

**IN THE EUROPEAN COURT OF HUMAN RIGHTS**

**Application no. 41949/19 and 5 other applications (no. 41955/19, no. 41961/19,  
no. 25989/21, no. 35451/21, and no. 36145/21)**

**BETWEEN:**

**Engin Gökoğlu, Aycan Çiçek, Ahmet Mandacı, Didem Baydar Ünsal,  
Ayşegül Çağatay Gökçe, Zehra Özdemir, Yağmur Ereren Evin, Ebru Timtik, Aytaç  
Ünsal, Barkın Timtik, Behiç Aşçı, Selçuk Kozağaçlı, Yaprak Türkmen, Özgür  
Yılmaz, Gülser Sarıgül, and Görkem Ağdede**

**Applicants**

**– and –**

**TÜRKİYE  
Respondent**

**– and –**

**Turkey Human Rights Litigation Support Project  
European Association of Lawyers for Democracy and World Human Rights  
International Bar Association's Human Rights Institute  
International Commission of Jurists  
Lawyers for Lawyers  
Interveners**

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**WRITTEN SUBMISSIONS OF THE  
INTERVENERS**

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## I. Introduction

1. The Third-Party Interveners (“the Interveners”) submit these comments with leave of the President of the Second Section of the European Court of Human Rights (“the ECtHR” or “the Court”), granted on 4 June 2026 pursuant to Rule 44(3) of the Rules of Court. The Interveners are organisations with expertise in international human rights law and the protection of the legal profession, including standards related to the independence of lawyers.
2. The present case concerns the pre-trial detention of 16 lawyers working at the People’s Law Office (Halkın Hukuk Bürosu) in Türkiye, in connection with activities carried out in a professional capacity and in defence of human rights. Their complaints, relating to Article 5 of the European Convention on Human Rights (“the ECHR”) (right to liberty), Article 10 ECHR (right to freedom of expression) and Article 11 ECHR (right to freedom of assembly and association), raise critical questions regarding lawyers’ ability to practise their profession independently and without undue interference in Türkiye and other Council of Europe Member States.
3. As highlighted by the Court, the independence of the legal profession is essential for the fair administration of justice within a democratic society governed by the rule of law.<sup>1</sup> It is central to access to justice and the right to a fair trial, and therefore to the protection of the entire range of Convention rights. In Türkiye, lawyers have increasingly faced improper restrictions, intimidation and harassment based on their professional activities, particularly when defending human rights. In this context, the Interveners submit that the present case should be subject to strict scrutiny before the Court, explicitly informed by the applicants’ role as lawyers and the standards on the independence of the legal profession under international human rights law.
4. With a view to assisting the Court in its interpretation and application of the Convention in the present case, this submission provides an overview of international and regional standards on the independence and protection of the legal profession (Section II); the evidence of the intensification of interference with and reprisals against the legal profession in Türkiye (Section III); and the lack of effective domestic remedies against detention-related human rights violations (Section IV).

## II. Independence and protection of the legal profession under international and regional human rights law

5. Lawyers and their professional associations play an essential role in upholding the rule of law, securing access to justice, and ensuring the protection of human rights and fundamental freedoms.<sup>2</sup> The free exercise of the legal profession and access to an independent lawyer constitute key guarantees for a practical and effective right to a fair trial, protection of due process, and for the right to equality before the courts.<sup>3</sup> They are also essential for ensuring respect for all Convention rights, including the right to liberty and freedom from torture and other cruel, inhuman or degrading treatment or punishment of individuals charged with

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<sup>1</sup> ECtHR, *Tahir Elçi and Others v. Turkey*, App. nos. 23145/93 and 25091/94, 13 November 2003, § 669; *Sialkowska v Poland*, App. no. 8932/05, 22 March 2007, § 111; *Mor v France*, App. no. 28198/09, 15 December 2011, § 42; *Dayanan v Turkey*, App. no. 7377/03, 13 October 2009, § 32; *Michaud v France*, App. no. 12323/11, 6 December 2012, § 118; *Morice v France*, App. no. 29369/10, 23 April 2015, § 132.

<sup>2</sup> Preamble of the Council of Europe Convention for the Protection of the Profession of Lawyer (CM(2024)191-add1final), adopted on 12 March 2025 (hereinafter “the Convention on Lawyers”).

<sup>3</sup> ECtHR, *Atristain Gorosabel v. Spain*, 18 January 2022, § 41; *Airey v Ireland*, App. no. 6289/73, 9 October 1979, § 24; Preamble of the UN Basic Principles on the Role of Lawyers (1990); UN Human Rights Committee, General Comment No. 32 (2007), § 10; UN Special Rapporteur on the independence of judges and lawyers, Diego García-Sayán, “Report on the Protection of lawyers against undue interference in the free and independent exercise of the legal profession”, A/HRC/50/36, 22 April 2022, §§ 9-14.

criminal offences;<sup>4</sup> and more generally are a “chief pillar” of effective protection and implementation of human rights.<sup>5</sup>

6. Accordingly, States have an obligation to respect, protect and ensure the independence of the legal profession; including a duty to refrain from undue interference with its members’ exercise of their professional activities.<sup>6</sup> At the regional level, the adoption of the Council of Europe Convention for the Protection of the Profession of Lawyer (“the Convention on Lawyers”) on 12 March 2025 effectively reflects a consensus among European States on the fundamental role of lawyers in democratic societies and the need for their enhanced protection.<sup>7</sup> It is the first international treaty specifically aimed at securing the independence of the legal profession, although largely reflective of existing international standards.
7. Among other safeguards, the Convention on Lawyers requires State parties to ensure that lawyers do not suffer adverse consequences due to identification with their clients (Article 6(5)) and can offer and provide legal assistance, including in the defence of human rights, with effective access to detained clients and to relevant materials under the control of competent authorities (Article 6(1)(a), 6(1)(c) and 6(1)(e)). It includes a reaffirmation of lawyers’ right to freedom of expression, including informing the public and participating in public discussion (Articles 6(1)(i), 7(1) and 7(2)). It also contains an obligation for States to ensure that lawyers are able to perform their professional duties without facing physical attacks or other forms of improper interference (Article 9(4)(a)).
8. At the universal level, the United Nations Basic Principles on the Role of Lawyers (1990) (“UN Basic Principles”), the foundational international text on the protection of the legal profession, affirms that lawyers must be able to perform all their professional functions freely and independently, without intimidation, hindrance, harassment, or improper interference.<sup>8</sup> The UN Human Rights Committee has similarly emphasised that lawyers “should be able to advise and to represent persons [...] in accordance with generally recognised professional ethics without restrictions, influence, pressure or undue interference from any quarter”.<sup>9</sup> More broadly, the UN Declaration on Human Rights Defenders recognises a right of any person to “offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms”.<sup>10</sup>
9. As part of the rights and guarantees necessary to ensure the independence of the legal profession, the UN Basic Principles recognise lawyers’ right to join self-governing professional associations and to participate in public discussion on “matters concerning the law, the administration of justice and the promotion and protection of human rights” (Principles 23 and 24). Their exercise of this right is connected with their duty to uphold human rights “in protecting the rights of their clients and in promoting the cause of justice” (Principle 14). The UN Basic Principles indicate that governments shall not threaten to or

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<sup>4</sup> Preamble of the UN Basic Principles on the Role of Lawyers; UN Special Rapporteur on torture report, A/HRC/37/50/Add.1 (2017) §§ 26-34, §63; UN Human Rights Committee, General Comment no 35 Article 9 (Liberty and security of person), CCPR/C/GC/35, § 58; UN Special Rapporteur on the independence of judges and lawyers, Report on the protection of lawyers against undue interference (supra) § 11.

<sup>5</sup> OHCHR and International Bar Association, “Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers” (2003), p. 25.

<sup>6</sup> For greater detail, see Amicus Curiae Brief by the Interveners and 7 other legal and human rights organisations in the Legal Proceedings Against the Istanbul Bar Association Executive Board (Case File No:2025/96), 19 August 2025 (thereinafter “ISBA Amicus curiae”) (available at: <https://www.turkeylitigationsupport.com/publications/turkiye-istanbul-bar-association-board-direct-assault-independence-legal-profession>).

<sup>7</sup> Türkiye has not signed the Convention to date.

<sup>8</sup> Principles 16 to 23 of the UN Basic Principles on the Role of Lawyers.

<sup>9</sup> UN Human Rights Committee, General Comment 32, Article 14, Right to equality before courts and tribunals and to fair trial, CCPR/C/GC/32, 23 August 2007, § 34.

<sup>10</sup> Article 9(3)(c) of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (1998).

actually prosecute or sanction lawyers for acting in accordance with their professional duties, standards and ethics (Principle 16); and lawyers shall not be identified with their clients or their causes simply for representing them (Principle 18). If facing charges or complaints in their professional capacity, lawyers must be afforded due process protections (Principles 27-29).

10. In addition, the UN Declaration on Human Rights Defenders makes clear that States must ensure the protection of human rights defenders, including lawyers, against retaliation, pressure or any other arbitrary action related to the legitimate exercise of human rights and fundamental freedoms.<sup>11</sup> Similarly, the former UN Special Rapporteur on the Independence of Judges and Lawyers has emphasised that States must not prosecute, disbar, or otherwise sanction lawyers as a means of silencing them, preventing them from criticising public policies, or obstructing their legal representation of specific clients.<sup>12</sup>
11. In its jurisprudence, this Court has underlined lawyers' essential role in a democratic society and in the protection of rights guaranteed by the ECHR.<sup>13</sup> In *Tahir Elçi and Others v Turkey*, the Court stressed that "[t]he freedom of lawyers to practise their profession without undue hindrance is an essential component of a democratic society and a necessary prerequisite for the effective enforcement of the provisions of the Convention, in particular the guarantees of fair trial and the right to personal security".<sup>14</sup>
12. The Court thus affirmed that "[p]ersecution or harassment of members of the legal profession [...] strikes at the very heart of the Convention system" and "allegations of such persecution in whatever form, but particularly large-scale arrests and detention of lawyers and searching of lawyers' offices, will be subject to especially strict scrutiny".<sup>15</sup> The Court has also found that terrorism-related criminal proceedings against lawyers in relation to their defence of persons accused of terrorism offences has an "inevitable chilling effect [...] on all persons involved in criminal defence work or human rights protection".<sup>16</sup> The Court has recognised that lawyers must be able to comment on matters of public concern, especially where their statements contribute to debate on the administration of justice.<sup>17</sup> Restrictions of lawyers' freedom of expression are thus subject to strict scrutiny.<sup>18</sup>
13. The Interveners therefore consider that the alleged ECHR violations in this case need to be evaluated in line with this jurisprudence and in light of the international and regional standards on the independence of the legal profession outlined above, taking into account the applicants' professional rights and duties as human rights lawyers, and to provide further guidance on the scope and application of these international and regional standards in the context of this case.

### III. Intensifying interference with the legal profession in Türkiye

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<sup>11</sup> UN Special Rapporteur on the independence of judges and lawyers, Report on the Protection of lawyers against undue interference (supra n 3) § 17; ISBA Amicus curiae (supra n 6), § 10.

<sup>12</sup> Report of the UN Special Rapporteur on the Independence of Judges and Lawyers, A/HRC/26/32, 28 April 2014, § 68.

<sup>13</sup> ECtHR, *Morice v France* [GC], § 134; *Tahir Elçi and Others v. Turkey*, § 669; *Sialkowska v Poland*, § 111; *Mor v France*, § 42; *Dayanan v Turkey*, § 32; *Michaud v France*, § 118 (supra n 1).

<sup>14</sup> ECtHR, *Tahir Elçi and Others v. Turkey* (supra n 1), § 669.

<sup>15</sup> *ibid.*

<sup>16</sup> *ibid.*, § 669 and § 714; see also *Bagirov v Azerbaijan*, App. no. 81024/12, 25 June 2020, final on 25 September 2020, § 83 (concerning disbarment for criticising the State).

<sup>17</sup> ECtHR, *Morice v France* [GC] (supra n 1), § 132.

<sup>18</sup> See ECtHR, *Amihalachioaie v Moldova*, App. no. 60115/00, 20 April 2004; *Mor v France* (supra n 1) §§ 43-44; *Morice v France* (supra n 1), §§ 134-138, §§ 149-153; *Nikula v Finland*, App. no. 31611/96, 21 March 2002, § 55.

14. The independence of lawyers is formally enshrined in Türkiye's legislation. Article 36 of the Constitution guarantees the freedom to claim rights and the right to a fair trial.<sup>19</sup> The legal profession is defined by law as a public service and lawyers as independent practitioners,<sup>20</sup> whose role includes ensuring the full application of the law.<sup>21</sup> The independence of the legal profession is recognised in Turkish law as a cornerstone of the justice system and a central guarantee of an effective right to a fair trial.<sup>22</sup>
15. Despite these formal guarantees, Türkiye has witnessed a severe erosion in practice of the legal guarantees safeguarding the independence of lawyers.<sup>23</sup> Between 2016 and 2024, over 1,700 lawyers were prosecuted on "terrorism charges", often without the required ex-ante authorisation from the Minister of Justice.<sup>24</sup> As of February 2024, over 700 lawyers had been remanded to pre-trial detention, and 553 lawyers had been convicted and sentenced to a total of 3,386 years in prison on alleged "terrorism-related" offences.<sup>25</sup> These prosecutions took place across 77 of Türkiye's 81 provinces.<sup>26</sup> This data evidences a pattern of terrorism-related charges against lawyers for representing persons accused of such offences,<sup>27</sup> and a widespread practice of misuse of criminal legislation and pre-trial detention against members of the legal profession.<sup>28</sup>
16. The broad terms of anti-terrorism legislation and other criminal provisions used to detain and prosecute lawyers, combined with their unforeseeable application, have allowed for the conflation of legitimate defence activities and conduct that may be deemed a "criminal offence".<sup>29</sup> Lawyers have thus frequently faced detention and prosecution due to being

<sup>19</sup> "Everyone has the right of litigation either as plaintiff or defendant and the right to a fair trial before the courts through legitimate means and procedures [...]".

<sup>20</sup> Article 1 of Attorneyship Law No. 1136, adopted 19 March 1969.

<sup>21</sup> *ibid.*, Article 2.

<sup>22</sup> *ibid.*, Article 1; Av. Talay Şenol, "Bağımsız Avukatlık", TBB Dergisi, Sayı 54, 2004, 269-291.

<sup>23</sup> See UN Special Rapporteur on the Independence of Judges and Lawyers, Report on the Protection of lawyers against undue interference (supra n 3), §§ 35-36, § 42, § 59, §§ 66-67, §80 and §87; Council of Europe Commissioner for Human Rights, Memorandum following the Commissioner's visit to Türkiye from 1 to 5 December 2025, §§ 37-40

<sup>24</sup> International Bar Association: Human Rights Institute and The Arrested Lawyers Initiative, "A Profession on Trial: The Systematic Crackdown Against Lawyers in Türkiye" (2024), §§ 1 and 12 (hereinafter "A Profession on Trial").

<sup>25</sup> *ibid.*

<sup>26</sup> *ibid.*

<sup>27</sup> Office of the UN High Commissioner for Human Rights, "Report on the impact of the state of emergency on human rights in Turkey, including an update on the South-East. January-December 2017", p. 3; Joint submission by Lawyers for Lawyers, the Law Society of England and Wales, and the International Bar Association's Human Rights Institute to the Committee Against Torture's review of Turkey at its 80th Session, 8-16 July 2024 (10 June 2024), pp. 10-12 (hereinafter "joint CAT submission") (<https://www.lawyersforlawyers.org/wp-content/uploads/2024/06/Joint-submission-on-Turkey-for-the-CATs-80th-session-final-100624.pdf>), pp. 12-14; see also Amnesty International, "Turkey: Politicians, lawyers, activists targeted in new wave of mass arrests" (26 October 2020), pp. 4-5.

<sup>28</sup> See further Joint submission by Lawyers for Lawyers, the Law Society of England and Wales, the International Bar Association's Human Rights Institute, and the International Commission of Jurists for the UN Human Rights Council's Universal Periodic Review on Türkiye (11 October 2024), (hereinafter "joint UPR submission"), (<https://www.lawyersforlawyers.org/wp-content/uploads/2025/02/Joint-UPR-Submission-on-Turkey-Final-11102024.pdf>).

<sup>29</sup> Joint Submission by Lawyers for Lawyers, the Law Society of England and Wales, the International Bar Association's Human Rights Institute, and the International Commission of Jurists to the UN Human Rights Committee for consideration of the 2nd Periodic Report of Türkiye (16 September 2024) (<https://www.lawyersforlawyers.org/wp-content/uploads/2024/09/Turkiye-CCPR-Submission.pdf>) (hereinafter "joint CCPR submission"), § 36; Joint CAT submission (supra n 27), p. 11; A Profession on Trial, §§ 4-10. Frequently applied provisions include Anti-Terrorism Law No. 3713, Article 314 ("forming, leading, or membership of an armed terrorist organisation"), and Article 220 ("formation of organisations with the aim of committing a criminal offence") of the Turkish Penal Code (TPC) No. 5237 (see ECtHR, *Selahattin Demirtaş v. Turkey (No. 2)*, App. no. 14305/17, 22 December 2020, §§ 278-280; *Yüksel Yalçınkaya v Türkiye*

identified with their clients, including when representing dissenting or disfavoured independent voices facing judicial harassment. For example, opposition politician Ekrem İmamoğlu was arrested and detained in March 2025 on charges relating to alleged corruption and organised crime offences.<sup>30</sup> His detention and prosecution were widely considered arbitrary and politically motivated, including by CoE authorities, in particular considering his position as the principal challenger to President Erdoğan in the next presidential elections.<sup>31</sup> A leading defence lawyer for Mr İmamoğlu, Mehmet Pehlivan, was arrested in March 2025 for alleged financial crimes, then re-arrested and detained in June 2025 based on vague witness statements pending an investigation into his alleged “membership of a criminal organization”.<sup>32</sup> Mr Pehlivan’s repeated arrests and detention have been described by legal and human rights organisations as ‘judicial persecution’ owing to his representation of Mr İmamoğlu.<sup>33</sup>

17. Judicial proceedings against lawyers have specifically targeted their legitimate professional activities in defence of human rights and the rule of law.<sup>34</sup> Thus, in January 2025, the President and board members of the İstanbul Bar Association were indicted for alleged “terrorist propaganda” and “public dissemination of misleading information” in respect of statements raising human rights concerns about the deaths of journalists Nazım Daştan and Cihan Bilgin, allegedly killed in a Turkish drone strike, and the alleged lack of an effective investigation.<sup>35</sup> In separate criminal proceedings, board member Fırat Epözdemir was placed in pre-trial detention for four months in connection with alleged terrorism-related offences.<sup>36</sup>

[GC], App. no. 15669/20, 26 September 2023; *Bakır and others v Turkey*, App. no. 46713/10, 10 July 2018, §§ 65–69).

<sup>30</sup> For an overview of the proceedings, see Human Rights Watch, “Timeline of Key Actions Since 2024 against Ekrem İmamoğlu and the Republican People’s Party”, 3 March 2026 (<https://www.hrw.org/video-photos/interactive/2026/03/03/timeline-of-key-actions-since-2024-against-ekrem-imamoglu-and>).

<sup>31</sup> See for instance Council of Europe Congress of Local and Regional Authorities, “Mayor İmamoğlu’s Detention Is an Assault on Democracy; He Must Be Released”, 23 March 2025; Parliamentary Assembly of the Council of Europe, “PACE calls for the ‘immediate release’ of the Mayor of İstanbul, whose arrest and detention ‘appear politically-motivated’”, 9 April 2025; Open letter by 58 human rights organisations to European Commission President Ursula von der Leyen and European Council President António Costa: “Assault on the Rule of Law and Human Rights in Türkiye”, 15 May 2025 (<https://www.turkeylitigationsupport.com/publications/open-letter-eu-leaders-rule-of-law-human-rights-turkiye>); Amnesty International, “Türkiye: Politically-motivated prosecution of İstanbul mayor raises serious fair trial concerns”, 6 March 2026 (<https://www.amnesty.org/en/latest/news/2026/03/turkiye-politically-motivated-prosecution-of-istanbul-mayor-raises-serious-fair-trial-concerns/>).

<sup>32</sup> Joint Statement by the International Legal and Human Rights Community on Unacceptable Attacks on the Legal Profession in Turkey, 14 April 2025 (<https://www.turkeylitigationsupport.com/publications/turkey-attacks-legal-profession-unacceptable-joint-statement>); Human Rights Watch and Turkey Litigation Support Project, “Turkey: Jailed Mayor’s Lawyer Detained”, 26 June 2025 (<https://www.turkeylitigationsupport.com/publications/turkey-jailed-mayor-lawyer-detained-mehmet-pehlivan>); Joint Statement on Unlawful Detention of Lawyer Mehmet Pehlivan and Escalating Repression of the Legal Profession in Turkey by the Interveners and 16 other legal and human rights organisations, 1 July 2025 (<https://www.turkeylitigationsupport.com/publications/joint-statement-mehmet-pehlivan-detention-repression-legal-profession-turkey>).

<sup>33</sup> *ibid.*

<sup>34</sup> See UN Special Rapporteur on the Independence of Judges and Lawyers, Report on the protection of lawyers against undue interference (supra n 3), § 42; Joint UPR submission, §§ 30-35; UN Human Rights Committee, Concluding observations on the second periodic report of Türkiye, CCPR/C/TUR/CO/2 (28 November 2024), § 39; Joint CAT submission (supra n 27), pp. 10-12; UN Committee Against Torture, Concluding observations on the fifth periodic report of Türkiye, CAT/C/TUR/CO/5 (14 August 2024), § 38(a).

<sup>35</sup> See ISBA Amicus curiae (supra n 6).

<sup>36</sup> 56 International Lawyers and Human Rights Organisations Condemn Crackdown on İstanbul Bar Association’s Leadership and Call for Action, 27 January 2025 (<https://www.turkeylitigationsupport.com/publications/istanbul-bar-association-crackdown-condemnation-international-organisations>).



In parallel, civil courts ordered their removal from the board in an unprecedented civil action.<sup>37</sup> Described as ‘legal harassment’ by several Special Rapporteurs (independent experts) of the UN Human Rights Council, these proceedings have been characterised as retaliation against the association for fulfilling its professional role by informing public discussion on a matter concerning human rights and the rule of law.<sup>38</sup> They form part of a broader repression of lawyers’ professional activities,<sup>39</sup> targeting them as human rights defenders,<sup>40</sup> and often based on their exercise of the rights to freedom of expression and freedom of assembly.<sup>41</sup>

18. Although the pervasive misuse of pre-trial detention and sentencing has been extensively documented, recent years have also witnessed a growing resort to practices that deprive political prisoners held in closed and high-security prisons of their legally guaranteed rights to conditional release (parole) and supervised release (probation).<sup>42</sup> These practices, popularly referred to as “burning sentence execution” (“*infaz yakma*”), have been used as another means of arbitrarily and illegitimately restricting and punishing lawyers’ professional activities, resulting in the unlawful extension of their detention and suffering.<sup>43</sup> Those affected by such practices include the human rights lawyer Selçuk Kozağaçlı, one of the applicants in the present case, whose conditional release requests have been refused since February 2025 in circumstances that have been the subject of a joint communication to the UN Working Group on Arbitrary Detention, raising concerns as to the absence of a proper legal basis, the lack of due process guarantees, and the reliance on his exercise of his rights in prison as a ground for refusal.<sup>44</sup>

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<sup>37</sup> Bianet, ‘Court removes İstanbul Bar board over statement on killed Kurdish journalists’, 21 March 2025 (<https://bianet.org/haber/court-removes-istanbul-bar-board-over-statement-on-killed-kurdish-journalists-305707>).

<sup>38</sup> ISBA Amicus curiae (supra n 6); UN OHCHR Press Releases, “Criminalisation of İstanbul Bar Association and dismissal of executive board, a chilling attack on the independence of lawyers: UN experts”, 30 May 2025; Róisín Pillay and Ayşe Bingöl Demir, “The Case of the İstanbul Bar Association: Justice on Trial in Türkiye?”, *Opinio Juris*, 9 September 2025 (<https://opiniojuris.org/2025/09/09/the-case-of-the-istanbul-bar-association-justice-on-trial-in-turkiye/>).

<sup>39</sup> Activities such as representing specific clients, visiting detainees, making public statements, commenting on ECtHR cases, engaging with international organisations, or criticising State practices have all been cited as grounds for prosecution and conviction. (Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, Report Following Her Visit to Turkey From 1 to 5 July 2019, 19 February 2020, §§ 167-177; Joint UPR submission, § 34 and § 36).

<sup>40</sup> See Joint Statement by the International Legal and Human Rights Community on Unacceptable Attacks on the Legal Profession in Turkey, 14 April 2025 (supra n 32).

<sup>41</sup> ISBA Amicus curiae (supra n 6).

<sup>42</sup> Association of Lawyers for Freedom (Özgürlük İçin Hukukçular Derneği, ÖHD), Foundation for Society and Legal Studies (Toplum ve Hukuk Araştırmaları Vakfı, TOHAV) Media and Law Studies Association (Medya ve Hukuk Araştırmaları Vakfı, MLSA), and The World Organization against Torture (OMCT), Joint Alternative Report to the Committee against Torture in relation to its review of the fifth periodic Report of Türkiye, June 2024, at p. 34 (<https://www.omct.org/site-resources/files/OMCT-Alternative-Report-on-Turkey-CAT-80th-Session.pdf>); Birgün, “New human rights violations in prisons under the pretext of discipline: Sentences are being burned” [in Turkish], 26 July 2022 (<https://www.birgun.net/haber/cezaevlerinde-disiplin-bahanesiyle-yeni-hak-ihlali-infazlar-yaniyor-396610>); Media and Law Studies Association, “Double standards in sentencing laws: Saman is free, hundreds of detained persons await”, 21 November 2023 (<https://www.mlsaturkey.com/tr/samastin-tahliyesi-iyi-hali-mi-yoksa-cifte-standart-mi>); Yeni Yaşam newspaper, “Burning sentence execution is a new form of torture” [in Turkish] (<https://yeniyaşamgazetesi9.com/infaz-yakma-yeni-iskence-yontemidir/>).

<sup>43</sup> Turkey Human Rights Litigation Support Project, European Association of Lawyers for Democracy and World Human Rights, International Bar Association’s Human Rights Institute, the Law Society of England and Wales, and Lawyers for Lawyers, “Arbitrary Denial of Parole for Political Prisoners: Joint UN Communication on the Detention of Human Rights Lawyer Selçuk Kozağaçlı”, 2 February 2026 (<https://www.turkeylitigationssupport.com/publications/joint-un-communication-selcuk-kozagaccli>).

<sup>44</sup> *ibid.*

19. Harassment through judicial processes against lawyers for fulfilling their professional duties has occurred with increasing intensity since 2016,<sup>45</sup> and appears to have been influenced by the evolving interests of the ruling political coalition.<sup>46</sup> Other simultaneous attacks on the independence and effectiveness of the legal profession in Türkiye have included arbitrary revocation of lawyers' professional licences and closure of lawyers' associations,<sup>47</sup> arbitrary disciplinary proceedings linked to a weakening of bar associations' independence,<sup>48</sup> torture or ill-treatment during prison visits and in other professional contexts,<sup>49</sup> and unlawful searches of offices and homes and confiscation of legally privileged materials.<sup>50</sup> Changes to anti-terrorism laws and their application have allowed increasing and now systematic restrictions or outright denial of communications with detained clients,<sup>51</sup> lawyer-client confidentiality,<sup>52</sup> and access to case files<sup>53</sup> in terrorism-related cases. Other rules introduced by emergency decree during the 2016-2018 state of emergency have served to severely weaken the capacity for lawyers to carry out their professional roles in courts.<sup>54</sup>
20. The rights violations and undue interferences to which lawyers have been routinely and unforeseeably exposed have severely restricted their ability to perform their professional duties effectively and independently,<sup>55</sup> and have had a deeply chilling effect on the entire legal profession. In turn, this has significantly weakened human rights protection, fostered a climate of impunity, and contributed to the erosion of the rule of law and access to justice in

<sup>45</sup> See Human Rights Watch, "Lawyers on Trial: Abusive Prosecutions and Erosion of Fair Trial Rights in Turkey" (2019); Joint Statement by the International Legal and Human Rights Community on Unacceptable Attacks on the Legal Profession in Turkey, 14 April 2025 (supra n 32).

<sup>46</sup> On the tactical nature and timing of judicial proceedings based on the interests of the ruling coalition see Turkey Human Rights Litigation Support Project, "Dismantling Human Rights, Democracy and the Rule of Law in Türkiye (I): Judicial Independence and Court Capture", May 2026 (<https://www.turkeylitigationssupport.com/publications/dismantling-human-rights-democracy-rule-of-law-turkey-1>).

<sup>47</sup> Joint UPR submission (supra n 28), § 13; UN Special Rapporteur on the Independence of Judges and Lawyers, Report on the protection of lawyers against undue interference (supra n 3), § 47; Joint CAT submission (supra n 27), pp. 7-9; UN Special Rapporteur on the Independence of Judges and Lawyers, Report on the role of bar associations, A/73/365 (5 September 2018), § 36.

<sup>48</sup> Joint CCPR submission (supra n 29), § 23.

<sup>49</sup> Joint UPR submission (supra n 28), §§ 27-29.

<sup>50</sup> Joint CCPR submission (supra n 29), §§ 55-56; Joint UPR submission (supra n 28), § 31. Recent examples include the operation leading to the arrests of two lawyers from the Progressive Lawyers' Associations, Ezgi Önal and Yunusemre Işık, on 5 July 2026 (<https://bianet.org/haber/chd-istanbul-subebaskani-ezgi-onalan-ve-avukat-yunusemre-isik-tutuklandi-321325>).

<sup>51</sup> Article 154(2) of the Code of Criminal Procedure (CCP) permits investigating judges to deny access to a lawyer for 24 hours in terrorism-related cases. In practice, such restrictions often extend beyond 24 hours. See UN Committee Against Torture, Concluding observations on the fifth periodic report of Türkiye (supra n 34), § 12(b); Joint CCPR submission (supra n 29), § 31. Civil society organisations have expressed concern about potential judicial reform entailing further restrictions on lawyers' access to their clients (<https://cisst.org.tr/mahpuslarin-avukatlarıyla-gorusme-hakina-yonelik-olasi-kisitlamalara-iliskin-aciklama/>).

<sup>52</sup> See *Demirtaş and Yüksekdağ Şenoğlu v Türkiye*, Apps no. 10207/21 and 10209/21, 6 June 2023. Since 2016, Article 6 of Emergency Decree no. 676, codified by Law No 6749, allows authorities to record, observe, and terminate lawyer-client meetings in terrorism-related cases, effectively abolishing legal privilege.

<sup>53</sup> See joint CCPR submission (supra n 29), §§ 58-61; Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on his mission to Turkey, A/HRC/35/22/Add.3 (7 June 2017), § 37, §§ 72-74.

<sup>54</sup> Courts can hold hearings and issue verdicts without lawyers present (CCP Articles 188/1 and 216/3) reject requests to cross-examine witnesses (CCP Article 178), and rely on anonymous witnesses who testify remotely with their voices altered and identities obscured (CCP Article 139/3).

<sup>55</sup> Notably, lawyers convicted for "offences against the security of the State or the Constitutional order", including in the Anti-Terrorism Law, are subject to automatic disbarment (Attorneyship Law No. 1136). In addition, since 2016, courts have had the power to bar lawyers for up to two years from representing clients in terrorism-related cases if they themselves face similar investigations (CPC Article 151/3-4).



Türkiye. This pattern of interference with the legal profession sets the broader context in which the applicants' pre-trial detention has taken place.

#### **IV. The lack of effective remedies against detention-related human rights violations**

21. The absence of effective remedies against arbitrary deprivation of liberty in Türkiye is a structural problem affecting all those detained in connection with politically disfavoured activities, leaving the associated violations of the right to liberty and security without redress at the domestic level. This lack of effective legal remedies, including against the use of detention as a means of silencing lawyers in the exercise of their professional duties, particularly when representing clients in human rights cases, has been a critical factor in further exacerbating this already deteriorating situation.
22. First, procedural violations stemming from the interferences with lawyers' professional duties described in Section II above have gravely undermined the effectiveness of remedies against the widespread misuse of pre-trial detention in connection with alleged terrorism-related offences. More specifically, it has become customary in cases involving alleged terrorism offences for lawyers to either be prevented from any access to, or have limited access to, their clients during police custody.<sup>56</sup> Moreover, under Article 153(2) of the Turkish Code of Criminal Procedure (CCP), access to the investigation file by a defendant's lawyer can be restricted "if an examination of the file would hinder the objective of the ongoing investigation". Since the 2016-2018 state of emergency period, this exception has effectively become the rule: the arbitrary restriction of access to investigation files is now a widespread practice in cases involving individuals under investigation for alleged terrorism-related offences.<sup>57</sup> In *Yüksekdağ Şenoğlu and others v. Türkiye*, the Court found a violation of Article 5 § 4 of the Convention on account of the applicants' lack of access to the investigation file, as the applicants had been unable to satisfactorily challenge the reasons put forward for their detention.<sup>58</sup>
23. A further problem in this regard concerns the violation of individuals' right to liberty and security stemming from the absence of effective legal assistance, itself resulting from the unlawful monitoring of communications between detainees and their lawyers and the seizure of documents exchanged between them, which, taken together, prevents detainees from effectively challenging their pre-trial detention. Between 3 October 2016 and 24 July 2019, the relevant legal framework in Türkiye<sup>59</sup> permitted, under certain conditions, audio and video recording of the meetings between individuals in pre-trial detention and their lawyers; the presence of a public official during the meetings; restriction on the time and days on which the meetings could be held; and seizure of all the documents exchanged between the applicants and their lawyers.<sup>60</sup> This domestic legislation was non-compliant with Convention obligations. In this regard, in *Demirtaş and Yüksekdağ Şenoğlu v. Türkiye*, the ECtHR found

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<sup>56</sup> See Human Rights Watch (supra n 45), p 20.

<sup>57</sup> *ibid.*, pp. 19-20; Rule 9.2 submission to the Committee of Minister by Turkey Human Rights Litigation Support Project, Human Rights Watch, the International Commission of Jurists, and the International Federation for Human Rights) concerning the group of cases *Selahattin Demirtaş v. Turkey* (No. 2) (Application No. 14305/17), 12 February 2024, § . 49, [https://hudoc.exec.coe.int/ENG/?i=DH-DD\(2024\)216E](https://hudoc.exec.coe.int/ENG/?i=DH-DD(2024)216E)

<sup>58</sup> ECtHR, *Yüksekdağ Şenoğlu and Others v. Türkiye*, Application no. 14332/17, Judgment of 8 November 2022, § 583.

<sup>59</sup> See Article 6 §§ 5 and 11 of State of Emergency Decree-Law No. 676 adopted on 3 October 2016; Law No. 7070 on approval, amending State of Emergency Decree-Law No. 676 adopted on 1 February 2018, Article 59 §§ 4, 5 and 11 of Law No. 5275, as amended by Law No. 7070. Constitutional Court annulled Article 6 § 10 of Law No. 7070 on 24 July 2019 (TCC, App no..2018/73, Judgment no.2019/65 of 24 July 2019) .

<sup>60</sup> *ibid.*

that the breach of lawyer-client privilege had deprived the applicants of effective assistance from their lawyers for the purposes of Article 5 § 4 of the Convention.<sup>61</sup>

24. Secondly, several features of the individual application procedure before the TCC cast serious doubt on its effectiveness as a remedy in cases of detention, especially in the context of politically disfavoured activities.<sup>62</sup> Two structural weaknesses stand out: the current method of appointment of the TCC members precludes its independence from the executive;<sup>63</sup> and the lack of independence of the TCC has, in turn, resulted in a lack of impartial oversight of, and effectiveness in ensuring, human rights guarantees in relation to those perceived as dissidents.<sup>64</sup> Notably, in clear contravention of the ECtHR's well-established case-law,<sup>65</sup> the TCC has found no violation of the right to liberty and security regarding the detention of opposition figures and critical voices in several cases.<sup>66</sup> The TCC has repeatedly failed to find violations in cases relating to arbitrary detention and ill-treatment, torture or unlawful death of alleged "members of terrorist organisations" in detention.<sup>67</sup> Moreover, it has arbitrarily denied requests for release from detention of political prisoners with serious health issues.<sup>68</sup>
25. Thirdly, the lack of a speedy review of individual complaints by the TCC raises a serious issue regarding Convention compliance, as also underlined by the ECtHR and the CoE Commissioner for Human Rights.<sup>69</sup> The ECtHR has already found that the duration of review was unduly prolonged so as to violate Convention standards, notwithstanding the complexity

<sup>61</sup> ECtHR, *Demirtaş and Yüksekdağ Şenoğlu v. Türkiye*, App nos. 10207/21 and 10209/21. The Court has found that the breach of lawyer-client privilege had deprived the applicants of effective assistance from their lawyers for the purposes of Article 5 § 4 of the Convention, on the grounds that the domestic courts had not demonstrated the existence of exceptional circumstances that could justify derogating from the core principle of the confidentiality of the applicants' meetings with their lawyers, and that the restriction to right to liberty and security at issue had not been accompanied by adequate and sufficient safeguards against abuse.

<sup>62</sup> Turkey Human Rights Litigation Support Project, Human Rights Watch and the International Commission of Jurists, Third Party Intervention in *Kavala (no. 2) v Türkiye* (App no. 2170/24) before the Grand Chamber of the European Court of Human Rights (10 February 2026), § 11 (available at [https://www.turkeylitigationsupport.com/files/ugd/9265a1\\_209ab72f30e74e18bb7f207b980344b9.pdf](https://www.turkeylitigationsupport.com/files/ugd/9265a1_209ab72f30e74e18bb7f207b980344b9.pdf));

<sup>63</sup> *ibid.*, § 12 ("The President has the power to appoint 12 out of the 15 members of the TCC. As the Venice Commission noted, the President's political affiliations compromise his neutrality in this context. Five members currently appointed by President Erdoğan have previously held government positions: one was chief advisor to the President; two are former Deputy Ministers of Justice (who were ex officio members of the CJP), one of whom was also served as an AKP MP; one was a former official in the Ministry of Justice; and one was a former Director of Presidential Administrative Affairs. Additionally, two of the three members elected by Parliament have also been affiliated with the government or the ruling party. Furthermore, two of the TCC members appointed by the President are from the Court of Cassation and two from the Council of State. Through its control over the CJP, which elects the members of both courts, the executive can thus strategically promote certain judges to the top courts and then to the TCC.").

<sup>64</sup> *ibid.*, § 13.

<sup>65</sup> See e.g. ECtHR, *Selahattin Demirtaş (no. 2) v. Turkey* [GC], Application no. 14305/17, 22 December 2020, §§ 314-318. The Dissenting Opinion to the TCC judgment in Ms. Fincancı's case (*supra*) highlights that "[her] arrest warrant contains no assessment showing how the applicant's speech legitimized, praised, or encouraged the use of coercive, violent, or threatening methods by a terrorist organization." (§ 15) (TCC, *Rasime Şebnem Korur*, App no 2022/105315, Judgment of 12 June 2025). See Front Line Defenders, *Sebnem Korur Fincancı* (<https://www.frontlinedefenders.org/en/profile/sebnem-korur-fincanci>).

<sup>66</sup> In *Yıldırım Turan*, the TCC rejected the ECtHR's finding in *Alparslan Altan v Turkey and Baş v Turkey*, finding the application inadmissible as manifestly ill-founded (TCC, *Yıldırım Turan*, App no. 2017/10536, Inadmissibility decision of 4 June 2020, § 119; ECtHR, *Alparslan Altan v Turkey*, App. No. 12778/17, 16 April 2019, § 112; *Baş v Turkey*, App no. 66448/17, 3 March 2020, § 153);

<sup>67</sup> Joint Third Party Intervention in *Kavala (no. 2) v Türkiye* [GC] (*supra* n 62), § 13. See also Rule 9.2 submission to the Committee of Ministers by Turkey Human Rights Litigation Support Project, Human Rights Watch and the International Commission of Jurists on *Kavala v. Türkiye*, 26 January 2024, § 41, [https://hudoc.exec.coe.int/?i=DH-DD\(2024\)263E](https://hudoc.exec.coe.int/?i=DH-DD(2024)263E).

<sup>68</sup> See for instance the case of detained opposition politician Murat Çalik, mayor of the Beylikdüzü province of Istanbul, <https://www.cumhuriyet.com.tr/turkiye/aym-den-tahliye-talebine-ret-karari-murat-calik-in-avukatlarindan-aciklama-2434242>.

<sup>69</sup> CoE Memorandum (*supra* n 23), § 44.

of the cases and the workload of the TCC after the declaration of the state of emergency.<sup>70</sup> The ECtHR has stressed that the TCC's workload could not "eternally justify extremely lengthy delays" in its review of applications.<sup>71</sup>

26. Furthermore, both the Committee of Ministers and CoE Commissioner for Human Rights have underlined that "the persistent absence of transparent and Convention-compliant prioritisation criteria casts doubt on the Constitutional Court's ability to ensure that cases involving deprivation of liberty are handled with the speediness required by the standards of the European Court of Human Rights".<sup>72</sup> This lack of a transparent prioritisation policy contributes to the TCC's selectivity and facilitates interference with its independence.<sup>73</sup> While some cases are concluded quickly, others, particularly those involving politically sensitive issues or government critics, face unreasonable delays, leaving those affected without an effective remedy.<sup>74</sup>
27. Fourthly, there is a growing and visible trend of intentional non-implementation and even outright rejection of TCC judgments by lower courts, particularly on the rare occasions when the TCC has reached timely decisions on the merits in cases not favoured by the government.<sup>75</sup>
28. Beyond the detention-related human rights violations identified above, lawyers detained in connection with their human rights work have also faced further judicial practices precluding an effective remedy for their arbitrary detention, in particular in relation to arbitrary conviction and the misuse of sentencing rules.<sup>76</sup>

## V. Conclusion

29. The foregoing analysis demonstrates that violations of Convention rights of lawyers in Türkiye, including the right to liberty and security and the rights of freedom of expression and association under Articles 5, 10 and 11 ECHR, arising in connection with the exercise of their professional activities, are neither isolated nor incidental. Rather, they form part of a systematic pattern of pressure aimed at undermining the independence of the legal profession and silencing lawyers for their professional work in the defence and promotion of human rights. Given the fundamental role of lawyers in the administration of justice and their essential function in upholding the rule of law and protecting Convention rights, any interference with the exercise of their professional activities must be subject to the strictest scrutiny as to its necessity and proportionality. In particular, where, as in the present cases, such interference takes the form of detention, restrictions on lawyer-client communications, or the denial of effective remedies, the Interveners submit that the cumulative chilling effect on the wider legal profession should be accorded significant weight in the Court's assessment.

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<sup>70</sup> ECtHR *Selahattin Demirtaş (no. 4) v Türkiye*, App no. 13609/20, 8 July 2025, § 152; ECtHR, *Kavala v. Turkey* (Application no. 28749/18), 10 December 2019, § 188.

<sup>71</sup> *ibid.*

<sup>72</sup> CoE memorandum (supra n 23) § 44; See also Committee of Ministers, *Kavala v. Türkiye*, Decision adopted at the 1531st meeting (DH), 10-12 June 2025, point 11; Committee of Ministers, *Kavala v. Türkiye*, Decision adopted at the 1553rd meeting (DH), 9-11 March 2026, point 10.

<sup>73</sup> Joint Third Party Intervention in *Kavala (no. 2) v Türkiye* [GC] (supra n 62), para 15.

<sup>74</sup> *ibid.*

<sup>75</sup> TLSP, "Dismantling Human Rights, Democracy and the Rule of Law in Türkiye (I): Judicial Independence and Court Capture", May 2026, p. 30 (supra n 46). Notable examples of non-implementation include judgments requiring lower courts to suspend criminal proceedings against MPs with parliamentary immunity: TCC, *Kadri Enis Berberoğlu (2)*, App no. 2018/30030, 17 September 2020 ; TCC, *Kadri Enis Berberoğlu (3)*, App no. 2020/32949, 21 January 2021; TCC, *Can Atalay (2)* [Plenary Assembly], App no. 2023/53898, Judgment of 25 October 2023; Constitutional Court, *Can Atalay (3)* [Plenary Assembly], App. no. 2023/99744, 21 December 2023. See also TCC, *Tayfun Kahraman* [Plenary Assembly], App no. 2023/98215, 31 July 2025, [https://bianet.org/haber/courts-refuse-torelease-gezi-park-convict-tayfun-kahraman-despite-top-court-ruling-313513#google\\_vignette](https://bianet.org/haber/courts-refuse-torelease-gezi-park-convict-tayfun-kahraman-despite-top-court-ruling-313513#google_vignette)

<sup>76</sup> See § 18 above.