

Turkey's terror list: An attack on lawyers and human rights

The undersigned organisations deplore the recent arbitrary designation of Günay Dağ as a “terrorist”. Günay Dağ is a lawyer at the International Bureau of the People's Law Office and a member of the Progressive Lawyers' Association (ÇHD). On 30 December 2022, he was added to the list called "list of wanted terrorists" published on the official website of the Ministry of Interior. For the past three years, Günay Dağ has been a political refugee.

Although Günay Dağ has never been convicted of a criminal act of terrorism by a court, he is now being labelled as a “wanted terrorist” and member of a terrorist organisation.

We fear that Günay Dağ is being identified with his clients or his clients' causes as a result of discharging his professional functions, in contravention of international and universal law and standards relating to the role of lawyers.

Alleged “terrorists” placed on the official list are subdivided into five categories: red, blue, green, orange and grey, according to the ascribed level of threat and/or importance. Günay Dağ has been included in the “green category,” with a reward of two million Turkish Liras offered for information leading directly to his arrest. This list published by the Ministry of Interior is solely based on the provisions of the "*Regulation on Rewards to be Offered to Those Who Help in Exposing Terrorist Crimes or Seizing Evidence or Arresting Criminal Perpetrators*", which is known as the "rewards regulation". However, this regulation does not provide any authorisation to the executive power to establish such a list, nor does it explain how the categories are to be determined or administered. Since the five colours have different amounts of monetary award, it is only known that the green category represents the medium level. This list has become an important tool for persecuting and prosecuting those who are considered as political opponents to the government. Critically, the list contains not only those accused of being directly involved with “terrorism”, but also lawyers that are representing them.

With such financial incentives for tips leading to an arrest, which can go up to almost five hundred thousand EURO, it appears that the authorities are trying to reach even persons who have fled and are no longer on Turkish territory.

The list includes a total of 971 people accused of being members of 19 different alleged “terrorist organisations”. The well-known journalist Can Dündar, who lives in exile, was also put on the list on 30 December 2022, the same day as lawyer Günay Dağ,

Over the course of several years, a number of legal actions have been initiated by State authorities in Turkey against lawyers in violation of the prohibition of identifying lawyers with their clients. (See Article 18 of the UN Basic Principles on the Role of Lawyers: *Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions*).

One of the well-known cases of this type concerns the prosecution of 22 lawyers from the Progressive Lawyers' Association (ÇHD), which has been ongoing for more than 10 years. Many of the accused ÇHD lawyers have been imprisoned for years, although they have yet to be

irrevocably convicted of a criminal offense. Among them are Selçuk Kozağaçlı, the Chair of ÇHD and other colleagues working in the People's Law Office. Most of them have been acting as lawyers in politically sensitive cases. However, despite the heavy pressure against them, our colleagues who are not yet detained are still trying to pursue their legitimate professional activities as lawyers.

Arbitrary listing:

The listing entails serious consequences for the person concerned who faces serious risks of imprisonment, stigmatization and other human rights violations. Yet the list lacks a proper legal basis for its implementation. So far, only a decree of the Ministry of the Interior regulates the remuneration for informants.¹ There is no legal provision that regulates who can be put on the list, how persons may be removed from the list nor how the executive authorities may decide establishing such a list, nor how it is managed. The initiation and administration of the list is therefore arbitrary, contravening the principles of legality.

Violation of the presumption of innocence, right to a fair trial and right to private and family life:

The listing authority does not provide expressly for judicial review, nor does it spell out any procedures for review a judicial authority, despite the fact that listing necessarily results in a serious impairment of the exercise of the rights of those who have been listed. The designation of a person as a terrorist without having been sentenced by a court or tribunal and without due process violates the presumption of innocence and the right to a fair trial. These human rights established under customary international and guaranteed by treaties to which Turkey is a party, including the International Covenant on Civil and Political Rights (ICCPR, articles 9 and 14) and the European Convention on Human Rights (ECHR, articles 5 and 6). In this regard, the European Parliament recently strongly condemned the Turkish government's disregard for the right to a fair trial in the context of the ECtHR's 2019 case *Kavala v. Turkey*.

Likewise, sharing personal information openly and illegally on the internet is a violation of the right to private and family life (ICCPR, article 17; ECHR, article 8).

INTERPOL blocking Turkey's list:

A Red Notice is a request to law enforcement worldwide to locate and provisionally arrest a person pending extradition, surrender, or similar legal action. It is based on an arrest warrant or a court order issued by the judicial authorities in the requesting country. Member countries apply their own laws in deciding whether to arrest a person. Red Notices are published by INTERPOL at the request of a member country, and must comply with INTERPOL's Constitution and Rules.

In this context, we understand that INTERPOL has rejected most of the requests made by Turkey on the basis of this list, on the grounds that they lacked persuasive evidence and were

¹ *Regulation on Rewards to be Offered to Those Who Help in Exposing Terrorist Crimes or Seizing Evidence or Arresting Criminal Perpetrators*

politically motivated and therefore did not comply with binding INTERPOL regulations. In this regard, the Red Notice request for Can Dündar was rejected by INTERPOL.

Conclusion and recommendations:

In view of the above, the undersigned organisations call on the Turkish authorities to stop identifying lawyers with their clients or the causes they defend, including by putting an end to their listing as terrorists without due process and a fair trial. Additionally, we urge the Turkish authorities to remove lawyer Günay Dağ and all other lawyers from the "list of wanted terrorists" since their inclusion to this list is based on their legitimate activities as lawyers. Finally, the undersigned organisations call on the Turkish authorities to take all necessary measures to guarantee that all lawyers in Turkey are able to carry out their professional duties without fear of reprisal, hindrance, intimidation or harassment, in order to preserve the independence, integrity of the administration of justice and the rule of law.

This statement was endorsed by

Alternative Intervention of Athens' Lawyers.

Asociación Americana de Juristas (AAJ)

Association of Lawyers for Freedom (ÖHD)

Avocats Sans Frontières (ASF)

Center for Research and Elaboration on Democracy/Group of International Legal Intervention

Council of Bars and Law Societies of Europe (CCBE)

Défense Sans Frontières - Avocats Solidaires (DSF-AS)

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

European Criminal Bar Association (ECBA)

European Democratic Lawyers (AED)

Giuristi Democratici Italia

Haldane Society of Socialist Lawyers

Indian Association of Lawyers

Institut des droits de l'homme du barreau de Bruxelles

International Association of Democratic Lawyers (IADL)

International Bar Association's Human Rights Institute (IBAHRI)

International Commission of Jurists

Judicial Reform Foundation

Lawyers for Lawyers (L4L, the Netherlands)

Lawyers' Rights Watch Canada

National Union of Peoples' Lawyers (NULP, the Philippines)

Progressive Lawyers' Association (ÇHD, Turkey)

Republikanischer Anwältinnen und Anwälteverein (RAV, Germany)

The National Association of Democratic Lawyers [South Africa]

Vereinigung Demokratischer Juristinnen und Juristen eV (VDJ)