

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

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# TURKEY: COURT'S DECISION TO RE-DETAIN LAWYERS ADDS CREDENCE TO ALLEGATIONS THAT THEIR PROSECUTION IS POLITICALLY MOTIVATED

Upon objections by the prosecution, which lacked any new reasoning, an Istanbul court ordered on 15 September 2018, the re-detention of 12 lawyers it had released at a hearing the day before.

The 12 lawyers are among 17 who have been in prison pending the outcome of their prosecution since their detention on various dates between September and December 2017. An additional three lawyers are also being prosecuted in the same case; one of whom has not been held in pre-trial detention, while there is a pending arrest order for the other two. All 20 lawyers prosecuted in this case are members of the Progressive Lawyers Association and some of People's Law Bureau and are charged with being members or leaders of the armed group, Revolutionary Peoples' Liberation Party-Front (DHKP-C).

The first hearing for the 17 lawyers in pre-trial detention took place between 10 and 14 September 2018. On 14 September, the last day of the hearing, the Istanbul Heavy Penal Court No. 37 ruled for the release on bail of all 17 lawyers referring to the case law of the European Court of Human Rights (ECtHR) in relation to long term pre-trial detention, among other grounds.

The prosecutor subsequently objected to the court's decision to release the lawyers, a power granted to them under a legislative amendment passed by a State of Emergency decree in December 2017.

Following the prosecutor's objection, the Istanbul Heavy Penal Court No. 37 made an extraordinary U-turn. It overturned its own decision made less than 24 hours previously, ordering the re-detention of 12 of the 17 released lawyers. The court rejected the prosecutor's appeal in the case of the other five.

In its release decision, the court had ruled that bail conditions would be sufficient "considering the state of the evidence in the file for each defendant, the possibility that the classification of the offence may change, that the defense statements of the defendants have been taken, and that they are lawyers as well as that detention is a precautionary measure, the time spent in pre-trial detention, and the decisions by the ECtHR and the Constitutional Court in relation to detention." However, the court's second decision, overturning its previous release orders, did not provide any information on what had changed in relation to the grounds that led the court to release the lawyers the previous day. The court also did not cite any new information that might have supported this reversal. It simply stated that bail conditions would not be sufficient in the case of the 12 lawyers, "considering that there is evidence demonstrating strong suspicion of guilt taking into consideration the state of the evidence in the file, statements by witnesses and secret witnesses in relation to the defendants, digital materials [...], and the public information."

The 12 lawyers who were released but subsequently re-detained include Selçuk Kozağaçlı, a prominent human rights lawyer and the president of the Progressive Lawyers Association. The Progressive Lawyers Association, which had been active in taking human rights cases in Turkey since 1974, was suspended by the Ministry of Interior on 11 November 2016 under State of Emergency Law Article 11 which allows for organizations to be suspended on the grounds of general security and public order. No individualized justification for the suspension of the association was provided by the authorities. The organization, was later closed down and had its assets confiscated, under a further emergency decree, No. 677 issued on 22 November 2016. The closure order, which also targeted two other lawyers' associations, was brought on the grounds of the association having "links to terrorist organizations", again without any individualized justification for the decisions. All three lawyers' associations are yet to receive a response to their appeals

pending at the State of Emergency Inquiry Commission that was set up to review decisions taken by emergency decrees, including the cases of closed organizations.

The decision to re-detain the lawyers without any new evidence a day after their release by the same court adds credence to allegations that the trial is politically motivated and that the lawyers' detention is intended to punish them for their activism. The decision may also further weaken public trust in the judicial system in the country.

The legislative amendment allowing prosecutors to object to release orders was made in Article 93 of the Executive Decree No. 696 issued on 24 December 2017. It amended Article 104 paragraph 2 of Turkey's Code of Criminal Procedure (Law No. 5271). Amnesty International has repeatedly expressed concern about how powers granted to the executive by decrees issued under the two year State of Emergency in Turkey have been used to repress individuals deemed to have a dissenting voice.

Amnesty International Turkey's honorary chair, Taner Kılıç, was similarly re-detained on 1 February 2018, by a court, which released him the day before. The measure was already used prior to the amendments, for example in the case of 21 journalists, including Atilla Taş, tried on charges linked to membership of the "Fethullahist Terrorist Organization" (FETÖ). After their release on 31 March 2017, eight of the journalists were re-detained following the objection of the prosecution, while 12 were re-detained under new charges. At her second hearing on 2 May 2017, the Ankara Heavy Penal Court No. 14 ruled to release Zaman newspaper reporter Ayşenur Parıldak from prison. The prosecution also appealed the decision to release in her case. Ayşenur Parıldak was 're-detained' before she had even left the prison by the same court some eight hours after the initial ruling for release. In November 2017, Ayşenur Parıldak was convicted of 'membership of a terrorist organization' and sentenced to seven and a half years in prison where she remains pending the outcome of her appeal.

Lawyers whose re-detention was ordered are Ahmet Mandacı, Aycan Çiçek, Aytaç Ünsal, Barkın Timtik, Behiç Aşçı, Ebru Timtik, Egin Gökoğlu, Naciye Demir, Özgür Yılmaz, Selçuk Kozağaçlı, Süleyman Gökten, and Şükriye Erden. The court rejected the prosecutor's objection to the decision to release on bail in relation to lawyers Ayşegül Çağatay, Didem Ünsal Baydar, Yaprak Türkmen, Yağmur Ereren Evin, and Zehra Özdemir, which was then confirmed by Istanbul Heavy Penal Court No.1 on 17 September. As of 24 September, six of the 12 lawyers, including the chair of the Progressive Lawyers Association, Selçuk Kozağaçlı have been transferred to prison custody.

The next trial hearing is scheduled for 19 and 20 February 2019.

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