

Joint Statement of International Protest Condemning Turkey's Arrest of Naim Eminoğlu and Doğa İncesu of the Progressive Lawyers Association ("ÇHD")

Amsterdam, Barcelona, Berlin, Bern, Bologna, Brussels, Buenos Aires, Cape Town, Colmar, Cologne, Dhaka, Dusseldorf, Gaza, Grenoble, Harlem, London, Madrid, Manila, Mytilini, New Delhi, New York, Nicosia, Paris, Ramallah, Roma, Tokyo— 5 July 2024

The undersigned bar associations, law societies, and lawyers' rights organizations – representing tens of thousands of lawyers from around the globe – condemn in the strongest possible terms the detention of Progressive Lawyers Association ("ÇHD") lawyers Naim Eminoğlu and Doğa İncesu, and demand their immediate release and exoneration by the authorities of Turkey.

On 2 July 2024, Turkish authorities raided the Istanbul homes of lawyers Naim Eminoğlu and Doğa İncesu, and took the two lawyers into custody. Eminoğlu is an Istanbul Branch executive board member of Çağdaş Hukukçular Derneği – the Progressive Lawyers Association ("ÇHD"), and İncesu is a ÇHD member.¹

In fulfilling their professional duties as lawyers, Eminoğlu and İncesu are present at police stations and courthouses almost every day. Indeed, they were scheduled to attend court hearings in clients' cases on 2 July. Despite the fact that there was no risk that the two lawyers would attempt to flee, armed police officers executed early-morning raids on the lawyers' residences and took them into custody. Their detention prevented the two lawyers from attending clients' hearings on 2 July and following days.

In violation of provisions of Turkey's Code of Criminal Procedure and its Law on Lawyers,² neither the prosecutor nor a representative of the bar association was present at the raids. Moreover, in the course of the raids, police seized Eminoğlu's laptop, as well as the mobile phones of both Eminoğlu and İncesu, for examination and copying. Because Eminoğlu and İncesu use those devices for their work as lawyers, the devices contain client files and privileged information. The authorities' actions constitute grave violations of lawyer-client confidentiality.³ The lawyers' devices still have not been returned.

¹ See generally Two lawyers detained in Istanbul (ANF News, 2 July 2024), <https://anfenglishmobile.com/news/two-lawyers-detained-in-istanbul-74075>. All facts set forth in this Joint Statement have been verified by counsel for Eminoğlu and İncesu.

² See Law on Lawyers No. 1136, Article 58-I (Code of Criminal Procedure No. 5271, Art. 130-I); Code of Criminal Procedure No. 5271, Article 126 (Code of Criminal Procedure No. 5271, Article 46-I-a).

³ See Penal Code of Turkey No: 5237, Articles 134, (Code of Criminal Procedure No. 5271, Article 130-II, Law on Lawyers No. 1136, Article 36; Constitution of the Republic of Turkey, Article 36 (protection of right to defense)).

Contrary to Turkish law,⁴ İncesu, Eminoğlu, and their lawyers have not been informed about the accusations against them, and they have been denied the opportunity to prepare for their statements before the prosecutor's office at the courthouse on 5 July.

Similarly, although defense counsel are generally entitled to review the full contents of the file related to the investigation phase,⁵ that right has not been respected in this case. The prosecutor has claimed that counsel's review of the file could hinder the ongoing investigation. Even though the prosecutor has cited no facts and has provided no explanation to support that assertion, the respective judge accepted the prosecutor's request.

According to the Istanbul Provincial Security Directorate, Eminoğlu and İncesu were prohibited from seeing their lawyers for 24 hours.⁶ However, Eminoğlu and İncesu were not permitted to meet with their lawyers until approximately 15.00 on 3 July – much later than 24 hours from the time of their detention. In the interim, under the guise of casual conversation with Eminoğlu and İncesu, police attempted to obtain information from the two, in the absence of their lawyers. This too is a blatant violation of the Code of Criminal Procedure.

ÇHD is renowned for handling many of Turkey's most challenging and politically-sensitive cases and causes, including the Soma mine disaster and the high-profile Nuriye Gülmen/Semih Özakça case (representing two academics who lost their jobs due to a Presidential decree).

Due to the nature of its work, ÇHD has been the subject of sustained attacks by Turkey's government. Statutory decree 677, dated 22 November 2016, banned the organization. More recently, 18 ÇHD-member lawyers were sentenced to prison in one trial; and, in another nine-year trial, 21 ÇHD lawyers received sentences totaling 146 years. In addition, three other members of ÇHD were arrested on 6 February 2024.

Based on the extensive history of the unjust detention and wrongful conviction of many ÇHD members, the detention of Eminoğlu and İncesu is likely retribution for their involvement in the work of ÇHD. For example, both Eminoğlu and İncesu are active members of ÇHD's Prison Commission, which is dedicated to documenting and informing the public about torture and other human rights violations in Turkish prisons, and to representing victims of such violations. Recently, the two lawyers have been working on documenting conditions in Y-Type, S-Type, and high security prisons, which are known for the use of torture and extreme isolation, and where hunger strikes are not uncommon.⁷

⁴ See Code of Criminal Procedure Article 97; Regulation on Arrest, Detention & Interrogation, Articles 6-IV, VII.

⁵ See Code of Criminal Procedure Nos. 153-I, 153-III.

⁶ See Code of Criminal Procedure, Article 154-II.

⁷ See generally, e.g., Turkey's new 'high-security' prisons raise 'social isolation' concerns (BIA News, 30 Oct. 2023, <https://bianet.org/haber/turkeys-new-high-security-prisons-raise-social-isolation-concerns-287153>); Türkiye: lawyers in danger (Prison Insider, 18 April 2024), <https://www.prison-insider.com/en/articles/turkiye-lawyers-in-danger>; DEM Party: Y-type, S-type and high security prisons

Turkey has long been internationally-recognized as one of the most dangerous countries for lawyers. In 2019, Turkey was designated as the focus country for the International Day of the Endangered Lawyer, highlighting the country's relentless persecution of lawyers.⁸ And, in 2021, Turkey was the subject of the inaugural observance of International Fair Trial Day, emphasizing the government's widespread violations of internationally-accepted fair trial principles, standards, and practices.⁹

International law recognizes the vital role that lawyers play in any society by serving as the guardians of justice for all, and accords lawyers special protections. For example, according to the United Nations Basic Principles on the Role of Lawyers, lawyers are not to be associated with their clients' positions and causes. In other words, as advocates, lawyers are obligated to make the best case possible for their clients. But no matter who the client is and no matter what the client's position or cause may be, that position or cause is not attributable to the lawyer personally.¹⁰ The U.N. Basic Principles also provide that governments are to "ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference."¹¹ Further, "[w]here the security of lawyers is threatened as a result of discharging their functions," the U.N. Basic Principles state that the lawyers "shall be adequately safeguarded by the authorities."¹² In addition, the U.N. Basic Principles underscore that lawyers are entitled to freedom of expression, association, and assembly. In particular, they have the right to take part in public discussion of matters concerning the law, the administration of justice, and the promotion and protection of human rights.¹³ Like all lawyers everywhere, the lawyers of Turkey – including Eminoğlu and İncesu – are entitled to all of these protections.

July 15 will mark the eighth anniversary of the attempted coup, launching President Erdogan's massive "purge" which continues to this day. Today, on the eve of that anniversary, the undersigned organizations demand the immediate release and exoneration of Eminoğlu and İncesu, as well as all other lawyers who are political prisoners and victims of persecution by the Erdogan government. The undersigned organizations further take this occasion to call on President Erdogan and the government of Turkey to comply with the U.N. Basic Principles on the Role of Lawyers, and to honor Turkey's obligations under all other relevant provisions of international law.

should be closed (ANF News, 2 June 2024),

<https://anfenglishmobile.com/human-rights/dem-party-y-type-s-type-and-high-security-prisons-should-be-closed-73570>; End Isolation for Reconciliation & Stop Rights Violations in Prisons (Human Rights Association, 1 Dec. 2023), <https://ihd.org.tr/en/end-isolation-for-social-peace-stop-rights-violations-in-prisons/>.

⁸ See generally Report, Solidarity with Turkish Lawyers, Day of the Endangered Lawyer – 24 January 2019, <https://protect-lawyers.org/en/item/world-day-of-the-endangered-lawyer-dedicated-to-turkey/>.

⁹ See generally International Fair Trial Day: About Us, <https://iftd.org/about-us/>.

¹⁰ See U.N. Basic Principles on the Role of Lawyers, Principle 18.

¹¹ See U.N. Basic Principles, Principle 16.

¹² See U.N. Basic Principles, Principle 17.

¹³ See U.N. Basic Principles, Principle 23.

We – the undersigned organizations – are deeply honored to stand in solidarity with Naim Eminoğlu and Doğa İncesu, and with all of our beleaguered but courageous colleagues from Turkey, who have selflessly dedicated themselves to the fight for democracy, human rights, justice, and the rule of law. They stand as an inspiration to us all.

Signatories

1. Al-Haq, Palestine
2. Al Mezan Center for Human Rights
3. Asociación Americana de Juristas (AAJ)
4. Asociación Libre de la Abogacía (ALA)
5. Association for Democracy and International Law (MAF-DAD) (Germany)
6. Avocats Sans Frontières (ASF)
7. Berlin Bar Association
8. Bologna Bar Association
9. Confederation of Lawyers of Asia and the Pacific (COLAP)
10. Cyprus Democratic Lawyers Association (CDLA)
11. Défense Sans frontière - Avocats Solidaires (DSF-AS)
12. Democratic Lawyers Association of Bangladesh (DLAB)
13. Dutch League for Human Rights (DLHR)
14. European Bar Federation (FBE)
15. European Association of Lawyers for Democracy and World Human Rights (ELDH)
16. European Democratic Lawyers (AED)
17. Grenoble Bar Association Human Rights Institute
18. Human Rights Institute of the Brussels Bar Association (L'Institut des droits de l'homme du Barreau de Bruxelles)
19. Indian Association of Lawyers (IAL)
20. International Association of Democratic Lawyers (IADL)
21. International Association of People's Lawyers (IAPL) Monitoring Committee on Attacks on Lawyers
22. Lawyers for Lawyers
23. International Observatory for Lawyers in Danger (OIAD)
24. Legal Centre Lesbos
25. Legal Team Italia
26. National Association of Democratic Lawyers, South Africa (NADEL)
27. National Federation of Young Lawyers' Unions, France
28. National Lawyers Guild International Committee, USA
29. National Union of People's Lawyers, Philippines (NUPL)
30. Palestinian Centre for Human Rights
31. Republican Lawyers Association (Republikanischer Anwältinnen- und Anwälteverein e.V./RAV) (Germany)

32. Research and Processing Center for Democracy/ International Legal Intervention Group
(Centro di ricerca ed elaborazione per la democrazia- Gruppo d'intervento giuridico internazionale (CRED/Gigi)
33. Swiss Democratic Lawyers
34. Syndicat des Avocats pour la Démocratie (Belgium)
35. The Defence Commission of the Barcelona Bar Association
36. The Foundation of the Day of the Endangered Lawyer
37. The International Bar Association's Human Rights Institute (IBAHRI)
38. Union Internationale des Avocats – Institute for Rule of Law (UIA-IROL)