



# Türkiye Barolar Birliđi Başkanlıđı

Sayı: 41870694-749 – 18796

Ankara 29/05/ 2024

**Pierre-Dominique Schupp**  
**Council of Bars and Law Societies**  
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Dear President,

The Union of Turkish Bar Associations serves as the umbrella organisation for all Bar Associations in Türkiye, under which the 190,000 lawyers in the country are organised. Article 110 of the Code of Lawyers of 1969, which constitutes the founding principles of the Union, has assigned the UTBA the duty of “defending and protecting the rule of law and human rights”. The UTBA has undertaken numerous efforts both at the national and international level to carry out this duty stemming from its law of establishment.

On 20 October 2023, we forwarded a letter to all international professional lawyers’ organizations, stating that the de facto conflict between Israel and Palestine, which started on 7 October 2023, has reached a pressing state with the disproportionate use of force by Israel, and inviting all to contribute to finding a solution. (Annex-1)

During this period in which we forwarded the said letter, Palestinian civilians in the Gaza Strip were forced to leave their homes and were deprived of even the most basic needs due to the blockade. Throughout the hostilities, civilian settlements, including the premises of the Palestinian Bar Association in Gaza and the Al-Ahli Baptist Hospital, were bombed and destroyed, leading to hundreds of civilian children, women and patients at the hospital losing their lives.

Encouraged by the international community’s silence, the Israeli government has since continued its attacks, constituting a violation of the rules and principles of international humanitarian law. The main objective of the law of armed conflict is to protect the victims of armed conflict and to govern the conduct of hostilities based on a balance between military necessity and humanity. The cornerstone of International Humanitarian Law is, without dispute, the principle of distinction between civilians and combatants, which compels the parties to make a distinction between those who may lawfully be attacked and those who must be spared and protected from the effects of hostilities.

This principle of distinction is described in the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I):



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*“In order to ensure that the civilian population and civilian targets are respected and protected, the Parties to the hostilities shall at all times make a distinction between the civilian population and combatants and between civilian targets and military targets, and shall accordingly direct their operations only against military targets.”*

By virtue of this principle, indiscriminate attacks against civilians and civilian populations are also prohibited.

As is known, while International Humanitarian Law, which deals with non-international armed conflicts based on treaties, contains certain provisions on the conduct of hostilities, it is now widely recognized that the most important rules and principles applicable in international armed conflict have gained the status of customary law by means of extending their relevance to non-international armed conflicts.

In the ongoing process and due to the developments in the territories of the State of Palestine, the Union of Turkish Bar Associations, in line with its powers stipulated in the Rome Statute, made a notice to the International Criminal Court on 24.11.2023. (Annex-2)

In the said notice, we have requested the following from the Prosecutor of the International Criminal Court:

- The violations of international humanitarian law highlighted in our notification be included in the investigation, as these violations constitute crimes within the jurisdiction of the International Criminal Court,
- Our findings on “the special intent in the crime of genocide” be taken into account when drafting the indictment,
- An application be made immediately to the Pre-Trial Chamber to issue an international arrest warrant against suspects, regardless of their status, title or office, who are responsible for committing, directly, in concert with others and/or through others, or ordering, instigating, encouraging, aiding, abetting or otherwise assisting or contributing to the commission of crimes within the jurisdiction of the Court.

On 20 May 2024, ICC Prosecutor Karim A. A. Khan applied for a warrant of arrest for Benjamin Netanyahu, Israeli Prime Minister and Yoav Gallant, Israeli Minister of Defence. In his request for arrest, Prosecutor Khan makes the following observation, which is also included in the notification made by the Union of Turkish Bar Associations: ‘... through the imposition of a total siege on Gaza and subsequently the arbitrary restriction of the transfer of essential supplies, including food and medicine. The siege also included the cutting of cross-border water pipelines extending from Israel



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to Gaza, which is Gaza's main source of clean water, for an extended period starting from 9 October 2023, as well as cutting-off of the electricity supplies from at least 8 October 2023 until today...'

On the other hand, Prosecutor Khan did not address 'genocidal intent' at all. However, in the application made by the Union of Turkish Bar Associations, we emphasized the concept of 'genocidal intent' and laid down the acts and statement that prove the existence of such intent. The Israeli attack on the tent camp in Rafah on 26 and 28 May 2024 once again demonstrated that the legal assessment made by the ICC Prosecutor's Office was significantly insufficient in that it did not include the elements of the 'crime of genocide' when requesting the arrest of certain Israeli officials, including the President of the State.

Adding a new one to its war crimes against the Palestinian people, Israel launched an airstrike on 26 and 28 May against the tent city, where the people it had previously displaced were staying. While it is obvious that dozens of innocent people, including children and women, lost their lives and many others were injured in the collapsed burning tents, the failure of international institutions and organizations in stopping this atrocity will go down in history as a great disgrace.

Under all such circumstances, we reiterate our call on 20 October 2023 to the international lawyers' organizations of which we are members. Today, all our colleagues must assume the historical responsibility to stand up for human rights. While the most despicable crimes against humanity that the history has ever witnessed are being committed, justice will not be served when international law punishes the perpetrators after children and innocent civilians have lost their lives. Justice that comes too late will not be justice. What must be done is the immediate prevention of crimes against humanity, where genocidal intent has now become even more obvious.

Yours sincerely.

**R. Erinç SAĞKAN, Attorney at Law**  
**President of the Union of Turkish Bar Associations**