Criminalising the Legal Profession

The Case against the Istanbul Bar Association

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Lawyers and bar associations in Turkey have long faced political and legal pressure. The court case against the Istanbul Bar Association that led to the dismissal of its executive board and the criminal prosecution of board members is another troubling instance of such pressure. While the case may seem as an isolated legal dispute, it reflects a broader effort by the Turkish government to silence dissenting voices, dismantle the rule of law, and target institutions that remain committed to defending democratic values. The case exemplifies how authoritarian regimes increasingly criminalise lawyers and professional organisations that speak out against rights violations. By situating the case within both national and international trends of authoritarianism, we aim to underscore the vital role of lawyers and bar associations in defending human rights, access to justice, and democratic principles—often at great personal and institutional risk.

Background

On December 21, 2024, the Istanbul Bar Association issued a statement condemning the killing of journalists Nazım Daştan and Cihan Bilgin in a drone strike by the Turkish army in northern Syria, calling for an independent investigation into their deaths. The statement emphasised that targeting journalists violates international humanitarian law and urged authorities to hold those responsible accountable. In response, the Istanbul Prosecutor's Office launched an investigation into the Bar Association's statement and accused its president, Prof. İbrahim Kaboğlu, along with ten executive board members, of exceeding the Bar's professional mandate by engaging in political activism. The investigation led to a civil lawsuit filed in the Court of First Instance, seeking the dismissal of the entire board of directors. In a separate case, prosecutors launched a criminal trial against Kaboğlu and the board members, charging them with "terrorist propaganda" (Article 7/2 of the Anti-Terror Law) and "publicly disseminating misleading information" (Article 217/A of the Penal Code).

The first hearing on the removal of the Istanbul Bar Association's executive board took place on March 4, 2025, at the Istanbul 2nd Civil Court of First Instance. One of the key moments in the first hearing was the decision to relocate the trial to a larger courtroom due to the high turnout. Representatives from various bar associations, individual lawyers, international bar associations, and human rights organisations attended to observe the proceedings. Several bar associations requested to be included in the case, arguing that what was at stake was not just the Istanbul Bar Association but the right to defence and the autonomy of all bar associations. While the court accepted the Union of Turkish Bar Association's (TBB) request to join the case, it rejected similar applications from other bar associations. Another critical issue was the absence of Fırat Epözdemir, a member of the Istanbul Bar Association's Executive Board who had been arrested the previous month. Despite his lawyers' request for him to attend the hearing via SEGBİS (Audio and Video Information System), the court denied the petition. In response, Epözdemir's lawyer addressed the court, arguing that the case could not proceed without his client's presence, and called for the postponement of the preliminary hearing.

The second hearing of the trial convened on March 21, 2025, once again drawing a strong show of support from lawyers. Detained lawyer Epözdemir participated in the second hearing via SEGBİS. After resolving several technical issues in the courtroom, defence lawyers raised several procedural objections,

citing significant deficiencies. However, the court rejected these objections, as well as separate requests to call witnesses and to seek an expert opinion from the TBB. Citing Article 77/5 of Turkey's Attorneyship Law, it ruled that the board members had acted beyond the Bar's mandate and ordered the dismissal of the entire executive board.

The Istanbul Bar Association has since appealed the decision to the Court of Appeal. If this court, and subsequently the Court of Cassation, uphold the ruling, the Bar Association will be required to convene a general assembly to elect a new board. Until the decision becomes final, the current executive board will remain in office.

Legal issues in the case

The first point of contention concerns the initiation of the investigation without obtaining statements from the President and Board Members of the Bar Association and without securing the required permission from the Ministry of Justice. According to Article 58 of the Attorneyship Law, such permission is a legal prerequisite for any investigation. Former Istanbul Bar Association President Kazan highlighted the significance of this permission "as a guarantee of the activities of the Bar Associations and the Union of Bar Associations within the scope of their duties," which was added to Article 58 of the Law on Lawyers in 2008 following extensive efforts. Given the current political climate, it would be naive to assume that the Prosecutor's Office acts independently of the Ministry of Justice or that an impartial evaluation would occur if the Ministry were asked for permission in the first place. The Istanbul Bar Association argues that the indictment, prepared without this mandatory administrative authorisation, undermines the legal foundation of the entire case.

The second point of dispute relates to the substance of the accusations. The prosecution argues that the Bar Association's statement overstepped its professional mandate and constituted conduct incompatible with its official role. However, an amendment on May 2, 2001, explicitly listed "defending the supremacy of the law and human rights" as one of the core responsibilities of bar associations, alongside their broader role in promoting the legal profession (Article 76). Bar associations are not merely professional organisations but constitutional institutions that uphold the rule of law. Referring to this responsibility, Kaboğlu, in his public statement after the first hearing, emphasised: "We are experiencing serious challenges regarding judicial independence and the rule of law in Turkey. However, as the Istanbul Bar Association, we will never abandon our responsibility to protect the rule of law and human rights". In his defence at the second hearing, Kaboğlu also said, "There is no intention or reference to an illegal organisation in our statement subject to the lawsuit. The content of the statement is determined by the human rights doctrine, not the ideological thinking of the Prosecutor's Office". To highlight that the Istanbul Bar Association's statement falls within the scope of its mandate, Kaboğlu's representative, TBB President Erinç Sağkan, emphasised that Articles 76 and 95 of Turkey's Attorneyship Law provide broad authority for bar associations. He argued that the statement aligns with these legal provisions and questioned why the court was not awaiting the outcome of the criminal trial if the statement was indeed considered a crime. Sağkan further asserted that if the statement contained no criminal elements, the court should dismiss the case.

The legal profession under pressure: domestic crackdowns and global parallels

The case against the Istanbul Bar Association cannot be seen as an isolated legal dispute, as it is part of a broader pattern both within Turkey and globally.

On the national front, it is part of a broader strategy of silencing lawyers, criminalising dissent, and systematically dismantling the rule of law in Turkey. The dismissal of the Istanbul Bar Association's executive board and the prosecution of its members—who have been active human rights defenders— go beyond targeting a professional body; they are direct attacks on the right to defence and the fundamental principles of justice. Similar tactics have been employed to suppress opposition figures, journalists, academics,

and civil society activists, fostering an atmosphere of fear and self-censorship. It is evident that in the increasingly repressive climate of the Erdoğan regime, bar associations are striving to support those resisting oppression with every mean at their disposal, despite the restrictions. For instance, mass protests led by university students erupted across Turkey in response to the arrest of Ekrem İmamoğlu. The protests quickly grew beyond İmamoğlu's case, reflecting a broader demand for democracy and justice. The government responded by arresting many protesters, particularly university students. Amid this repression, the Istanbul Bar Association established a crisis desk to assist those whose rights were violated and provided legal support. Interventions in bar associations are more than attacks on legal institutions; they are deliberate efforts to weaken the legal foundation of any resistance to the regime.

Second, the events surrounding the Istanbul Bar Association should serve as a warning to so-called consolidated democracies. The Presidential Memorandum issued by Trump, which weaponised the powers of the Departments of Justice and Homeland Security against lawyers, poses a significant threat to intimidate and silence legal professionals—particularly those defending civil rights and liberties. At the same time, as Cummings explained in this blog, the Trump administration seeks to weaken bar associations and attacks the American Bar Association to dismantle its influence and to silence lawyers. When lawyers who protect rights and uphold the rule of law become targets of state repression, it signals a deeper democratic decline. Recognising the essential role of lawyers in safeguarding the rule of law and ensuring access to justice, including advocating for human rights, the Council of Europe has adopted the first international treaty designed to protect the legal profession. This treaty addresses the rising reports of attacks on lawyers, including harassment, threats, physical assaults, and interference with their professional duties. The Convention, set to open for signature on May 13, 2025, covers the right to practice, professional rights, freedom of expression, disciplinary regulations, and protective measures for lawyers and professional associations.

In authoritarian regimes, courts are transformed into mere stages where judges and prosecutors, under government control, perform a scripted spectacle of legality. By criminalising lawyers and bar associations, authoritarian governments seek to render the right to defence meaningless. The legal profession is thus at the centre of the broader struggle for democracy and the rule of law, as lawyers provide crucial access to justice, expose the arbitrariness of legal proceedings, and enable individuals to assert their rights in the face of state repression.

Studies on democratic decline and autocratisation have largely focused on courts and judges, examining how executives erode judicial autonomy and try to appropriate courts for the consolidation of their power. This narrow focus overlooks the systematic attacks on lawyers and bar associations. To better understand the erosion of the rule of law and democratic decline, it is essential to recognise the pivotal role lawyers play in defending democracy. The resilience of lawyers demonstrates that even in the face of state harassment and intimidation, legal professionals remain at the forefront of democratic resistance, fighting not only for their own profession but for the fundamental rights of all citizens.

It is also important to recognise that the recent legal action against the Istanbul Bar Association extends beyond crushing the individual efforts of lawyers seeking justice. When viewed alongside lawsuits targeting the executive board of the Turkish Medical Association (TTB) and investigations into the Education and Science Workers' Union (Eğitim-Sen) for encouraging protests following İmamoğlu's arrest, a broader pattern emerges: the government appears to be systematically targeting professional organisations with the capacity to mobilise segments of society. Even when such investigations do not lead to criminal penalties, they generate ongoing pressure and foster an atmosphere of intimidation, aiming to weaken institutions that could play a pivotal role in organising opposition.

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