

Justice Delayed: Lawyers associations condemn the European Court of Human Rights' Inaction on Lawyers' Cases in Turkey

For years, these lawyers have faced politically motivated prosecutions in Turkey, marked by flagrant violations of international fair trial standards. They were arrested, tried, and convicted on charges largely derived from their professional duties as defence lawyers, such as attending human rights protests, defending political opponents, or advising clients on their right to remain silent.

Different fact-finding missions have documented grave breaches: judges and prosecutors acting under political pressure, the denial of defense rights, reliance on anonymous witnesses, and punishment of lawyers for performing their professional duties. These findings, which are consistent with reports from UN bodies and leading international NGOs, highlight a systematic erosion of the rule of law in Turkey.

The findings of these missions are not mere allegations but are corroborated by the highest human rights bodies within the Council of Europe itself. The former Council of Europe Commissioner for Human Rights, in her official report, conducted a meticulous examination of the ÇHD trial and concluded that the court 'rejected all requests for defence witnesses, as well as over 100 separate investigation requests... without any reasoning' and that the very act of 'the exercise of the profession of lawyer was considered an aggravating circumstance' in sentencing. Most alarmingly, the Commissioner found that the conviction relied on evidence such as 'the persons the lawyers represented' and their 'participation in different lawful events', leading her to the unequivocal conclusion that these elements 'corroborate the allegation that the legitimate professional activities of a defence lawyer can be considered as incriminating evidence'.

This authoritative finding from the Council of Europe's own principal human rights advocate was published in 2019. It served as an unequivocal, early warning to the European Court of Human Rights that a Member State was judicializing repression and turning the practice of law into a crime. The Commissioner's report laid bare a trial so bereft of fairness that it contravened the most fundamental principles of the Convention. That the Court has allowed the subsequent applications from these lawyers to remain in a procedural limbo for years after such a clear and damning indictment from a sister institution is not merely a delay; it is a dereliction of duty. It signals a catastrophic failure to heed its own system's alarms and a breach of trust with the victims, for whom the Commissioner's words were supposed to trigger an urgent judicial response, not years of silence.

The credibility of the Court, and the hope of countless victims, hangs in the balance.

Despite the overwhelming evidence of gross violations of fair trial rights, systemic denial of due process, and politically motivated prosecutions, the Court has failed to act with the urgency demanded by the situation. The consequences of this inaction are devastating. Many of the accused lawyers remain behind bars, in prolonged pre-trial detention serving lengthy sentences handed after proceedings that blatantly contravened the European Convention on Human Rights.

Others, including Ebru Timtik, paid with their lives—she died in August 2020 after a 238-day hunger strike demanding the right to a fair trial.

Compounding this injustice is the Court's protracted procedural inertia in these specific matters. It is a matter of profound alarm that despite applications concerning these mass trials of lawyers being lodged with the Court as far back April 2021, the process of communication—the crucial first step where the Turkish government is formally required to respond to the allegations—has yet to be initiated in numerous cases.

The initial application dated 29 April 2021 comprises complaints pertaining to (pre-trial) detention. Applications regarding the right to a fair trial were made on 15 March 2023.

This years-long delay at the very threshold of examination is indefensible and runs directly counter to the Court's own established principles on the imperative of expeditious justice, especially where fundamental rights are at immediate risk.

The undersigned firmly denounce the unacceptable delay by the European Court of Human Rights (ECHR) in examining the urgent cases submitted concerning the mass trials of lawyers, human rights defenders in Turkey.

The Court itself has repeatedly stressed the importance of administering justice without delays which might jeopardise its effectiveness and credibility (*Scordino v. Italy* (no. 1) [GC], § 224) and judged that “*Long periods during which the proceedings ... stagnate...*” without any explanations being forthcoming are not acceptable under the provision of article 6 of the Convention (*Beaumont v. France*, § 33).

Undue delay undermines the effectiveness of the right of individual petition under article 34, reducing it to a purely formal mechanism without practical consequence.

This delay has not only left individual applicants without remedy but has also emboldened the Turkish authorities to continue their repression with impunity. The Court's prolonged silence effectively legitimizes these violations and undermines the credibility of the European human rights system as a whole. For lawyers and defenders imprisoned merely for upholding their professional responsibilities, justice delayed has become justice denied.

We recall that the Court has both the mandate and the moral duty to provide effective and prompt remedies to victims of rights violations. In the face of ongoing persecution and systematic abuse, prioritizing and expediting these cases should have been imperative. Instead, the prolonged inaction signals indifference to those for whom the European Court of Human Rights is their last recourse for justice for our colleagues of the Progressive Lawyers Association (ÇHD) and the People's Law Office (HHB).

We therefore call on the European Court of Human Rights to immediately accelerate the examination of these cases, to issue interim measures where necessary.

Anything less would amount to complicity in the erosion of fundamental freedoms, setting a dangerous precedent for Europe and beyond.

Timely examination and determination of these applications are essential to restore confidence in the Court as the final guardian of the rule of law and fundamental freedoms in Europe.

Justice delayed in this context is not merely a procedural shortcoming, delay erodes confidence in the Court itself and weakens the European system of human rights protection

The credibility of the Court, and the hope of countless victims, hangs in the balance.

Justice delayed is justice denied. The European Court of Human Rights must act now!

SIGNATURES

Arab Lawyers Association, UK

Asociación Americana de Juristas

Avocats européens démocrates – European democratic lawyers (AED – EDL)

Defense Commission of the Barcelona Bar Association

European Association of Lawyers for Democracy and World Human Rights (ELDH)

Foundation Day of the Endangered Lawyer

Human Rights Legal Project – Samos

International Association of Democratic Lawyers (IADL)

International Association of Russian Advocates

Osservatorio avvocati minacciati of Unione Camere penali italiane

Progressive Lawyers' Association (ÇHD), Turkey

Republikanischer Anwältinnen - und Anwälteverein e.V. (RAV)

Syndicat des avocats de France

Syndicat des avocats pour la Démocratie

The New York City Bar Association

