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## ***“There is nothing of substance in the case file”***

***Report on the observation of the first and final hearing in the case against Att. Bedirhan Sarsilmaz, Istanbul, 6 May 2025***

On 28 October 2024, Att. Bedirhan Sarsilmaz, who is a member of the lawyers’ association Özgürlük için Hukukçular Derneği (ÖHD, Association of Lawyers for Freedom), was arrested at the Çağlayan Courthouse in Istanbul during a hearing in which he was participating as a lawyer and was only released on 20 February 2025 after almost four months in detention. Due to his work as a lawyer, Bedirhan Sarsilmaz was accused of being a member of a terrorist organization, namely the PKK. The charges brought against him based on three separate set of accusations: i) the visit of a student protest; ii) the surveillance of his phone; and iii) an interview he gave on “the right to hope.” On 6 May 2025, two lawyers representing both the Swiss Democratic Lawyers (DJS) and the European Lawyers for Democracy and Human Rights (ELDH), alongside roughly 50 colleagues from Turkey, attended the first—and final—hearing in the case against Bedirhan Sarsilmaz: Following his defense before a three-judge panel and the intervention of his lawyers, he was acquitted. Although we are delighted by the acquittal—our colleague Bedirhan Sarsilmaz should have never been on trial in the first place, and the time he spent in prison cannot be undone.

### ***Arrested in court—an attack on the right to an effective defence***

On 28 October 2024, Att. Bedirhan Sarsilmaz was defending his clients, who were accused of being members in a terrorist organization, as a criminal lawyer in court when the police entered the courtroom with the intention of arresting Bedirhan Sarsilmaz in the middle of the ongoing hearing. In his own trial on 6 May 2025, Bedirhan Sarsilmaz described in his defence speech how he had to argue with the police officers to finish his closing arguments for his clients in court before being taken away. At this point of his defence speech, the presiding judge interrupted Bedirhan Sarsilmaz for the first time, reminding him to “come to the point” and focus on answering to the accusations brought against him. Bedirhan Sarsilmaz continued by illustrating the context of the charges. In 2022, students in several cities in Turkey took to the streets under the slogan “the sky is our roof” to draw attention to the severe shortage of student housing and the substandard accommodation available. Also in Istanbul, students were protesting in a park and Bedirhan Sarsilmaz, as did many others, visited the protest as a lawyer to support the students in his professional capacity. Here, the presiding judge interrupted the defence speech again and requested Bedirhan Sarsilmaz to keep his explanations brief, prompting one of Bedirhan Sarsilmaz's defence lawyers to remind the court that someone who has spent four months in prison must at least have the right to express himself in his own hearing.

Bedirhan Sarsilmaz went on to highlight one of the—in the eyes of the observers—key aspects of the case: The act of literally arresting a lawyer in his robe while he is participating in a court hearing as a defence lawyer can only be seen as a demonstration of force sending a message of intimidation to all lawyers and an attack on the right to an effective defence as such. DJS and ELDH were later informed that the judges sitting on 28 October 2024 did not intervene in the arrest, but allowed the police without any objection from them to take Bedirhan Sarsilmaz from the courtroom into custody before delivering their verdict in the ongoing hearing. Bedirhan Sarsilmaz was taken to the police station without even knowing the outcome of the trial of the client he had defended just moments before his arrest.

### ***Accusations out of thin air—the criminalization of a profession***

While the members of the three-judge panel on 6 May 2025 seemed to be focused and attentive, the presiding judge obviously wanted to move things along and asked Bedirhan Sarsilmaz again to focus on the charges, who then confirmed that he had indeed paid a solidarity visit to the student protest some two years before his arrest. He added, however, that such a solidarity visit in no way constitutes a criminal offense. As he was about to speak about the second accusation against him, related to the surveillance of his phone, one of his defence lawyers intervened and asked the court to rule on their motion to exclude those phone records from the file because they were illegally obtained and violated the attorney-client privilege. The presiding judge, however, refused to deliver his related decision and requested Bedirhan Sarsilmaz to continue his declarations. Related to the surveillance of his phone, the indictment included two allegations as alleged proof for the membership of Bedirhan Sarsilmaz in a terrorist organization.

Firstly, Bedirhan Sarsilmaz was said to have “conspired” with his clients regarding their criminal defence. Despite these accusations being factually untrue, Bedirhan Sarsilmaz also added that consulting a client with regards to legal strategy is part of any lawyer’s professional duties. Secondly, through the surveillance of his phone, law enforcement agencies had established a list of 64 phone numbers Bedirhan Sarsilmaz had been in touch with and belonged to people who were subject to a terrorism-related investigation—including his father’s, uncle’s and his own number. One of Bedirhan Sarsilmaz’s lawyers later added that it is part of the legal duties of every defence lawyer to be in contact with people who are under criminal investigation or accused of criminal offenses. According to one of Bedirhan Sarsilmaz’s lawyers, framing a lawyer’s professional habits as alleged activities of a member of a terrorist organization shows that the present trial is in fact not about assessing individual conduct, but about targeting the profession as such.

### ***Unwanted engagement in public discourse—undermining political criticism***

Lastly, Bedirhan Sarsilmaz addressed the third accusation tied to public statements regarding the “right to hope,” and his critique of the “isolation system.” Although not explicitly named, it could be understood from the context that in the indicted interview Bedirhan Sarsilmaz had talked about the prison regime imposed on the PKK prisoners held on İmralı island, including Abdullah Öcalan. The legal concept of the “right to hope” essentially derives from the prohibition of torture and inhuman or degrading treatment or punishment, and includes the idea that even prisoners serving life sentences should be allowed to hope, however dimly, for their eventual release (ECtHR, *Vinter and Others v. the United Kingdom* [GC], nos. 66069/09, 130/10 and 3896/10, 9 July 2013). While Bedirhan Sarsilmaz reiterated in court that his criticism was merely legal and in line with the case law of the European Court of Human Rights, he also referred to

the official acknowledgment of the “right to hope” by the ruling AKP’s nationalist coalition partner Devlet Bahçeli in the course of the latest negotiations between the Turkish state and Abdullah Öcalan.

From this summary of the statements made by our colleague Bedirhan Sarsılmaz and his defence team in court, it is evident that the accusations made have no real legal basis. In the words of one of his lawyers who elaborated on the case-law on the membership in a terrorist organization developed in Turkey over the last decade: “There is nothing of substance in the case file.” Rather, the allegations made are an example of how the accusations against clients in Turkey reflect back on their lawyers in violation of the UN Basic Principles on the Role of Lawyers. Specifically, Article 18 states that lawyers shall not be identified with their clients or their clients' causes as a result of the exercise of their functions. In this context, a representative of the executive board of the Istanbul Bar Association—which itself, in an unprecedented attack on the legal profession of lawyers, collectively faces terrorism-related charges\*—intervened in the hearing emphasizing that both Law No. 1136 on Lawyers and the Professional Rules of the Union of Turkish Bar Associations state that the duty of lawyers includes to defend and protect the rule of law and human rights, while the UN Basic Principles on the Role of Lawyers further hold that lawyers should not be subjected to pressure for action according to their role in the promotion and protection of human rights. Subsequently, the presiding judge closed the hearing and requested Bedirhan Sarsılmaz, his defence and the audience to wait in the hallway outside the courtroom during their deliberation.

#### ***Acquittal—the only lawful result in a baseless trial***

After a maybe 15-minute break, the presiding judge announced the acquittal of Bedirhan Sarsılmaz. The audience spontaneously responded with applause to celebrate the happy news. Outside the courtroom, there were hugs, handshakes, pats on the back, and laughter—all of which seemed more like expressions of relief than victory. The effects of the uncertainty inherent in an arbitrary and politicized law enforcement and judicial system linger: “Today went well, but let's wait and see what happens tomorrow,” is the dominant sentiment echoed by people we spoke to. The positive outcome should, therefore, not obscure the fact that this case is yet another stark reminder that in Turkey, the defence of human rights—or simply fulfilling one’s duties as a lawyer—may deliberately be constructed as a criminal offense in order to persecute any criticism of the regime.

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\* For further context see Türkiye: Attacks on the Legal Profession Unacceptable, joint statement dated 14 April 2025, available [here](#).