**CALL FOR INPUT: Protection of lawyers**

**RESPONSES TO QUESTIONNAIRE[[1]](#footnote-1)**

1. **Taking into consideration the guarantees for the functioning of lawyers, contained in principles 16-22 of the [Basic Principles on the Role of Lawyers](https://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx), please describe the constitutional, legal, administrative and policy measures adopted in your country to enable lawyers to exercise their professional activities in favour of their clients in a free and independent manner.**

The main legal instrument governing the legal profession is the Attorneyship Law No. 1136. Article 1 of the Law underlines that lawyers perform “a public service and a self-employed profession” and that they “represents independent defence which is one of the founding principles of the judiciary”. The Law also includes certain specific protections. Article 57 states that, with regard to crimes committed against lawyers because of their legal duties or while they are performing their legal duties, provisions regarding crimes committed against judges are applicable. This provision under Article 57 and the definition of the legal profession as a public service under Article 1 corresponds to an additional protection offered under the Turkish Criminal Code, which often stipulates aggravating circumstances for crimes committed against those who perform a public service.

The Attorneyship Law offers additional procedural guarantees under Article 58 for criminal matters concerning lawyers. A permission from the Ministry of Justice is required to initiate an investigation against a lawyer for crimes they have committed while performing their legal duty or crimes which arise out of their legal duty. However, the Ministry of Justice has not abstained from giving permissions for investigations. For instance, following the permission of the Ministry, an investigation was initiated against members of the Human Rights Centre of the Istanbul Bar Association for a statement released by the Centre in support of the LGBTI community.[[2]](#footnote-2)

According to Article 58 of the Attorneyship Law and Article 130 of the Criminal Procedure Law, a search in a lawyer’s residence or office can only be performed with a search warrant issued by a court and under the supervision of the prosecutor, which is not required for regular searches. The search must be performed in the presence of a representative from the bar association. A lawyer and their belongings cannot be searched by the police except in the case of flagrante delicto for a crime that falls within the jurisdiction of an assize court.

The Criminal Procedure Law also offers measures that uphold the professional privilege of lawyers and hence their ability to perform their professional activities in a free and independent manner. For instance, Article 154 of the Criminal Procedure Law stipulates that a suspect or defendant always has the right to meet with their lawyer in an environment where their conversation cannot be heard by others and their correspondence cannot be subject to investigation.

Having listed some of the positive measures and provisions which enable lawyers to exercise their professional activities in favour of their clients in a free and independent manner, we must note that lawyers’ rights and legal privileges offered by law have been curtailed to a large extent. In practice, lawyers face many challenges and barriers while performing their duties, including judicial harassment through investigations and prosecutions. These have been discussed in further detail in the questions below.

1. **What entities and/or mechanisms are in place to prevent and/or punish interferences with the free and independent exercise of the legal profession? Please briefly describe them and specify whether they are independent bodies or if they belong to the administrative structure of the State.**

 Provincial bar associations and the Union of Turkish Bar Associations (‘UTBA’, consisting of representatives from provincial bar associations) are the two primary institutions advocating for the protection and advancement of lawyers’ rights. The bar associations address the problems faced by lawyers in the exercise of the legal profession, safeguard the rights and interests of lawyers, establish certain professional rules, assess applications to join the bar, conduct disciplinary proceedings, and maintain communication with relevant authorities as professional associations representing lawyers. All bar associations have public legal entity status under the Constitution. In this sense, all bar associations are part of the administrative structure of the state, but bar associations hold their own elections with the participation of member lawyers and function independently from the state’s executive, legislative, and judicial powers.

That said, the Ministry of Justice has a certain power and influence over admissions to bar associations. Pursuant to the Attorneyship Law, the decision to admit a lawyer to the bar ultimately lies with the provincial bar association and the UTBA. However, the UTBA forwards its decisions regarding admissions to the Ministry of Justice. The Ministry either approves the UTBA decision or objects the decision and sends it back to the UTBA. The decision of the UTBA is upheld if the UTBA insists on its decision by a two-thirds majority. The Ministry of Justice retains the right to file a lawsuit against the decision of the UTBA. In practice, the Ministry has been abusing this right by filing lawsuits to annul licences. Although the administrative courts and the Regional Court of Appeal are expected to provide impartial judicial oversight, they systematically side with the Ministry of Justice and have annulled licences granted to individuals who have been dismissed from their duties with decrees issued under the state of emergency or those who have been subject to investigations and prosecutions. The Constitutional Court has offered only a partial remedy in some individual applications. These have been discussed in detail under Question 5.

As discussed in Question 1, the Attorneyship Law, the Criminal Procedure Law and the Turkish Criminal Code put forward different mechanisms designed to prevent and/or punish interferences with the exercise of the legal profession, such as seeking the permission of the Ministry of Justice for certain criminal investigations against lawyers or additional procedural guarantees for searches. However, these legislative measures are largely overlooked in practice.

1. **Please indicate if there are any legislative, administrative, or institutional barriers that have hindered the work of lawyers and the exercise of the legal profession in your country, and describe them.**

 Following the coup attempt on 15 July 2016, a state of emergency was declared on 21 July 2016 for ninety days in Turkey. On the same date, Turkey notified the authorities that in accordance with the Article 15 of the European Convention of Human Rights (‘ECHR’ or ‘Convention’) and Article 4 of the International Covenant on Civil and Political Rights it would derogate from certain obligations stipulated under these conventions. A considerable number of people were dismissed, organizations were closed, and legislative changes were introduced through state of emergency decrees. Undoubtedly lawyers were one of the most affected groups during and after the state of emergency. Lawyers were subject to increasing pressure, were taken into custody, detained, exposed to legal harassment through investigations and criminal proceedings due to being associated with their clients, and their rights to defend and be defended were restricted in various ways. As a result, they were prevented from properly practicing their profession and defending their clients.[[3]](#footnote-3)

Emergency decrees introduced legislative changes that heavily hindered the work of lawyers and the exercise of the legal profession in Turkey. These legislative changes were previously outlined in our report “Lawyers without Licences”[[4]](#footnote-4):

Pursuant to Article 6 of the Emergency Decree Law No. 667 which entered into force on 23 July 2016 and became a law on 18 October 2016, detainees were restricted from meeting their lawyers. Pursuant to the Emergency Decree Law No. 667, with the decision of public prosecutors, meetings between lawyers and clients, that are detained within the scope of certain crimes regulated under Turkish Criminal Code and Counter Terrorism Law, can be recorded or can be observed by an officer in the case where there is possibility of endangering the safety of the public or the security of the penitentiary institution, directing terrorist organizations or other criminal organizations or giving orders, instructions or transmitting open, secret or encrypted messages. Furthermore, exchanged documents and files can be confiscated, the date and time of the meetings can be restricted, and the meetings can even be prohibited.[[5]](#footnote-5) If the aim of the criminal investigation is jeopardised, the lawyer’s right to examine or take copies of documents from the file can be restricted by a prosecutor’s decision.[[6]](#footnote-6) According to the State of Emergency Decree Law No. 668, for certain crimes under the scope of the Criminal Code and the Counter Terrorism Law, the right to counsel for the person in custody can be restricted for up to five days with the request of public prosecutor and decision of judge.[[7]](#footnote-7)

Emergency Decree No. 676 is the one emergency decree that includes most and extensive regulations regarding the right to be represented by a lawyer and the exercise of the legal profession. The scope of restrictions were later expanded and the regulations became applicable also to convicts.[[8]](#footnote-8) With the same decree, the five-day restriction period for the right to counsel was reduced to twenty-four hours and it was added that the suspect’s testimony will not be taken.[[9]](#footnote-9) The right to counsel was also restricted during the hearings. A maximum of three lawyers were allowed to be present in hearings in proceedings concerning crimes committed as part of a criminal organisation’s activities.[[10]](#footnote-10) It was stipulated that hearings may take place “if the counsel leaves the hearing without an excuse”[[11]](#footnote-11), even when the counsel “does not arrive at the hearing”[[12]](#footnote-12), and that “the absence of the obligatory lawyer does not prevent the judgment from being proclaimed”.[[13]](#footnote-13) Finally, a lawyer who acts as counsel for suspects, defendants or those who have been convicted for establishing a criminal organisation, establishing and leading an armed organisation, and for terrorism charges, can be barred from their duty as counsel if they themselves are subject to investigations or proceedings under the same charges.[[14]](#footnote-14)

The Arrested Lawyers Initiative estimated that the number of lawyers who were barred from representing their clients has now approached 400. According to the same report, only in Istanbul, decisions of barring from representing their clients of 100 lawyers were taken by the Judgeship of Istanbul 8th Criminal Peace Judgeship in October 2017.[[15]](#footnote-15) According to Human Rights Watch, three organizations, Progressive Lawyers Association (*Çağdaş Hukukçular Derneği*), Lawyers for Freedom Association (*Özgürlükçü Hukukçular Derneği*), Mesopotamia Lawyers Association (*Mezopotamya Hukukçular Derneği*), in particular attracted attention as they supported the rights of defendants in criminal cases related to counter-terrorism. These associations were closed down with Emergency Decrees. One must also note that, prior to the coup attempt, “Human Rights Watch [had] not documented any case of lawyers being barred from cases” under Article 151/3-4 of the Criminal Procedural Law, but they were able to document many examples in the post-coup period.[[16]](#footnote-16)

With a judgeship decision In July 2018, a lawyer from the Istanbul Bar Association who had represented officers charged for staging a coup as a defence counsel was prohibited from taking up such cases for one year on the grounds that he was being investigated as part of a counter-terrorism investigation. However, at that time the lawyer was not charged with the membership of terrorist organization (FETÖ/PDY).

With another judgeship decision in December 2018, 131 lawyers, who were being investigated or prosecuted within the scope of counter-terrorism, were barred from representing clients as defence counsels in an ongoing investigation where suspects were accused of having relations the illegal Marxist-Leninist Communist Party. By a judgeship decision taken in December 2017, 322 lawyers, who were being investigated on the grounds that they were members of a terrorist organization (FETÖ/PDY), were prohibited from representing clients who were investigated for FETÖ/PDY membership.

The pressure during state of emergency was also heavily experienced by bar and other lawyer associations. A total number of 34 law associations from 20 different cities were closed down during the state of emergency[[17]](#footnote-17), on the grounds that they were associated to or had contact with FETÖ/PDY.[[18]](#footnote-18) Progressive Lawyers Association, Lawyers for Freedom Association, Mesopotamia Lawyers Association and Justice School Association (*Adalet Okulu Derneği*) were amongst these associations which were closed down. The Emergency Decrees defined these associations as associations that “belong to, have relation or contact with terrorist organizations or groups, formations or structures determined to act against the national security of state by the National Security Council”. All their assets were transferred to the Treasury without remuneration.[[19]](#footnote-19)

1. **Please describe the role of the national bar association(s) in protecting lawyers and the free exercise of the legal profession. Is the bar association de jure and de facto independent from the State?**

 According to the Constitution and Article 76 of the Attorneyship Law; bar associations are professional organizations which have public entity status operating on the basis of democratic principles by conducting the whole range of activities for the purpose of promoting the profession of attorneyship; ensuring honesty and confidence in the mutual relations between the members of the profession and their relations with clients; defending and safeguarding the order, ethics, and respectability of the profession, the supremacy of the law, and human rights; and to satisfy the common needs of attorneys. Bar associations acquire legal personality upon notification of their establishment to the UTBA and then upon notification of UTBA to the Ministry of Justice.

Bar associations are essentially independent from the UTBA and the Ministry of Justice. However, the head of the UTBA maintains close ties with the government and has been criticized by provincial bar associations and delegates at the UTBA on several occasions.[[20]](#footnote-20) The fact that the Ministry of Justice has the authority to accept or send back applications for admissions to bar associations or to file a lawsuit before administrative courts for the annulment of licences has also hindered the independence of bar associations in enrolling new lawyers.

In recent years, bar associations have become targets because of their work and efforts on issues such as torture, disappearances under police custody, violence against women, refugees, LGBTI+ rights and trustees appointed to municipalities.

In May 2020, the ruling party proposed legislative amendments to the Attorneship Law which had a significant impact on the legal profession. The amendments firstly allowed for multiple provincial bar associations to be established in cities with more than 5000 registered lawyers. A minimum number of 2000 signatories were required to apply for the establishment a second bar association.[[21]](#footnote-21)

Many national and international stakeholders had expressed their criticism that introducing multiple bar associations would divide membership to bar associations along political lines. The concern was that such a divide would lead courts and other government bodies to treat lawyers and their clients differently based on their membership in a specific bar association.[[22]](#footnote-22) [[23]](#footnote-23) This could undermine the impartiality and independence of the justice system[[24]](#footnote-24) and significantly weaken bar associations’ ability to defend human rights and the rule of law by making it easier for the government to target ‘non-loyalist’ bar associations.[[25]](#footnote-25) Dividing up bar associations could also hinder their role in ensuring uniform legal practice, for example, in appointing legal aid lawyers and conducting disciplinary proceedings.

The electoral system for the UTBA was also changed in a way that provincial bar associations were disproportionately represented at the national level. To give an example, the Istanbul Bar Association with nearly 50,000 registered lawyers is represented with 13 delegates, the Ankara Bar Association with nearly 20,000 is represented with 7 delegates, the Izmir Bar Association with nearly 11,000 registered lawyers is represented with 5 delegates. Other bar associations with number of members ranging from 50 to 3000 have all been given 3 delegates. The disproportionate representation was put in place to reduce the influence of larger bar associations who have been the most critical of the government and have been key actors in monitoring and defending human rights. Their reduced influence at the UTBA level means that they will not be able to decide on disciplinary sanctions or disbarment decisions, making it easier for the government to target lawyers through disciplinary proceedings.[[26]](#footnote-26)

These proposals sparked heavy criticism from first and foremost the bar associations themselves[[27]](#footnote-27), as well as from civil society, academia and international organisations.[[28]](#footnote-28) Lawyers organized protests across the country and voiced their clear opposition of the amendments. A protest march to Ankara was attended by representatives from provincial bar associations. The protesting lawyers were stopped and cordoned off by the police, were prevented from entering the city for 27 hours, during which they were denied basic supplies such as food or water and access to shelters and restrooms.

Nevertheless, the government did not back down and the amendments were passed by the parliament. In December 2020, the Constitutional Court declared the amendments constitutional. Out of fourteen judges sitting at the Constitutional Court, only four judges dissented.[[29]](#footnote-29)

The second bar associations could only be established in Istanbul and Ankara, where they reached the required 2000 members. During this period, the Istanbul[[30]](#footnote-30) and Ankara Bar Associations[[31]](#footnote-31) revealed that they received reports of lawyers working for public institutions and public banks being pressured to help establish or transfer to the second bar associations. It was also revealed that the concerned lawyers were threatened with transfer to smaller towns.

The new system indeed divided and further politicized the legal profession and has allowed the government to exert more influence and pressure on bar associations.

1. **Please provide detailed information on the number of lawyers that have been subject to criminal, administrative or disciplinary proceedings in the last five years for alleged violations of standards of professional conduct. How many of them were found guilty? How many of them were ultimately disbarred?**

 The most common intervention against lawyers in Turkey is investigations and prosecutions carried out against them. The fact that lawyers become subject to investigations, arrest, detention or heavy imprisonment after years of trials due to their professional activities or the clients that they are “identified with”, can only be considered judicial harassment. The number of lawyers who are subject to investigations or prosecutions are unclear as there are no systematic efforts to keep statistics. That said, estimated numbers can be provided. According to a report prepared by the Arrested Lawyers Initiative and the Italian National Bar Council, there are 1546 lawyers against whom proceedings are ongoing since the state of emergency. 345 of them have been convicted before first instance courts, 605 were or are still being kept in prison.[[32]](#footnote-32)

Human Rights Watch has also observed that in various investigations and prosecutions lawyers fighting against rights violations have been targeted by the authorities with the aim of retaliation. For example, according to a Human Rights Watch report dated April 2019, the police systematically filed “counter charges against lawyers” and “The tactic is specifically designed to thwart investigations of these abuses by intimidating as well as undermining the credibility of accusers, discouraging prosecutors to pursue complaints robustly and providing a basis for police to refuse to cooperate with investigations”. [[33]](#footnote-33)

Another significant interference arising from ongoing investigations or prosecutions is the restrictions on admissions to bar associations. On the basis of dismissals and ongoing investigations or prosecutions, even with decisions of non-prosecution or acquittal, bar associations, the UTBA and the Ministry of Justice systematically reject or postpone requests to start the mandatory legal internship or to be admitted to the bar at the end of the internship. Even when bar associations and the UTBA accept admissions, the Ministry of Justice files lawsuits before administrative courts and the courts systematically decide in favour of the Ministry. As a result, hundreds of lawyers have been prevented from enrolling on the bar roll or have been removed from the bar roll without a verdict of conviction. This has prohibited hundreds of lawyers from practicing for an uncertain period. This issue was thoroughly discussed in “Lawyers Without Licenses: Pressures against the Profession of Lawyer after the State of Emergency and Individuals Not Admitted to the Profession”, a report published by Tahir Elçi Human Rights Foundation in August 2020. According to statistics obtained from the UTBA on 13 August 2020, there were 1252 cases filed by the Ministry of Justice against admission decisions. In 376 cases, the licences were annulled. In 175 cases the Ministry’s request was denied by the administrative court. As of August 2020, 701 cases were still pending. According to the statistics from the provincial bar associations, 26 lawyers were removed from the Izmir Bar Association roll following a lawsuit filed by the Ministry of Justice. For the Istanbul Bar Association, the Ministry filed a lawsuit against the licences of 131 lawyers. Six cases were dismissed. In 55 decisions out of 61 final decisions, the lawyer was removed from the bar roll. As of August 2020, the rest of the cases were pending.[[34]](#footnote-34)

Individuals who were dismissed with emergency decrees were also prevented from practicing as lawyers. 72 lawyers in Istanbul (63 following court orders and 9 following the Bar’s decision) and 38 lawyers in Izmir were removed from the bar roll. However, on 23 July 2020, the Constitutional Court delivered two violation judgments in two cases where the decision of accepting to the bar roll was canceled as result of the lawsuit filed by the Ministry of Justice. In one case, the Constitutional Court held that the right to a fair trial had been violated due to the unforeseeable interpretation of the legal rules. In the other case, the Constitutional Court decided that the right to respect private life had been violated. Although these judgments paved the way for some lawyers to regain their licences, some courts and the Ministry of Justice resisted the Constitutional Court judgements and continued to annul licences. The numbers of affected lawyers remain unclear.

1. **Please provide information on any case where lawyers in your country have been subject to intimidation, hindrance, harassment or improper interference, whether from State authorities or non-State actors, for action taken in accordance with their recognized professional duties. Please also describe the measures that State authorities have taken to investigate and bring perpetrators to justice.**

 As discussed under Question 4, lawyers have repeatedly been subject different forms of legal harassment and intimidation, namely through criminal law measures.

Lawyers have been arrested, detained or imprisoned with accusations that they have been involved in founding, leading, being a member of, disseminating propaganda for, or otherwise aiding terrorist organizations.[[35]](#footnote-35) Many lawyers who have been subject to such legal harassment have been targeted solely because of whom they represent.[[36]](#footnote-36) The so-called evidence put forward in such cases is often their normal professional activities such as their arguments during hearings, statements on behalf of their clients to the media, visits to clients in prison or clients’ funerals, or membership in law associations shut down by the state. In one instance, a lawyer received a prison sentence of ten months for allegedly insulting the President in a statement for an appeal petition as defense counsel.[[37]](#footnote-37) In another case, the Diyarbakır Prosecutor’s Office included suspects’ lawyers as subjects of a criminal investigation based solely on the fact that the lawyers’ names appeared on suspects’ power-of-attorney documents found by police.[[38]](#footnote-38) Bar associations and the UTBA have been criticized for not showing adequate support to lawyers who have been experiencing such severe legal harassment. In particular, lawyers who were accused of having links to terrorist organizations have argued that bar associations have remained distant and shown little support.[[39]](#footnote-39)

Lawyers targeted by the state for political reasons are also denied a fair trial. This is best exemplified by the case against Progressive Lawyers’ Association where the basic principles of the right to fair trial guaranteed under the Constitution and the European Convention on Human Rights were simply ignored. At the end of the trial, prominent Progressive Lawyers’ Association lawyers were given lengthy prison sentences.[[40]](#footnote-40) Several examples can be provided as to how the lawyers’ right to fair trial was openly violated. The prosecution based its case on digital records which were not made available to the defense and on completely fictitious secret witnesses’ statements. The judge did not allow the defense to speak while challenging the evidence and refused requests to collect further evidence. The defendants and their lawyers were not allowed to finish their arguments and were ultimately forcibly removed from the courtroom and the Ministry of Interior directly targeted the lawyers.[[41]](#footnote-41) Lawyer Ebru Timtik, who was one of the defendants in the case, began a hunger strike in prison in protest of the violation of their rights. Following her 238-day hunger strike, she died while she was still in custody.

Several applications regarding the situation of the lawyers have been submitted to the Constitutional Court and the European Court of Human Rights and still pending and their applications were not given priority status.

Lawyers are also subject to other forms of intimidation and harassment, including threats, physical assault, and even assassination. In 2016, a lawyer’s back was broken after police attacked a protest against the trial of the Progressive Lawyer’s Association lawyers.[[42]](#footnote-42) On another occasion, police assaulted lawyers who gathered to protest an ongoing trial against Cumhuriyet journalists and lawyers, resulting in several injuries.[[43]](#footnote-43) In 2019, lawyer Sertuğ Sürenoğlu was taken to a police vehicle and beaten by the President’s guards after protesting the blocking of traffic for a Presidential convoy headed to a wedding.[[44]](#footnote-44) In March 2021, lawyer Ersin Arslan was shot by the owner of the house where he went for a seizure process with officers from the enforcement office, and lost his life. In November 2021, Gebze 1st Assize Court sentenced the defendant, who killed Ersin Arslan, to aggravated life imprisonment. Generally, criminal complaints against these physical attacks and threats were concluded with decision of non-prosecution and brought to the Constitutional Court.

In Tahir Elçi’s case, the public threats he received led to his assassination. Tahir Elçi was a prominent human rights lawyer and former head of the Diyarbakır Bar Association. He was targeted, insulted and threatened by state officials for his views on the Kurdish issue. A trial concerning his death began in Diyarbakır, but there has been no effective and impartial investigation or prosecution which could bring justice and shed light on his politically motivated murder.[[45]](#footnote-45)

Bar associations were also targeted, threatened, put under serious pressure and were subjected to legal harassment and intimidation. The Diyarbakır Bar Association in particular was repeatedly targeted during and after the state of emergency, with physical and verbal attacks.[[46]](#footnote-46) For instance, Minister of Interior Suleyman Soylu openly targeted the Diyarbakır Bar Assocation in a television program on 18 June 2018. On 1 March 2019, at the Diyarbakır Bar Association’s weekly commemoration ceremony organized for Tahir Elçi, a group of 7-8 people attacked the head of the bar association, its managers, employees, and lawyers. After the attack, 55 bar associations showed their support to Diyarbakır Bar Association and stated that “[they] consider this attack against Diyarbakır Bar Association as a planned and organized attack on all bar associations and our profession.” Interior Minister Süleyman Soylu again targeted the same bar association and accused the bar association of being “spokesperson of terrorist organization”. In response to Soylu’s statements, the Paris Bar Association pointed out that there is not any basis, evidence or testimony of Soylu’s accusations and stated that “The tone and insulting statements used by the Minister is alarming for lives of our collegues, the freedom of lawyers and free exercise of our profession.” Numerous statements and reports by the Diyarbakır Bar Association also became subject to investigations and criminal proceedings, and charges were brought against former board members of the Bar Association.[[47]](#footnote-47) Due to the statement titled “April 24/ The Great Disaster: We Share the Pain of the Armenian People”, the statement made in response to the sentence given to Osman Baydemir for his speech in the Turkish Grand National Assembly and the report on the death of a civilian in an attack of armed unmanned aerial vehicle in Hakkari, and investigation against the previous President of Diyarbakır Association Ahmet Özmen and board members were carried out with the allegations of “openly inciting the people to hatred and enmity”, “insulting the government and institutions of Republic of Turkey publicly” and “insulting the Turkish Grand National Assembly and the Turkish nation” and turned into lawsuit in December 2019.

Finally, bar associations were again targeted recently as Ankara, Izmir, Diyarbakır and Istanbul Bar Associations criticized a statement which constituted hate speech against homosexuals, delivered by the Head of the Directorate of Religious Affairs. Following criminal complaints from the Directorate of Religious Affairs, the permission for an investigation was given by the Ministry of Justice and an investigation was initiated against Ankara and Diyarbakır Bar Associations on the grounds that they have “insulted the religious values of a part of the population”.[[48]](#footnote-48) A criminal complaint was also filed against the Istanbul Bar Association Human Rights Centre by a lawyer and the permission to initiate an investigation was once again given by the Ministry of Justice.[[49]](#footnote-49) The investigations have been ongoing.

1. **What activities does your organization carry out to promote the independence of the legal profession? Do you co-ordinate with other organizations with similar functions in other countries or regions? Are you part of a network for this purpose? Please give examples.**

 Tahir Elçi Human Rights Foundation was founded on 19 January 2019 to honour the memory of Tahir Elçi, a prominent human rights lawyer who was assassinated in Diyarbakır in 2015. Following Tahir Elçi’s struggle for human rights, pursuit of justice, peace in society and equality, the Foundation aims to eliminate human rights violations and end the culture of impunity; adopt and apply basic principles of human rights law; advance peace in society; attain the peaceful and permanent cessation of conflicts; resolve the Kurdish issue in accordance with the basic principles of human rights and a democratic and pluralistic society, and disseminate human rights awareness and knowledge.

To achieve these objectives, the Foundation carries out rights advocacy, monitoring and reporting activities and encourages all kinds of research, publications, meetings, creation of artistic and other kinds of products.

In line with the above mentioned purposes, trainings are carried out for lawyers, as they are the most important subjects for rights advocacy. Guidance for lawyers to duly practice their profession is provided and Tahir Elçi Human Rights Foundation contributes to the empowerment of lawyers through knowledge and experience. The Foundation strives to increase the professional qualifications of lawyers in order for them to exercise the legal profession independently.

For this purpose, the Foundation cooperates with various institutions, especially with provincial bar associations and non-governmental organizations working in the field of human rights. The institutions which the Foundation has cooperated with include the Diyarbakır and Batman Bar Associations; Embassies of Germany, Luxembourg and the United States; Turkish Human Rights Foundation (TIHV) and Human Rights Association (IHD) from Turkey and the Law Society from the United Kingdom. In cooperation with these institutions, the Foundation has provided key training for lawyers on preparing and submitting individual applications to the Constitutional Court of Turkey and to the European Court of Human Rights. Other training topics have included right to life, prohibition of torture, right to liberty and security, right to fair trial, freedom of expression, freedom of association, right to property and prohibition of discrimination. With support from the Etkiniz-EU programme, the Foundation has also published a report titled “Lawyers without Licences”, documenting the situation of lawyers who have been prevented from joining the bar. The report thoroughly discusses the challenges faced by lawyers whose licenses were annulled by covering national and international legal documents and case-law, statistics from bar associations, as well as interviews with affected lawyers.

1. **To what extent has, the legislation and/or measures adopted in your country because of the Covid-19 pandemic, affected the exercise of the independence of the legal profession or security of lawyers. Please explain.**

 Starting from the early days of the pandemic, Turkey has adopted rather strict measures, including curfews, travel bans and testing requirements. Numerous measures specifically affected the legal profession. Pursuant to a law enacted on 25 March 2020 and published on the Official Gazette on 26 March 2020, all legal periods which concern the origination, use and termination of rights, including time limits set for filing a lawsuit, initiating enforcement proceedings, submitting an application, complaint, appeal, notice, notification, submission and limitation periods, periods of prescription, and mandatory administrative application periods were suspended from 13 March 2020 until 30 April 2020. This suspension did not cover statute of limitations for crimes and punishments, misdemeanors and administrative sanctions, disciplinary imprisonments and preventive detentions; time limits preventive measures under the Criminal Procedure Law and for procedures that complete interim injunctions. Time limits concerning enforcement and bankruptcy proceedings were also suspended. All hearings were similarly postponed. The suspension was later extended until 15 June 2020.

During lockdowns, lawyers were kept exempt from abiding by lockdown rules if they commuted or travelled to exercise their legal profession. Lawyers were also considered as a prioritized professional group for vaccinations. These were positive measures which enabled lawyers to continue to safely perform their duties even during the pandemic.

Additional precautionary measures and restrictions were introduced in prisons, notably with regard to visitation rights but lawyers were not prevented from meeting with their clients.

While the measures in general could be seen in a positive light, the pandemic was also used as a pretext to prevent lawyers from protesting the proposed reforms to the bar association system in Turkey. Heads of bar associations marched to Ankara, the capital city, and were barred from entering the city by the police. The marching lawyers were kettled and attacked by the police. Their tents and blankets were taken away and they were left standing outside for 27 hours without food and without access to toilets.

Moreover, bar association general assemblies and elections were postponed numerous times by provincial public health boards. The pandemic was used as a pretext for the ban, while political parties were allowed to have rallies and host conventions. In the case of Istanbul, Ankara and Izmir, which are the three largest bar associations and have over 80,000 lawyers as members, the elections were postponed four times. The bar associations made submissions before the Supreme Election Council (‘YSK’) to overturn these decisions but were rejected. The elections could only be held in autumn 2021, a year later than they were scheduled. This meant that the incumbent bar association executives and the Head of the UTBA remained in power long after they had completed their term in office.

1. **Please describe the measures and policies you would suggest to better protect and guarantee the free exercise of the legal profession.**

The Turkish government must stop criminializing lawyers, especially for their professional activities, and must put an end to the systematic attacks against the legal profession. The arrest and detention of lawyers must cease. Lawyers must not be targeted, attacked, intimidated for their professional activities. Where lawyers are subject to investigations or prosecutions, procedural guarantees foreseen in the criminal laws must be complied with. The lawyers’ right to fair trial must be upheld to the fullest extent. The Ministry of Justice must refrain from interfering with the decisions of the bar associations, notably with regard to admissions.

The Government must implement the binding judgements of the Europan Court of Human Rights and the Turkish Constitutional Court, and must ensure that lower instance courts also comply by these rulings.

To ensure that the legal profession is able to fulfill its professional duties independently, the amendments to the Attorneyship Law introducing multiple bar associations and disturbing the proportionate representation at the UTBA level must be revoked.

The Government must urgently restore the rule of law and independence of the judiciary. To achieve this, systemic reforms for the judiciary are necessary.

Bar associations as professional organizations must show increased support to lawyers who are prosecuted for their professional activities and defend the right to legal defense, regardless of the alleged links or political affiliations of the targeted lawyers or their clients.

Civil society organizations and international human rights organizations must monitor and report on cases concerning increasing pressure and legal harassment against lawyers, lawyers’ organizations, and bar associations in Turkey; submit expert opinions in cases and applications before the Constitutional Court and the ECtHR; and advocate for the release of detained lawyers and the acquittal of all lawyers unjustly prosecuted for their professional activities; must raise the issue of increasing interference with the legal profession during accession negotiations with Turkey and consider it while assessing Turkey’s human rights record; and put pressure on the Turkish government to change laws and practices which misuse and abuse security concerns to silence and attack political dissidents.

In line with efforts to draft a legally binding European convention on the legal profession, The Council of Europe must continue to follow the situation of lawyers in Turkey. The European Court of Human Rights must prioritize the cases of lawyers detained or legally harassed by other means.

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