



UPDATED INFO REGARDING THE DETENTION OF LAWYERS IN TURKEY

26.09.2020

11 September 2020, the Ankara Chief Public Prosecutor ordered the detention of 48 lawyers, 7 legal interns, 3 purged judges and 1 law school graduate for “membership in a terrorist organization.”

One of the detained lawyers was pregnant, one was the mother who just gave birth, and one was the person whose Covid-19 test was positive. Female lawyers, after being detained for two days, were released following their statements.(1) 8 lawyers continued to be detained with the lawyer whose Covid test was positive.

The lawyers detained were told that they would be detained for 12 days.(2) According to legal regulation, the detention period is 4 days for crimes committed collectively. According to the regulation in the "Temporary Article 19 of the Anti-Terror Law", the 4-day period can be extended twice up to 12 days in total. The period of detention can be extended by the decision of the Criminal Magistrate Judge after listening to detainees.(3) The lawyers were told that they would be detained for 12 days before the decision was made by the Criminal Magistrate judge, and they were kept in police custody for a total of 12 days, as they were told.

The lawyers detained were not allowed to meet with their lawyers for the first 24 hours. Lawyers of Ankara Bar Association, Lawyer Rights Center were also denied permission to meet with the detained lawyers.(4)

The following questions were asked to the lawyers during the detention period;(5)

- Where, when and in which law office have you completed your legal internship?
- Do you have a partner lawyer in your law office?
- Have you ever served at another law office?
- Which type of cases do you take on / litigate?
- How many cases have you taken on so far, how many of those about FETO members?
- What is the address of your law Office?
- How do your clients reach/find you?
- Do you make a contract with your clients?
- How many contracts have you made so far?
- How do your clients pay your fee?
- Do you give a payment receipt to your clients?
- What is your average fee? How do you determine the fee?
- Why didn't you receive a payment from a particular client?

- Why do you suggest your clients change his/her statement?
- Which schools, courses, and prep schools did you go during your education?
- Which schools, courses and prep schools did your spouse and children go?
- Do you use social media platforms?
- If yes, which social media networks do you use, and since when?
- What kinds of posts do you share?

As can be seen from these questions, a terror investigation has been launched against the lawyers for their professional activities.

The first detention decision, the two-time extension of the detention period, and the restriction decision in the file were not served to the lawyers detained and the lawyers of the detained lawyers. As the decisions were not notified to them, they were unable to appeal the detention orders and the restriction decision.

39 of the lawyers detained in Ankara were referred to the Criminal Judgeship of Peace with a request for arrest on the last day (12th day) of their detention period. Following the statement that lasted until 00:22 on Wednesday, September 23, Ankara 3rd Criminal Court of Peace decided to arrest 6 lawyers, hold 15 lawyers under house arrest by wearing electronic handcuffs, and 18 lawyers to go to the police station twice a week to show up and sign.(6)

The Prosecutor's Office objected to the decision on the grounds that the lawyers in house arrest should be arrested, and as a result nine more lawyers were arrested. The lawyers were detained again in morning house raids on September 26, arrested and sent to prison.(7)

The statement of one of the lawyers who was arrested is as follows;(8)

"I was detained in April 2019 and arrested by the High Criminal Court in April. I was released in July 2019. After I was released, I decided not to interfere with anything, because I saw the prison conditions. I got engaged on August 30th. I moved to my wife's house right after the wedding. I am currently working with my wife as an insured. After I was released, I did not receive any case/file regarding FETO suspects. I just kept track of the files I used to get. The conversation between my wife and I has also been recorded in TAPE records. These conversations are personal and private conversations. We were detained 3 people (lawyers) from the same office. The Corona test made to my spouse was positive. We were with her all day long. We were saddened due to being detained, and hugged each other. I have all the symptoms of Corona right now. I went to the

Corona test, the test turned out to be negative. However, this situation did not eliminate the possibility of being Covid-positive. The doctor who came to us while in custody told us this. I went through detention under difficult conditions. I am not guilty. I want to be released!"

This lawyer was previously detained on the same charges and stayed arrested for 6 months. He was detained and arrested again, together with 3 lawyers from the same office.

Although it was stated that in the decision of the Criminal Magistrate Judge that the telephone conversations tapped for 6 months and the activities determined in the technical follow-up for 3 months were within the scope of the lawyer profession, a house arrest decision was made for 15 lawyers.

In the decision; *"Although it was alleged that the suspects directed their clients who were tried within FETO investigations, it was considered that the evidence was collected to a great extent, that the speeches mentioned in the HTS records remained within the scope of professional assistance, that the contact of some suspects with the individuals who were found to be related to the organization under investigation, remained within the scope of professional activity, and that the evidence obtained in this investigation was likely to be within the scope of repetitive investigations. Additionally, in the court decisions presented, it was understood that the suspects' clients benefited from "Effective Repentance". When the whole scope of the file was taken into consideration, it was understood that the expected benefit from the arrest at this stage could also be achieved by judicial control."* Consequently, house arrest and a ban on leaving the country decisions were made.⁽⁹⁾ The lawyers were prevented from performing their profession due to the activities stated to be within the scope of their professional activities.

39 lawyers were deprived of their liberty because of their professional activities. The lawyers were questioned for their professional activities, and for practicing their jobs in accordance with international norms, which have been shown as evidence of a crime. The questioning, detention, or arrest of the lawyers for these reasons is also a violation of the European Convention on Human Rights.

On the morning of the day when the lawyers detained in Ankara were sent to the Criminal Judgeship of Peace with a request for arrest, on September 22, 2020, the Izmir Chief Public Prosecutor's Office ordered the detention of 32 lawyers including

law faculty students.(10) Among the lawyers who were detained in police operations, 24 were referred to the magistrate court, which ordered the arrest of 15 lawyers and the release of nine under judicial control and with a ban on traveling abroad.(11)

Another lawyer was detained and arrested in an investigation conducted by the Edirne Chief Prosecutor's Office.(12)

Lawyers and jurists detained in the operations and also other lawyers to be detained possibly in Istanbul and other provinces of Turkey are being detained for acting as advocates of those whom the government considers dissidents and accuses of involvement in "terrorism."(13)

(1) <https://www.hrw.org/news/2020/09/16/turkey-lawyers-arrested-terror-probe>

(2) <https://www.al-monitor.com/pulse/originals/2020/09/turkey-human-rights-lawyers-mass-detention.html>

(3) Anti-Terror Law, Temporary article, 19

(4) <https://kronos34.news/tr/gozaltina-alinan-uc-avukatin-atesi-yukseldi-koronavirusten-endise-ediliyor/>

(5) Ankara 3rd Criminal Judge of Peace arrest warrant

(6) <https://www.sabah.com.tr/gundem/2020/09/26/son-dakika-fetonun-avukatlik-yapilanmasi-sorusturmasinda-yeni-gelisme>

(7) Ankara 3rd Criminal Judge of Peace arrest warrant

(8) Ankara 3rd Criminal Judge of Peace arrest warrant

(10) <https://www.aa.com.tr/en/turkey/turkish-police-arrest-72-over-feto-terror-links/1981143>

(11) <https://www.aa.com.tr/tr/turkiye/fetonun-avukat-yapilanmasina-yonelik-operasyonda-15-tutuklama/1985436>

(12) <https://www.edirneninsesi.com.tr/feto-suphelisi-avukat-tutuklandi/12645/>

(13) <https://www.hrw.org/news/2020/09/16/turkey-lawyers-arrested-terror-probe>

Lawyers who signed the letter:

Bariş Çelik

Murat Akkoç

Nurullah Albayrak

Ömer Turalı