

His Excellency, Mr. Recep Tayyip Erdoğan

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**Private letter to His Excellency, President Recep Tayyip Erdoğan,
from the International Bar Association's Human Rights
Institute**

Your Excellency,

We are writing to you on behalf of the International Bar Association's Human Rights Institute (IBAHRI) to express our serious concern over the recent judicial harassment of Adnan Oktar's legal defence counsel whilst in the legitimate course of their professional work as legal practitioners, lacking sufficient evidence and a clear legal basis, in violation of fundamental procedural safeguards.

The International Bar Association, established in 1947, is the world's leading organisation of international legal practitioners, bar associations and law societies. It has a membership of over 80,000 individual lawyers, and 190 bar associations and law societies, spanning over 170 countries. The IBAHRI, an autonomous and financially independent entity, works with the global legal community to promote and protect human rights and the independence of the legal profession worldwide.

According to reports, on 30 March 2022, the four lawyers, which includes Sinem Mollahasanoğlu, **Arzu Gul, Ayşe Toprak and Burak Temiz**, were arrested in Istanbul and detained at a police station whilst under investigated by the Istanbul Chief Public Prosecutor's Office. They were later taken to the Istanbul Palace of Justice and then transferred to the Criminal Judgeship of Peace on Duty. Three of the four lawyers were released on grounds of judicial control, however, Attorney Sinem Mollahasanoğlu still remains in custody arbitrarily.

The grounds for the arrest of Attorney Mollahasanoğlu's by the Prosecutor's office include allegations that she put illegitimate pressure on persons involved in her client's case, whereby

she transmitted ‘orders and instructions’ to another defendant involved in the trial and that she “controlled their financial means by aiming to ensure the continuity of the organization.” However, Attorney Mollahasanoğlu has denied such allegations and there has reportedly been a lack of evidence to reasonably prove the claim by authorities.

The IBAHRI furthermore draws attention to *Article 58 of the Turkish Attorneyship Law* which prescribes that:

“Investigations on attorneys induced by crimes arising in connection with their practice of attorneyship, or their duties with the organs of the Union of Bar Associations of Turkey or bar associations, or the crimes they commit during the performance of their duties will be conducted by the public prosecutor in the jurisdictional area where the crime is committed.”

According to reports, no such permission was sought from the Ministry of Justice by Turkish authorities in their investigation and arrest of Sinem Mollahasanoğlu and the other defense lawyers involved in the Oktar case further indicating procedural irregularities.

Additionally, throughout the investigations of Mr. Oktar’s case, regular legal duties performed by legal practitioners in the course of their profession have been depicted as so-called criminal organizational activities. This includes responsibilities such as dealing with the legal affairs of one’s clients, holding meetings regarding one’s cases, issuing powers of attorney and receiving money in exchange for their services. This interpretation of a lawyer’s activities has and continues to impede upon Mr. Oktar’s lawyers’ ability to represent him and give effect to his right to a fair trial, effectively leaving him without a legal counsel.

The IBAHRI further highlights that Attorney Mollahasanoğlu’s arrest, and the above outlined indirect targeting of the legal profession through censure, as emblematic of the patterns of targeting of civil society actors, especially lawyers and human rights defenders, in Turkey, through judicial harassment under vague and broad anti-terror laws, such as the prominent case of Öztürk Türkdoğan. According to a report by the Arrested Lawyers Initiative, more than 1,600 lawyers have been arrested and prosecuted while 615 lawyers have been remanded to pretrial detention. Subsequently, 474 lawyers have been sentenced to a total of 2,966 years in prison on the grounds of membership of an armed terrorism organization (Art. 314 of Penal Code) or of spreading terrorist propaganda.

On May 5th this was again highlighted by the European Parliament in its recently adopted resolution, stating that “[The European Parliament] Is deeply concerned about the ongoing

deterioration of fundamental rights and freedoms and the rule of law in Turkey, especially after the failed coup; calls on the Turkish authorities to end the judicial harassment of human rights defenders, academics, journalists, spiritual leaders and lawyers.’

The IBAHRI respectfully reminds Your Excellency that as a State Party to the International Convention on Civil and Political Rights ([ICCPR](#)),¹ Turkey is obliged to guarantee the right to a fair trial (Article 14) and to liberty and security of persons (Article 9). These rights are equally protected by the ECHR,² and by Articles 36, 26 and 33 of the [Constitution of the Republic of Turkey](#).

Further, Article 9 of the ICCPR holds that no one shall be arbitrarily arrested or detained, and no one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. This is further enshrined under Article 5, the right to liberty and security, of the ECHR. Furthermore, under Principle 16 of the [UN Basic Principles on the Role of Lawyers](#) (1990), governments must ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference and that they “*shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.*”

Principle 17 states that when lawyers’ security is threatened, they shall be adequately safeguarded by the authorities. Principle 18 stipulates that lawyers must not be identified with their clients **or their clients’ causes** as a result of discharging their functions. Finally, the UN Human Rights Committee stipulates in General Comments No. 32 that “*lawyers should be able to advise and to represent persons charged with a criminal offence in accordance with generally recognised professional ethics without restrictions, influence, pressure or undue interference from any quarter.*”³ We find that the course of action in the arrest and detainment of Senim Mollahasanoğlu stands in contrast to Turkey’s abovementioned obligations under international law.

We call on Your Excellency to take urgent action to prevent further miscarriages of justice and safeguard the rule of law by withdrawing all charges against Ms. Mollahasanoğlu and securing

¹ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171

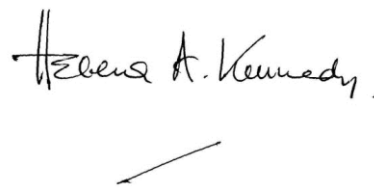
² Right to fair trial (Article 6), freedom of expression (Article 10) and freedom of assembly and association (Article 11) of the ECHR.

³ UN CCPR ‘General Comment 34’. Article 14, Right to equality before courts and tribunals and to a fair trial, CCPR/C/GC/32 (2007) Para. 34.

her immediate release. We further urge the Government of the Republic of Turkey to take all possible measures to ensure that lawyers can carry out their legitimate professional activities without fear of intimidation, harassment, or interference, in accordance with international human rights standards and the ECHR so as to ensure the accessibility of justice to all. We are willing to provide technical, legal assistance and guidance in this regard.

We would be grateful to receive your assurances that you have received our letter and that our concerns will be addressed as a matter of urgency.

Yours sincerely,



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