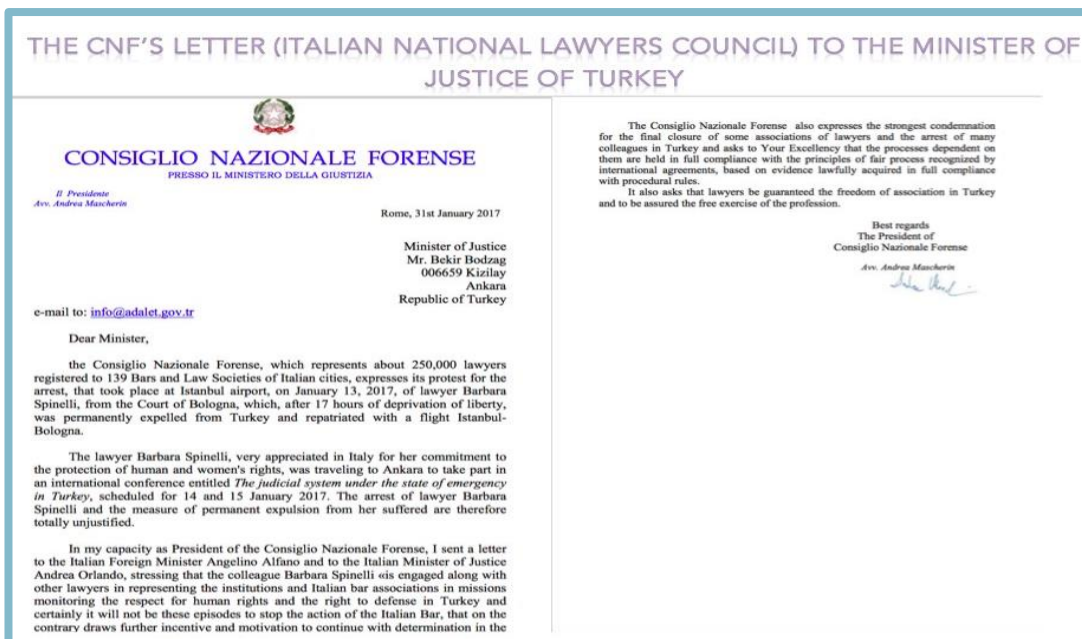
⁴⁰ <https://arrestedlawyers.org/2018/01/04/athens-and-paris-bar-associations-denounce-the-ongoing-persecution-against-turkish-lawyers/>



The Council of Bars and Law Societies of Europe (CCBE) & Belgium Flemish Bar Association



The Council of Bars and Law Societies of Europe (CCBE) & EAJ & EFJ



The Italian Bar Council (Consiglio Nazionale Forense)



**INTERNATIONAL BAR ASSOCIATION'S
HUMAN RIGHTS INSTITUTE**

IBAHRI highlights plight of Turkish lawyers on 'Day of the Endangere...
To mark the 2018 Day of the Endangered Lawyer, amid growing evidence that human rights defenders and legal professionals in Turkey are being

The International Bar Association's Human Rights Institute (IBAHRI)



Le Président
The President

President Mr Tayyip Erdoğan
Cumhurbaşkanlığı Külliyesi
06689 Çankaya,
Ankara
Turkey

Brussels, 6 April 2017

Re: Concerns regarding the ongoing persecution of lawyers in Turkey

The Council of Bars and Law Societies of Europe (CCBE)



President of the Turkish Republic
H.E. Recep Tayyip Erdoğan
Presidential Palace
ANKARA
Turkey

Brussels,

JPB-hb-114

Your Excellency,

**Concerns the situation of arrested and detained lawyers in
Turkey**

I am writing to you on behalf of the *Ordre des barreaux*

Belgium Francophones & Germanophone (Avocats.be) Bar Association



German Federal Bar (Bundesrechtsanwaltskammer)



The Council of Bars and Law Societies of Europe (CCBE)



The International Observatory for Lawyers in Danger (OIAD)

TORTURE AND ILL-TREATMENT HAVE BECOME ALMOST EPIDEMIC

By the Emergency Decree Law No.667, Turkish government have offered impunity to the all public servants for any crime they may commit in performance of their duties including torture.

In a very troubling provision, emergency decree 667 states that “individuals who make decisions and perform their duty in the context of this decree bear no legal, administrative, financial or criminal responsibility for those duties performed.” This sends a clear signal to police officers and other officials that they can abuse detainees and violate their rights without fear of legal or other consequences. It also is a clear breach of Turkey’s non-derogable duty under international law to prevent and punish acts of torture and ill-treatment.⁴¹

By this article, Trabzon Prosecutorial Office, drops torture complaint due to impunity under state of emergency.⁴²

In the report dated 25 October 2016 by Human Rights watch entitled “A Blank Check: Turkey’s Post - Coup Suspension of Safeguards Against Torture” 13 cases of alleged abuse committed by the Turkish Police against persons in their custody, including stress positions, sleep deprivation, severe beatings, sexual abuse, and rape threats, since the coup attempt were detailed.⁴³



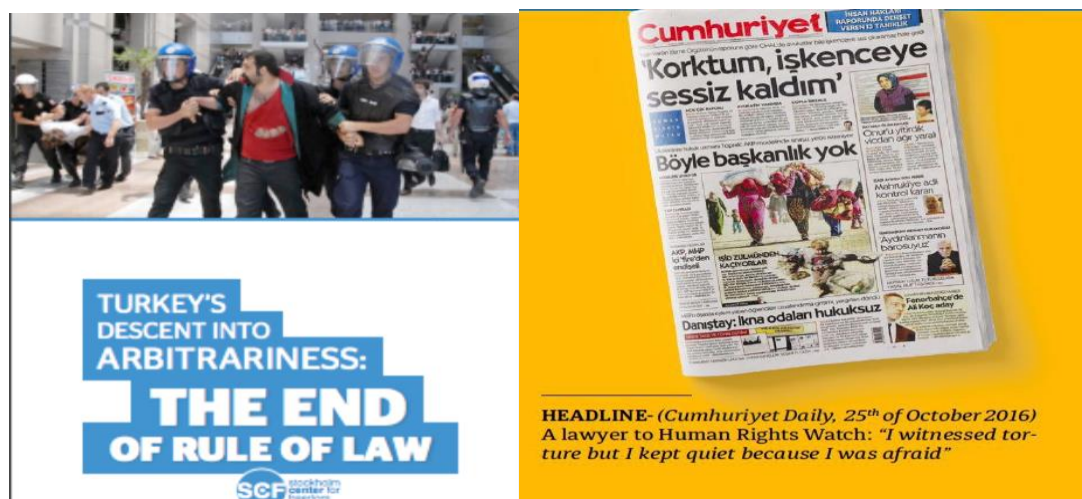
⁴¹ Human Rights Watch. A Blank Check Turkey’s Post-Coup Suspension of Safeguards Against Torture, p.44, October 2016. https://www.hrw.org/sites/default/files/report_pdf/turkey1016_web.pdf

⁴² Turkish Minute. Prosecutor Drops Torture Complaint Due To Impunity Under State Of Emergency, <https://www.turkishminute.com/2017/01/15/prosecutor-drops-torture-complaint-due-impunity-state-emergency/>

⁴³ Human Rights Watch. ‘Turkey: Emergency decrees facilitate torture,’ dated 25 October 2016. <https://www.hrw.org/news/2016/10/25/turkey-emergency-decrees-facilitate-torture>

TORTURE AND ILL-TREATMENT HAVE BECOME ALMOST EPIDEMIC

According to report named [“Turkey’s Descent Into Arbitrariness The End Of Rule Of Law”](#) by the SCF Turkish lawyers are powerless to stop torture.⁴⁴



HEADLINE- (Cumhuriyet Daily, 25th of October 2016)
A lawyer to Human Rights Watch: "I witnessed torture but I kept quiet because I was afraid"

The Arrested Lawyers Initiative have evidenced at least two incidents where detained lawyers were tortured. Lawyers MD and MA were subjected torture under police custody in Ankara.⁴⁵

⁴⁴ Stockholm Center for Freedom. Descent into Arbitrariness The End Of Rule Of Law. <https://stockholmcf.org/wp-content/uploads/2017/04/Turkey%E2%80%99s-Descent-Into-Arbitrariness-The-End-Of-Rule-Of-Law.pdf>

The torture cases in Turkey’s detention centers cited in a New York-based Human Rights Watch (HRW) report titled “A Blank Check: Turkey’s Post-Coup Suspension of Safeguards against Torture”¹² include several incidents in which lawyers were prevented from stopping the torture of their clients while in police custody. In one incident, a lawyer who was assigned a high-ranking officer as a client in the first few days after the coup attempt told HRW that when she first saw her client at Ankara Security Directorate headquarters, he had marks and injuries on his forehead and neck, scratches on his arms, bruises from handcuffs and scratches and bruises on the top of his feet. She said he also had a wound on his leg that looked like a piece of flesh was missing. The lawyer’s request to have a private meeting with her client was denied, a copy of the medical report was not provided and police threatened the lawyer with detention as well. The client told the court how he was tortured while in detention before the judge ruled to formally arrest him. Police whispered to a judge as the hearing was in progress and threatened the lawyer with arrest during a break. In another case reported by HRW, a lawyer recounted how her client was repeatedly beaten by police while in detention. The police whipped her client with plastic strips that are normally used as handcuffs and punched him with their fists in the head and his upper body. He couldn’t do anything to protect himself as he was handcuffed. The lawyer tried to intervene to stop the beating, but to no avail. She said: “At some point, I just turned away. I don’t know how many times they hit him. I couldn’t look at it anymore. I knew I couldn’t do anything to stop it. In the end he gave a statement...” The lawyer told Human Rights Watch that she would normally refuse to sign an interrogation report given under such conditions, or would make a note of the conditions on the report, but that she was too afraid to do either. “I was the only lawyer there at the time. There was violence everywhere and the police were not happy to see me there, saying, ‘What do these people need a lawyer for?’” The lawyer said the officer did not mention the ill-treatment during the court hearing that sanctioned his arrest and sent him to pre-trial detention.

⁴⁵ <https://arrestedlawyers.org/2017/08/02/the-scream-of-tortured-turkish-lawyer/>
<https://arrestedlawyers.org/2017/08/05/876/>

Other incidents: <https://arrestedlawyers.org/category/torture/>

LAWYERS' THE RIGHT TO FREE ASSOCIATION VANISHED

In the state of emergency, the Erdogan Regime has also targeted the right to free association. Since the time the state of emergency was first declared, **1412 societies and 139 charities** have been shut down and had their assets confiscated without compensation.⁴⁶



34 of the 1412 associations that were shut down were lawyer associations or law societies operating in **20** different provinces of Turkey. The majority of these lawyer associations' members also are under prosecution with false accusations of terrorist activity

Under the state of emergency regime, violation of the right to free assembly has not only been limited to the dissolution / closure of associations and foundations; but also membership to these organizations established and operated with government approval have been deemed evidence of criminal and terrorist activity in total breach of the principle of non-retrospectiveness and the principle that no one may be found guilty of an offence unless the offending act was a crime under the law at the time it was committed.

⁴⁶ <https://arrestedlawyers.org/2017/10/11/the-right-to-free-association-vanished-in-turkey/>

TURKEY UNDER THE STATE OF EMERGENCY



DETAINED LAWYERS - MERSIN



LAWYER AYSEGUL CAGATAY, ANKARA UNDER POLICE CUSTODY



DETAINED LAWYERS – KAYSERI



DETAINED LAWYERS – IZMIR



LAWYER ZEYNEL BALKIZ (with glasses), FORMER PRESIDENT OF MANISA BAR ASSOCIATION AND HIS BROTHER WHO IS LAWYER TOO.



LAWYER TANER KILIÇ, CHAIR OF THE AMNESTY TURKEY HAS BEEN UNDER ARREST FOR 8 MONTHS