

Subject: Asking for advice and help on a significant legal problem in Turkey

We wanted to inform you about the violations of law in a court case in Turkey over Adnan Oktar and his friends. The case has 236 defendants (83 of whom are still in jail), whose characters have been assassinated by the media since the day of the police operation with false news in breach of the presumption of innocence. (You may take a look at the "*who are the defendants?*" section from adnanoktarlawsuit.com website:

<https://adnanoktarlawsuit.com/2020/07/02/who-are-the-defendants/>)

The case has been going on for about 3 years with human rights and legal violations.

All the property of the defendants has been confiscated and the **highest sentences of thousands of years (the highest jail sentences for such alleged crimes in the history of Turkey) have been imposed by the court without any material and legal evidence** to confirm the allegations. **We hereby present to you the evidence why the trial and sentences were not legal and lawful, and kindly ask for your patience to read through this email and the link provided and give us your advice, guidance and help on this significant issue.**

Before his imprisonment, Adnan Oktar had a popular daily, live TV show where he relentlessly promoted peace, freedom of speech, faith and importance of democracy. Having written more than 300 books that were translated into 73 languages, he became widely popular not only in Turkey but around the world. He advised women to actively participate in society and supported them in their free choice of dress and lifestyle. He hosted representatives of the Christian and Jewish faiths on his live TV show, and fought intellectually against anti-Semitism in the Islamic world. He opposed radicalism and terrorism, which made him a target of radical terrorist organizations such as al-Qaeda and ISIS, which threatened him on several occasions.

The modern, Western-oriented, progressive views of Mr. Oktar and his friends, based on a modern understanding of Islam provoked reactions from orthodox groups which have a great influence on politicians in Turkey. In their dislike of what Mr. Oktar and his friends represented, these orthodox groups have launched a massive black propaganda to stop his intellectual efforts and end his broadcasts on A9 TV. As a part of this campaign, certain hostile groups were arranged to concoct a plot against him and subsequently, a police raid took place on July 11, 2018.

As a result, Adnan Oktar and 200 of his friends, none of which have any criminal records and all of whom are well-educated, successful people from respectable backgrounds, were

picked up from their homes, kept in police custody for eight days and then were taken to jail.

The TV channel where the group's views were broadcast, the publishing house that printed Mr. Oktar's books, and all the websites containing Oktar's works were shut down without any legal basis. In summary, the whole case in question aims to halt the intellectual work of the group, and sadly the law is being abused to that end.

Since the police operation that took place on July 11, 2018, unlawfulness and violation of international conventions and human rights have been taking place in every stage of the investigation, prosecution and proceedings of the trial.

In violation of the principle of “natural judge” and “prohibition of discrimination”, a panel of judges was specially formed and dedicated to hearing this particular case of Adnan Oktar and his friends, as well as the case of Osman Kavala/Gezi Park. Soon after sentencing Adnan Oktar and his friends to thousands of years of jail penalty on January 11, 2021, the panel was dissolved.

Throughout the hearings, the defendants were exposed to discrimination on the basis of their beliefs. They have been arrested for fabricated reasons and convicted on fictional grounds as a result of the provocations inflicted by orthodox groups who react to their faith and lifestyle for religious and political reasons.

The lawyers of the defendants who have been trying to give legal assistance throughout this term have been subjected to the same unfairness and some of them have also been interrogated, investigated, prosecuted and imprisoned in the end. The defense counsels were subjected to unethical and unlawful conduct by preventing them from defending their clients, depriving them of their right to pose direct questions, not allowing them to raise their objections, having their microphones turned off and having them taken out of the courtroom by the gendarmerie with the arbitrary directives of the presiding judge. These intimidation methods implemented on the lawyers are intended to raise concerns in them, make them refrain from making an effective defense and even withdraw from the case, and in the end deprive the defendants from receiving any legal assistance from their lawyers. All this setup loaded heavily with burdens of illegality, violations of law, and breaches of human rights is aiming at preventing the acquittal of defendants and the truths from surfacing.

Since defendants have not been treated in a fair and lawful way in the last 3 years, and many of them have been imprisoned and are still in prison despite their innocence and

even though they have provided all the evidence to surface the material truth, their efforts have been suppressed through illegality and unlawfulness that was put to use by various parties involved in the process.

Below is an explanation on why the so-called “justified decision” of the court is not justified and how the court sentenced the defendants to thousands of years in jail without any legal basis.

Having resorted to all lawful means to seek justice and fairness, within the legal system and by means of the appeals that have been made to the higher court, the defendants are still seeking that their voice is heard by an impartial court, an impartial judge and an impartial jurisdiction.

The Decision Numbered 2021/6 Issued by the Istanbul High Criminal Court No. 30 Does Not Contain Proper Justification, Therefore It Is an "Unjustified" Decision

The case numbered 2019 / 313E. has 236 defendants (**including 10 lawyers**) in total (10 intervening defendants, 1 complainant defendant and 225 defendants). **170 of these defendants were kept detained for about 17 months, then 96 of them were released to be placed under house arrest while 83 of them still remain to be detained.** The measure of house arrest imposed on the 96 defendants continued uninterruptedly until 11 January 2021, when the verdict was given.

The court did not investigate any evidence during the 16-month prosecution, committed many procedural violations during the trial, deliberately violating the defense rights of the defendants and their rights to a fair trial. **A detailed list of the unlawful practices is available at <https://adnanoktarlawsuit.com/2021/04/14/irregular-proceedings-of-the-panel-of-judges-during-the-trial/>**

We kindly ask you to have a look at this compilation, which will be beneficial to have a better understanding of the unfairness and unlawfulness the defendants have been subjected to during the prosecution.

The applicable articles for the crimes attributed to the defendants are as follows: Turkish Penal Code (TPC) article 220/1,2,7-3, TPC article 328, TPC article 102, TPC article 103, TPC article 112, TPC article 96, TPC article 106, TPC article 107, TPC article 109, TPC article 125, TPC article 282, TPC article 133, TPC article 158, TPC article 135, TPC article 82, TPC article

314/2, TPC article 205, TPC article 210, TPC article 283 and violation of the laws no. 6136, no. 3628 and no. 5607.

Those defendants tried for TPC article 220/1-3 (for establishing or administrating a criminal organization) are held responsible for all these crimes by the reference of TPC article 220/5.

The assets of 235 defendants and 86 companies were seized and the management of the companies was transferred to the TMSF (Saving Deposit Insurance Fund) trustees. In addition, the court decided to confiscate 8 companies, 34 real assets and 64 vehicles.

The court decision numbered 2021/6 and consisting of 11,400 pages includes:

Content	Between Pages	Total Pages
Summary of the 5 combined indictments	1-313	313 pages
Prosecutor's opinion on the merits of the case (dated 13.11.2020)	313-553	241 pages
Statements of the intervenors and the complainants before the court	553-2131	1579 pages
Statements of the defendants before the court (<i>Only the first hearing statements are included. The statements made in response to subsequent indictments and to the Prosecutor's opinion on the merits are not included in the decision!</i>)	2131-8339	6209 pages
Court statements of those defendants who applied to benefit from the effective remorse provisions (who made a plea deal)	8339-8691	353 pages
Defense counsels' statements (<i>Only the first hearing statements, which were about procedural issues, are included. The defense upon the merits is not included in the court's decision!</i>)	8691-9131	441 pages
Witness statements before the court	9131-9302	172 pages
Expert reports (<i>Expert opinions and reports submitted by the defense are not included in the court's decision!</i>)	9302- 9356	55 pages
Evaluation of the evidence and justification (<i>Almost exactly the same as the first main indictment!</i>)	9356-9533	178 pages

An overview of the defenses and the allegations of procedural violations	9533-9537	5 pages
Legal qualification of the actions of the defendants and determination of penalties	9537-11400	1864 pages

According to both the Turkish Constitutional Court and the ECtHR, **if a court decision does not have sufficient justification, it is a violation of the "Right to a Fair Trial" guaranteed by the provisions of the Turkish Constitution Art. 36/1 and ECHR Art. 6/1.**

In the justified decision of this case, the indictment is repeated almost as exactly as it was, including spelling and punctuation errors. The court ignored the 16-month prosecution process and refrained from writing a justification for its decision, and it was content with copying and pasting what the prosecution had already written in the indictment.

1. When we look at the court decision, we see that it consists of too many pages but that it is abstract and unjustified in terms of content. **The grounds for the conviction are not substantially justified.** The panel of judges gave its verdict by hiding behind abstract, cliché and stereotyped justifications, and did not justify its decisions in an explicit way that would allow it to be reviewed by the higher courts.
2. The panel of judges conducted a trial in disregard of the right of defense and gave a hasty verdict. **The court made a decision before the SEGBIS [Sound and Video Information System] transcripts of the hearings during which the defendants presented their defenses in response to the Prosecutor's opinion on the merits were prepared and included in the case brief.**
3. The defense of the defendants and the defense counsels on the merits of the case are ignored, and the statements and evidence presented in these defenses are not included in the justified decision, not even in a single sentence.
4. The defenses made and the evidence presented by the defendants throughout the trial are not discussed in the court decision, and **it is not explained in the decision on what grounds the defense statements, the defense evidence, the expert reports submitted by the defense have been rejected.**

5. The court's decision does not explain why **any of the evidence requested by the defense throughout the trial was not collected.**
6. The verdict of conviction is purely built on **abstract statements** of complainants and so-called **evidence collected unlawfully.**
7. Turkish Penal Code Art. 220 on **Establishing Organizations for the Purpose of Committing Crimes** reads, "*Any person who establishes or manages an organization for the purposes of committing offenses proscribed by law shall be sentenced to imprisonment for a term of ...*" However, neither in the indictment, nor in the Prosecutor's opinion on the merits, nor in the court's decision, **there is no reasonable and lawful description of the "intended offense" of the alleged criminal organization.** It has not been determined for which intended offense the defendants came together to commit. What is written under the heading "Intended Offense" are not criminal acts according to the Turkish Penal Code. On the contrary, they are related to individuals' faiths, beliefs and life styles. **If an act is not punished by the criminal law, it cannot be considered a crime.** Besides, considering all the alleged crimes in the case as the intended offense is legally not possible, since most of the alleged crimes are non-continuous individual acts. The court unlawfully ruled that the defendants are a criminal organization without determining the criminal purpose of the group and without revealing the elements of a criminal organization.
8. **The Court made a collective decision without any legal justification and decided to confiscate all of the defendants' money, cash, watches, jewelries, companies, real estates and vehicles without any discrimination.** "General confiscation" violates international conventions as well as Article 38 of the Turkish Constitution, which reads "*Neither death penalty nor general confiscation shall be imposed as punishment.*"

Turkish Penal Code Art. 54 and 55 on confiscation of property and gains introduce provisions of "special confiscation" and make clear that there should be a close relation between the asset value subject to confiscation and the crime committed. Hence, **the prerequisite for confiscation is that the asset value has a relationship with the crime.** However, the court did not explain for which criminal acts it made this decision about the companies, real estates, vehicles and any of the confiscated properties. It did not establish a causal relation with the crime committed, and could not give justification for confiscation. Violating the right of property, the court decided to confiscate even the white goods in the defendants' houses on abstract grounds that "it was understood that they are allocated for the use of the members of the organization".

Even though the court's confiscation decisions appear to be given by the Turkish Penal Code Art. 54/1 and 55, **they have the effect of "general confiscation"** in terms of content

and therefore are not lawful. **In fact, the Prosecutor too appealed the court's decision in this respect.**

The unjustified confiscation decisions made by the court without considering the defense and evidence presented by the defendants regarding how they earned the income to purchase the confiscated assets (through inheritance, bank loan, salary earned, etc.), and made without establishing a causal relation with the alleged crimes appear to be an extortion and plunder by the institutions of the state.

9. **The panel of judges considered all statements of the defendants as "organizational defense" in a manner of having preconceived opinion regarding the existence of a crime (and hence reflecting bias),** while accepting the statements of the complainants and those defendants who made a plea deal as "sincere statements". However, the reasons why are not explicitly explained in the decision. It is not stated which statement or which evidence is deemed superior to another, and why.
10. The statements of the complainants, witnesses and those defendants who made a plea deal contradict both within themselves and with each other. These contradictions and false accusations were submitted by the defense to the court during the trials. Moreover, most of these contradictions were noticed by the panel of judges during the hearings. **However, these contradictions and false statements are ignored in the court's decision and no mention is made as to why they were not resolved.**
11. **The contradictions between the defenses of the defendants and the statements of the complainants are not resolved** by the court, and not even mentioned in the court's decision.
12. **The court did not establish the required act-fact-judgment relevancy between the alleged acts and the evidence.**
13. **The court did not make an individual assessment of the persons.** It is for this reason that all of the defendants tried on the charge of Turkish Penal Code Art. 220/2-3 (membership of a criminal organization) are sentenced to 4 years and 6 months' imprisonment, **without making any exception.**
14. **107 defendants are sentenced only for membership of the alleged criminal organization.** These people admit that they have been in this group of friends for about 30 years. Despite seeing that there is not even a criminal accusation against these people in all those years they have been in this group, the panel of judges acted with the presumption of a criminal organization, and **citing non-criminal acts as justification, named them as "members of the criminal organization" and imposed on all the defendants the heaviest penalties allowed by the law.**

15. **“The evidence the verdict is based on” and “the evidence rejected” is not explicitly stated and disclosed in the court’s decision in a way that allows an appeal review.**
16. **The panel of judges based its judgment on the evidence obtained by unlawful means, without allowing the parties to discuss them before the court.** In the court’s decision, a short and inaccurate explanation is made about the legality of the “things” obtained as per the Turkish Code of Criminal Procedure Art.116 (“search related to the suspect”) and Art.134 (“search of computers, computer programs and transcripts, copying and provisional seizure”), but no explanation is made regarding the legality issues raised by the defense about the so-called evidence collected as per other measures and presented by the intervening party.
17. Concrete evidence was submitted to the court that a number of hostile complainants and some police officers (whose names are in the case brief) threatened and forced people who had been friends with the defendants to file complaints against them, and that the social media accounts that threatened the defendants were owned and administered by the hostile complainants. The panel of judges was asked to investigate these suspicious points, but these requests were denied. **All the contradictory, inconsistent and abstract statements made by the hostile complainants with the aim of harming the defendants were accepted as correct by the court and the verdicts of conviction were given based on these statements.**

The information and documents showing that the case is based on hostility has not been evaluated by the panel of judges, and the entire judicial process has been executed in a manner far from searching for and revealing the material truth.

18. **The women claiming to be victims of sexual crimes did not give details of the date, place and circumstances of the alleged incidents.** In the court’s decision, it is not stated on what date, in which place, as a result of which action of which defendant the victim was victimized, and for what reasons it was accepted that there was criminal intent in which action and for what reasons it was accepted that the complainants had not given consent. **The panel of judges gave verdicts of conviction writing stereotyped sentences based on repetitive and non-concrete assumptions.**
19. In some cases, even though the complainant did not specify the place of the alleged incident, the panel of judges has written a place in its decision to give the appearance that the victim has given such details. **In some cases in which the defendant had proven by passport data that he was abroad at the time of the alleged incident, the panel of judges changed the date range and sentenced the defendant to punishment.** Apparently the court did not give verdicts as a result of a fair trial, but acted in a biased manner to punish the defendants no matter what.

20. The statements of the complainants who claim to be victims of sexual crimes are **full of contradictions, and their statements altered in stages**. But the panel of judges nevertheless delivered verdicts of conviction, producing unrealistic and stereotypical justifications, naming the complainants' statements "consistent in stages".
21. It was ignored by the panel of judges that **the complainants who claimed to be victims of sexual crimes could not provide a single concrete evidence**, such as a medical report showing the psychological or physical findings of alleged rapes, any biological evidence or swab samples proving their claims. The court did not even send these people for examination at the Forensic Medicine Institute, but delivered verdicts of conviction without making the necessary investigation.
22. **Defense evidence disproving the accusations** of the complainants claiming to be victims of sexual crimes (such as mobile phone Historical Traffic Search data, passport records, or the lease agreement showing that the apartment where the alleged incident took place had not yet been rented by the defendant on the alleged date) **were all ignored by the court, without giving any reason as to why**.
23. The statements of some complainants who claimed to be victims of sexual crimes that they were in love with the defendants were ignored by the panel of judges. **The panel of judges ignored the fact that a so-called victim, even after filing a complaint, had visited the defendant in prison, taken photos with him holding his hand, written him letters expressing her love and longing for him**. Such facts showing that the allegations of sexual assault are not true are ignored by the court and the defendant is sentenced to 36 years in jail.



Photographs of the complainant with the defendant Mehmet Ender Daban (AFTER SHE HAD FILED A COMPLAINT AGAINST THE DEFENDANT) at the Kirikkale F Type Prison, on 05.02.2019

24. The court decision reads for each and every defendant, "*Considering the attitude and behavior of the defendant in the hearing, his/her defenses in the form of denial, his/her lack of regret, and the court's observations on these issues, there is no place for the application of Article 62 [Matters of Discretionary Mitigation] of the Turkish Penal Code*".

But, it is not specified which attitude and behavior of the defendant led to this discretion, and the exactly same justification is used for all the defendants, without making an individual explanation. None of the defendants had any behavior or an argument that would disturb the order of the proceedings, or a disrespectful attitude against the panel of judges. In fact, the court has not made any decisions or taken measures on this subject during the hearings.

25. The court did not apply Article 62 (Matters of Discretionary Mitigation) on the grounds that the defendants made defenses in the form of denial. The defendants have not committed a crime and their reason for being together as a group is not for the purpose of committing a crime, but for the purpose of performing cultural activities, which are plain to see for about 40 years. It is a most natural right of the defendants not to admit the accusations they did not commit. **It is not legal to force the defendants to admit a crime or to consider the defenses of the defendants as "organizational defense" in a completely biased manner.**

For all these reasons, the "justified decision" in question is not a legally acceptable decision made as a result of a fair trial, but an "unjustified" decision.

Hundreds of women and men, highly educated and conscientious, with no single element of crime in their lives, with clear records of being decent citizens, are being discriminated and treated in a way reminding the inquisition of the past, yet there is still belief that fairness and justice will definitely prevail.

If you as an individual or your organization may support us in any means or provide any help or guidance, please contact me.