

Enlargement Package 2016 – References to lawyers, the legal profession and legal aid

The report on **Turkey** calls on the Turkish authorities to observe the highest standards in the rule of law and fundamental rights, noting concerning the legal profession:

- *The right of every individual to a fair trial, including through effective access to a lawyer, is a central element of the rule of law (page 9);*
- *Human rights defenders were subject to several ongoing court cases, new investigations and intimidation through public statements of high-level officials. The investigation into the killing in November 2015 of human rights defender and chairperson of the Diyarbakır Bar Association, Mr Tahir Elçi, has not progressed (page 13);*
- *Criminal legislation on defamation against the state, its institutions, employees or other symbols of statehood is extensively used against journalists, lawyers and users of social media critical of the government (page 27);*
- *On 1 September 2016, the new Judicial year was opened with a ceremony in the Presidential Palace, which was perceived as putting into question the separation of powers and led to the non-participation of the main opposition party and of the Union of Bar Associations (page 64);*
- *(...) common training courses for judges, prosecutors and lawyers need to be developed (page 65);*
- *The conditions for the activities of the human rights defenders have deteriorated throughout the reporting period. They worsened further after the coup attempt and the declaration of the state of emergency... (page 70);*
- *Some aspects of procedural rights are guaranteed by law, including legal aid and the right to translation and interpretation in criminal matters, but the legislation needs to be aligned with European standards. Furthermore, these rights have been severely violated in practice, in particular in the context of anti-terrorism operations and in the wake of the attempted coup, when access to a lawyer was in many cases not guaranteed and information on charges not always communicated in due time. It is a concern that the decrees adopted under the state of emergency provide for important restrictions to the right of defence, such as limitations to confidential communication between pre-trial detainees and lawyers through recording of the meetings, as this presents risks for the right to a fair trial and leaves detainees vulnerable to ill-treatment. There are reports that lawyers are, due to perceived personal risks, refusing to take up or adequately pursue the cases of alleged coup plotters which results in further practical impediments to fair trials; Legal aid is provided by law in listed cases and access to it needs to be broadened (page 76).*

The report on **Albania** mentions that *“The National School of Lawyers has been operational since 2013 and trained 660 candidates in the 2015-16 academic year, but does not provide in-service training for lawyers”* and that on procedural rights *“more should be done to ensure the right to information, access to legal aid and advice and specific safeguards for suspects, accused persons and victims of crime”*.

The report on **Serbia** states, among other, that *“the performance of ex-officio lawyers assigned to detained persons is a matter of concern”* and refers to *“the lack of an efficient free legal aid system”*.

The report on **Kosovo*** mentions that in April, the Kosovo police, the Judicial and Prosecutorial Councils and the Kosovo Bar Association signed a memorandum of understanding to create a coordination mechanism for providing criminal defence free of charge.

To access the Enlargement strategy and country reports, please click on the links below:

- [2016 Communication on EU Enlargement Policy](#)
- [Albania Report 2016](#)
- [Bosnia and Herzegovina Report 2016](#)
- [The former Yugoslav Republic of Macedonia Report 2016](#)
- [Kosovo* Report 2016](#)
- [Montenegro Report 2016](#)
- [Serbia Report 2016](#)
- [Turkey Report 2016](#)

** Note taken from the European Commission website - This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.*