



Joint statement on the arrest and detention of lawyer Bedirhan Sarsilmaz

8 November 2024

Lawyers for Lawyers, the European Association of Lawyers for Democracy and Human Rights, Fédération des Barreaux d'Europe, and the Law Society of England and Wales are gravely concerned about the arrest and detention of lawyer Bedirhan Sarsilmaz. Mr Sarsilmaz is a member of the Istanbul Bar Association and the Association of Lawyers for Freedom (Özgürlük için Hukukçular Derneği - ÖHD), and often provides legal representation for students, local politicians, and activists.

We have been informed that on 25 October 2024, Mr Sarsilmaz was representing Kurdish clerics accused of issuing statements in the Kurdish language in a mosque, at the Istanbul 14th High Criminal Court. During the hearing, he was informed of a pending detention order against him, issued by the Istanbul Chief Public Prosecutor's Office. Mr Sarsilmaz informed authorities that he was currently acting as defence counsel and representing his client in a court hearing but, before the hearing had concluded, he was forcibly removed from the courtroom and detained.

Mr Sarsilmaz was held in custody at the Istanbul Provincial Security Directorate for three days without being informed of the charges against him. The Prosecutor's Office denied Mr Sarsilmaz access to his legal representatives for 24 hours and placed restrictions on access to investigation documents effectively denying access to the case file. This decision was based on Emergency Decree Law No. 676, which amends Article 154/2 of the Code of Criminal Procedure to allow for a 24-hour restriction on attorney-client meetings and restricted access to investigation documents in cases related to alleged membership of a terrorist organisation.

On 28 October 2024, Mr Sarsilmaz was brought to the Istanbul Courthouse. His insistence that, as an attorney, his statement should be taken directly by the prosecutor, was disregarded. Mr Sarsilmaz was denied the opportunity to respond to the allegations against him or to present evidence in his defence. He was referred to the Criminal Judgeship of Peace with a request for detention, based solely on alleged professional communications with clients and social media posts that fall within the scope of freedom of expression. The Criminal Judgeship of Peace ruled for his detention without conducting a substantive evaluation of the allegations.

The undersigned organisations are concerned that the detention of Mr Sarsilmaz is directly related to his professional duties as a lawyer. There are indications that this follows the unlawful identification of Mr Sarsilmaz with his clients or his client's cause. We are also concerned that his trial may not meet international fair trial standards, due to infringements on due process and the right of access to legal representation. In addition, it raises concerns around freedom of expression.

As a State party to the International Covenant on Civil and Political Rights and the European Convention on Human Rights, Türkiye has an obligation to ensure, inter alia, that no-one is

subject to arbitrary arrest or detention. Türkiye also has obligations under international human rights law to ensure no-one is deprived of their liberty except on such grounds and in accordance with such procedures as are established by law, and to ensure that anyone charged with a criminal offence is brought to trial in proceedings which meet international fair trial standards.

Furthermore, in accordance with Principle 16 of the UN Basic Principles on the Role of Lawyers, lawyers must be able to perform all their professional functions without intimidation, hindrance, harassment or improper interference; and shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance, with recognised professional duties, standards and ethics. In accordance with Principle 18, lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

The undersigned organisations respectfully urge the relevant authorities to:

1. Immediately and unconditionally release Bedirhan Sarsılmaz, unless credible evidence is presented that his arrest and detention comply fully with international human rights law and standards;
2. Ensure that pre-trial detention is only used as an exceptional measure and that persons are brought to trial without undue delay and in proceedings that comply with fair trial rights;
3. Halt all acts of intimidation and harassment, including arbitrary arrest and detention, against lawyers in Türkiye and ensure that lawyers in Türkiye are not unlawfully identified with their clients or their clients' causes.

We will continue to monitor the situation of Mr Sarsılmaz, as well as other members of the legal profession in Türkiye.

SIGNATORIES:

Lawyers for Lawyers

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

Law Society of England and Wales

Fédération des Barreaux d'Europe (FBE)