

Joint Declaration concerning the breakdown of the Rule of Law and serious threats against the Independence of Judges, Lawyers, and Prosecutors in Turkey

24 January 2019

The Day of the Endangered Lawyer celebrates the independence of the legal profession and promotes solidarity with lawyers globally who continue to perform their professional duties under enormous pressure and external interference. This year, the focus is on the legal profession in Turkey.

As Bar associations, Law societies, and organisations representing the interests of lawyers, we express our alarm about the increasing attacks against members of the legal profession, the breakdown of the rule of law, and the human rights violations against lawyers, judges, and prosecutors in Turkey. On this day of the endangered lawyer, we join in support of our colleagues in Turkey.

The independence of the legal profession is an essential guarantee for the rule of law and the protection of human rights of all citizens. The independence of lawyers, judges, and prosecutors is protected by the UN Basic Principles on the Independence of the Judiciary, the UN Guidelines on the Role of Prosecutors, and the UN Basic Principles on the Role of Lawyers.

Prior and after the failed coup of 2016, the legal profession in Turkey has been the target of systematic persecution and attacks, which include: arbitrary arrests, detainment, interrogation, and prosecutions. Since 2016 to date, we estimate that more than 594 lawyers have been arrested, 1,546 prosecuted and 216 lawyers convicted (source: The Arrested Lawyers Initiative).

These attacks against the legal profession affect the whole population in Turkey. Lawyers are not able to communicate in private with their clients, which violates the principle of legal professional privilege and the confidentiality between lawyers and their clients. Citizens are sometimes unable to obtain legal representation because lawyers refrain from taking on cases for fear of reprisals against them. This severely restricts access to justice and erodes the rule of law in Turkey.

This escalation in the targeting of lawyers goes hand in hand with legislative reforms, adopted during and after the state of emergency, which have permanently curtailed the rule of law and the independence of the judiciary and the legal profession in Turkey.

These legal reforms granted the Turkish government new powers to interfere with the work carried out by the judiciary and the prosecution services, including the power to dismiss judges, prosecutors and court officials; to control appointments to key judicial positions and other institutions; and to arrest and prosecute thousands of lawyers, judges, prosecutors, and court officials.

In these challenging times for the legal profession, we join efforts to support our Turkish colleagues and to address these threats and violations of human rights.

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We respectfully urge the Government of Turkey to:

1. 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;
2. Guarantee that all applications against dismissal decisions are considered in a fair and public hearing in a reasonable time by a competent, independent and impartial tribunal established by law as provided for in Article 14.1 of the International Covenant on Civil and Political Rights (ICCPR) and Article 6.1 of the European Convention on Human Rights (ECHR), both instruments are legally binding on Turkey;
3. Ensure that lawyers can effectively perform their professional functions in accordance with the guarantees provided for in Article 14 of the ICCPR, Articles 5 and 6 of the ECHR, and the UN Basic Principles on the Role of Lawyers;
4. Amend the anti-terrorism legislation, the provisions in the Criminal Code and any other legislation that restricts the independence of the legal profession as recommended by the Council of Europe, the European Court of Human Rights, and the European Union;
5. Refrain from adopting any new laws, decrees, or provisions that permit the interference with the independence of the legal profession;
6. Immediately end the arbitrary and systematic arrest, prosecution and detention of lawyers, judges, prosecutors, and court officials, and drop the charges against those arbitrarily arrested and accused, and release those who have been detained, unless credible evidence of criminal misconduct is presented in proceedings that comply with international fair trial standards; and
7. Immediately end the interference and systematic persecution of Bar associations and Lawyers' associations as well as the arbitrary arrest and prosecution of their members.

London, 24 January 2019.

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Abogacía Española – Consejo General

Bar Human Rights Committee of England & Wales

Geneva Bar Association, Human Rights Commission

German Bar Association, Human Rights Committee

European Bar Human Rights Institute

Paris Bar Human Rights Institute

International Bar Association's Human Rights Institute

International Observatory for endangered lawyers

Law Society of England and Wales

Lawyers for Lawyers

Norwegian Bar Association, Human Rights Committee