



The UIA Institute for the Rule of Law

Paris, May 15, 2020

Statement on the Situation of Lawyers in Turkey

The UIA-IROL calls for the release of lawyers and non-discriminatory implementation of any release measures decided pursuant to the COVID-19 outbreak

On April 14, 2020, Turkey's parliament passed a law that will allow the release of tens of thousands of prisoners to ease overcrowding in jails and protect detainees from the coronavirus ("COVID-19"). While the UIA-IROL welcomes the steps taken by the Turkish parliament to combat the spread of COVID-19 in detention centers, it is deeply disturbed that the legislation excludes several categories of detainees, including **lawyers and human rights activists, politicians, journalists, academics, dismissed civil servants, civil society activists and many others detained on alleged 'terror related charges' arising from the exercise of their professional duties and activities.**

Around 45,000 eligible detainees will be released under judicial control until the end of May, and the Ministry of Justice is authorized to extend the period three times for a maximum of two months each time. A similar number of detainees would be released permanently under a separate law aimed at reducing prison overcrowding.

The adoption of these laws occurs at a time when the COVID-19 outbreak is intensifying in Turkey. On the day of its adoption, the country counted over 65,000 confirmed COVID cases, and the death toll rose above 1,400. On the previous day, the Minister of Justice, Mr. Abdulhamit Gül, announced that 17 detainees were infected by the virus and 3 died of it. He added that 79 detention center officers also tested positive.

At the outset of the outbreak in Europe, on March 20, 2020, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), in its principles relating to the treatment of persons deprived of their liberty in the context of the COVID-19 pandemic, called upon member States to use alternatives to deprivation of liberty, in particular in situations of overcrowding. The CPT stated also that special attention will be required to address the specific needs of detained persons, especially those in vulnerable and/or at-risk groups, such as older persons and persons with pre-existing medical conditions.

The UIA-IROL emphasizes the fact that any failure to offer adequate health care and conditions to detainees may constitute a violation of articles 2 and 3 of the European Convention on Human Rights as such failure constitutes cruel, inhuman or degrading treatment and violates the right to life and dignity.

On April 15, 2020, the European Parliament standing rapporteur on Turkey, Nacho Sánchez Amor, and the Chair of the European Parliament's Delegation to the EU-Turkey Joint Parliamentary Committee, Sergeev Lagodinsky, expressed their deepest concern and disappointment about the new law passed: *"the legal amendments by the Turkish Parliament allowing the release of 90.000 prisoners, but excluding those imprisoned for their political activities and citizens in pre-trial detention, is a great disappointment. We had hoped that the Turkish Parliament would adopt a fair, responsible and non-discriminatory law that would save lives from being lost in overcrowded Turkish prisons. Such a law is needed, especially for those unjustly detained and imprisoned for political reasons. **Instead, the Turkish ruling parties have decided to deliberately expose the lives of journalists, human rights defenders and those whom they deem to be political opponents to the risk of the deadly disease COVID 19"**.*

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Background – The situation of lawyers in Turkey since July 2016

In the aftermath of the failed *coup d'état* in July 2016, the Turkish government declared a state of emergency and adopted a series of decree-laws that seriously undermined human rights and the rule of law across the country. Although the state of emergency was lifted in July 2018, many of the decree-laws were integrated into ordinary laws and the persecution of lawyers continues, including mass arrests, unfair trials and harsh sentences.

According to the latest reports, since 2016, the number of prisoners has risen to nearly 300,000 - the second-largest prison population in Europe and the most overcrowded prison system as of January 2019, according to data from the Council of Europe.

Among them is a large number of lawyers targeted solely for engaging in their professional activities. The use of “mass trials” against lawyers or lawyers’ associations is frequent and fundamental rights and procedural safeguards are often not respected. As a recent striking example, on March 12, 2020, 13 prominent human rights lawyers from Diyarbakir, Urfa and Sirmak were detained, namely Mesut Beştaş, Özkan Avcı, Zeynep Işık, Bahar Oktay and Osman Çelik, from the Diyarbakir Bar Association, Hidayet Enmek, Sevda Özbingöl Çelik, Emrah Baran, Hüseyin İzol, Metin Özbadem, Cemo Tüysüz and Şeymus İnal, from the Şanlıurfa Bar Association, and Gürgün Kadirhan from the Sirmak Bar Association. The thirteen lawyers are being accused of “assisting a terrorist organization” through enabling communication between convicts in prison. All lawyers’ computers and some case files were seized.

In the same vein, on February 6, 2020, the Turkish police arrested Ms. Gülseren Yoleri, human rights lawyer and Istanbul Branch President of the Human Rights Association (İnsan Hakları Derneği – İHD), for her participation on October 12, 2019 in a sit-in action in front of the İHD offices in Istanbul during the 759th gathering of the Saturday Mothers. It appears that the charges against Ms. Gülseren Yoleri are aimed solely at curtailing the peaceful exercise of her freedom of expression and assembly, as well as her commitment to human rights.

The UIA-IROL urges the Turkish authorities to respect the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment by ensuring that all prisoners, even those deemed to be political prisoners, are included in the scope of the recent law adopted providing for the release of prisoners as a response to the COVID-19 pandemic.

The legal profession is an essential component in upholding the rule of law in a free society, and lawyers play a fundamental role in ensuring the protection of human rights and fundamental freedoms for all. The UIA-IROL calls upon the Turkish authorities to put an end to all forms of harassment of Turkish lawyers and human rights activists and ensure that in all circumstances such lawyers and activists are able to carry out their professional activities and duties without fear of retaliation and persecution.

More about the UIA-IROL

The Institute for the Rule of Law of the International Association of Lawyers (UIA-IROL) promotes the Rule of Law and supports and defends, in particular, (1) lawyers, judges and human rights defenders who are harassed, threatened and/or persecuted in the exercise of their professions, (2) the independence of the legal and judicial professions, and (3) the UN Basic Principles on the Role of Lawyers, especially in defense of human rights.

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