

Prejudgment and Extrajudicial Punishment

THE MINISTER OF INTERIOR'S STATEMENTS ARE IN VIOLATION
OF FUNDAMENTAL PRINCIPLES OF LAW



Report on the Police Operation of February 21, 2025,
and the Stance of the Ministry of Interior



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OTHERS

February 2025
BELGIUM

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INTRODUCTION

Minister of Interior Ali Yerlikaya regularly makes statements on social media platforms regarding operations conducted by law enforcement and uses accusatory language against individuals whose investigation processes are still ongoing.

Most recently, on February 21, 2025, Minister Yerlikaya once again demonstrated this unlawful practice through a statement made on his X social

media account. In his statement, he referred to an operation conducted in 31 provinces, centered in Antalya, which appears to be the 40th phase of a series of operations named "Kıskaç" by the Ministry, ongoing for the past two years. The operation targeted a döner restaurant chain that the Minister alleged to be linked to the Gülen movement. Regarding this operation, he stated: "In simultaneous 'KISKAÇ-40' operations conducted in 31 provinces, centered in Antalya, 353 suspects were apprehended, including 10 public officials. It was determined that they had provided financial support to FETÖ through a döner restaurant chain."



Ali Yerlikaya @AliYerlikaya · Feb 21

Antalya merkezli 31 ilde FETÖ'ye yönelik eş zamanlı düzenlenen "KISKAÇ-40" operasyonlarında; bir döner restoran zinciri üzerinden FETÖ'ye finansman sağladığı belirlenen aralarında kamu personelinin de (10 şüpheli) bulunduğu 353 şüpheli yakalandı. !

In the continuation of his statement, Yerlikaya made a series of allegations, claiming that: "It was determined that financial support was provided [to FETÖ], unofficial partnerships were established, these partnerships were entirely based on organizational trust, branches were used to provide employment and money to individuals affiliated with the organization, and organizational meetings were held." By using definitive judicial language that directly declared the detained individuals as guilty, Minister Yerlikaya effectively pronounced a verdict without any final court decision. Through this statement, 353 individuals were unjustly, baselessly, and unlawfully declared guilty in violation of fundamental legal principles.

These statements were made without a final court ruling, without presenting the legal basis of the accusations to the public, without providing evidence to substantiate the allegations, and without granting the suspects the right to defense. The purpose of such statements is to preemptively declare the suspects guilty in the eyes of the public. This practice constitutes a clear violation of **the presumption of innocence**, which is one of the fundamental principles of a fair trial, and subjects the suspects to **extrajudicial punishment**.

This statement made by the Minister:

- **Violates the confidentiality of the investigation** (Article 157 of the Criminal Procedure Code - CMK),
- **Constitutes an attempt to influence a fair trial** (Article 288 of the Turkish Penal Code - TCK),
- **Exerts pressure on judicial authorities** (Article 277 of the Turkish Penal Code - TCK),
- **Violates the presumption of innocence and the right to be free from unjust accusations** (Article 6 of the ECHR, Article 38 of the Constitution, Article 158/6 of the Criminal Procedure Code - CMK).

This report examines the legal implications of the Minister of Interior's statements regarding the law enforcement operation named "KISKAÇ-40" and assesses the extent to which these remarks conflict with fundamental legal principles.

1. ASSESSMENT ON THE STATEMENT OF THE MINISTER OF INTERIOR

An examination of the statement made by Minister of Interior Ali Yerlikaya on February 21 via the X platform reveals that the presumption of innocence was violated, the confidentiality of the investigation was disregarded, and a prejudgment was made against the suspects.

The presumption of innocence ensures that a person is considered innocent until proven guilty. However, in the statement, phrases such as:

- **“It was determined that they provided financial support to FETÖ,”**
- **“Their organizational ties remain active,”**
- **“Donations were collected, and business was conducted based on organizational trust,”**

declare the suspects guilty without a judicial ruling. These statements are used to portray the suspects as guilty in the eyes of the public, which is legally unacceptable and constitutes a clear violation of the presumption of innocence.

Article 157 of the Criminal Procedure Code (CMK) protects the confidentiality of the investigation. However, in the statement:

- Details of the investigation and evidence obtained against the suspects were disclosed to the public.
- The content of the operation, financial transactions, and relationships between individuals were explained in detail.

This premature disclosure leads to public perception being shaped before the defense even has the opportunity to review the evidence, violating both the right to a fair trial and the confidentiality of the investigation.

The Minister of Interior's statement and the language used pose a risk of exerting public pressure on prosecutors and judges. Expressions such as **“The company was established to provide support to the organization”** create an expectation of guilt, pressuring the judiciary to convict.

Statements made by a high-ranking official like the Minister of Interior during an ongoing investigation can reinforce prejudices in society, harming both the suspects' social lives and their families. Even if some suspects are ultimately acquitted or the case is dropped, the public

perception of them as **'terror financiers'** will remain, causing irreparable harm to their business, personal reputations, and livelihoods.

2. ASSESSMENT ON THE DETAINED INDIVIDUALS

It has been announced that 353 individuals were detained as part of a police operation conducted in 31 different provinces within the scope of the investigation. According to the statement made by the Minister of Interior, the detained individuals include partners, executives, employees, and material suppliers of the restaurant chain "Maydonoz Döner." Maydonoz Döner is a large-scale food restaurant chain operating in three continents and six countries (Türkiye, Germany, Azerbaijan, Georgia, the Netherlands, and the United States) with more than 300 branches in over 65 cities.)

When the questions directed at the detained individuals are evaluated within the framework of the fundamental principles of criminal procedure and the right to a fair trial, it becomes evident that there is no concrete evidence supporting the terrorism accusations and that an attempt is being made to impose charges based on preconceived judgments.

*On February 21, 2025, 353 individuals were detained as part of the operation, along with an additional 19 individuals detained in ongoing operations, bringing the total number of detainees to 372. As of February 25, **126** individuals were **arrested**, while 246 were released.*

Some of the questions directed at the suspects are as follows:

1. **Declare all business entities, including domestic and international operations, in which you have been an owner, partner, executive, CEO, participant, financial guarantor, or employee, including cartels, business associations, holdings, companies, joint ventures, and enterprises.**
2. **Do you have any plans to open a business in the future? What is its area of activity? Were you directed or advised by anyone to establish this business?**
3. **What is your role in the company named Maydonoz Döner? Do you have any partnership in the business? How much did you pay for the partnership or franchise? Who directed you to obtain the partnership or franchise? Explain the process of selecting employees.**
4. **What kind of references or criteria are required when granting trademark rights? Please explain.**

5. ***Why did you open the branch under your spouse's name? Are you an unofficial partner of the company?***

As the questions indicate, commercial activities are being treated as elements of a criminal offense. The scrutiny of legitimate business operations and even future entrepreneurial intentions within the scope of the investigation is **incompatible with the principles of legal certainty and the legality of crimes and punishments**. It is evident that owning a business or engaging in commercial ventures does not inherently constitute a crime. Therefore, these questions raise serious concerns that the investigation is being conducted in a biased and non-objective manner.

Moreover, these questions suggest an attempt to frame lawful commercial activities as criminal acts. Establishing a business or becoming a shareholder in a company are legally regulated and non-criminal activities. However, the questions directed at the detainees indicate an effort to portray economic initiatives as criminal offenses and even to present mere employment in a business as an act of terrorism. **This further underscores the legal irregularities in the Minister of Interior's statement and highlights the severe violation of the presumption of innocence.**

The fact that some of the partners and employees of the business were dismissed by decree-laws (KHKs) is being presented as sufficient grounds for a criminal accusation, which is incompatible with fundamental legal principles. The mere fact that individuals were previously dismissed from public service does not constitute a criminal offense, nor does it establish any direct link to terrorism. Associating such dismissals automatically with terrorism is a blatant violation of the presumption of innocence.

3. LEGAL ASSESSMENT

3.1. Violation of the Presumption of Innocence, the Right to Be Free from Unjust Accusations, and the Offense of Breaching the Confidentiality of the Investigation

The presumption of innocence, the principle of confidentiality of the investigation, and the right to be free from unjust accusations are **fundamental elements of the right to a fair trial**. **Article 157 of the Criminal Procedure Code (CMK)** safeguards the confidentiality of the investigation. However, this obligation is not limited to judicial authorities; it also applies to all state officials, particularly the executive branch.

Statements made by officials representing the executive branch, such as the Minister of Interior, regarding judicial investigations and prosecutions have the potential to undermine judicial independence and violate the presumption of innocence. **Article 285 of the Turkish Penal Code (TCK)** explicitly prohibits making statements that could create the perception of guilt regarding a suspect or defendant before the judicial process is concluded. The Minister's statements **breach the confidentiality of the investigation and foster prejudice against the suspects in the public sphere**.

In this context, **the offense of breaching the confidentiality of the investigation has been committed**. Furthermore, such statements also **constitute a violation of the right to be free from unjust accusations**, as they lead to reputational harm for the suspects, disregarding their fundamental legal protections.

3.2. Attempt to Influence a Fair Trial (Article 288 of the Turkish Penal Code - TCK)

For the right to a fair trial to be effectively upheld, the judicial process must be protected from any form of interference. **Article 288 of the Turkish Penal Code (TCK)** criminalizes statements made with the intent to influence an ongoing judicial process. The Minister of Interior's **characterization of 353 individuals as terrorism financiers** creates pressure on the courts, amounting to an attempt to influence the judicial process and compromise the fairness of the trial.

Such statements:

- **Influence the impartiality of the courts in making decisions,**
- **Create public pressure on prosecutors and judges,**
- **Lead to the perception that the suspects are guilty before they have even been tried.**

The purpose of Article 288 of the Turkish Penal Code (TCK) is to ensure that judges and prosecutors render decisions free from external pressure, solely based on law and evidence. However, the Minister's statements directly violate this principle and severely undermine judicial impartiality.

In this context, these statements fall within the scope of the offense of attempting to influence a fair trial.

3.3. Attempt to Influence a Judicial Officer (Article 277 of the Turkish Penal Code - TCK)

Article 277 of the Turkish Penal Code (TCK) criminalizes exerting pressure on a judge, prosecutor, expert witness, or witness. The statements made by the Minister of Interior constitute direct pressure on judges and prosecutors. **The use of prejudicial language by a high-ranking public official regarding an ongoing judicial process has the potential to influence judicial authorities.**

Due to such statements:

- **The impartiality of judges in their decision-making process may be compromised,**
- **The manner in which prosecutors conduct the investigation may be affected,**
- **The suspects' right to a fair trial may be violated.**

According to Article 277, any attempt by an official to direct or interfere with judicial proceedings constitutes a criminal offense. In this context, the Minister's statements amount to an attempt to influence judicial authorities, directly harming the functioning, independence, and impartiality of the judiciary.

CONCLUSION AND RECOMMENDATIONS

The statements made by the Minister of Interior violate the right to a fair trial, breach the presumption of innocence, and are incompatible with fundamental legal principles. Such remarks create prejudice against the suspects in the public sphere, violate the confidentiality of the investigation, and risk influencing the judiciary by exerting public pressure on the decision-making process, thereby undermining judicial independence.

In this context, **it is imperative that officials adhere to the following principles:**

- **Detention procedures should not be turned into public spectacles, and the right to be free from unjust accusations must be protected.**
- **Accusatory statements regarding ongoing cases without a final judicial decision should be avoided, ensuring that the judicial process remains impartial and independent.**
- **The principle of confidentiality of investigations must be upheld, and any public statements that could be interpreted as interference in the judiciary must be avoided.**
- **All political and administrative interventions aimed at influencing the fairness of judicial proceedings must be prevented, ensuring that external pressures do not compromise the judicial process.**
- **Individuals who have suffered material and moral damage due to unfounded and baseless accusations must be compensated, and their reputations must be restored within the framework of the right to be free from unjust accusations.**
- **An immediate administrative and judicial investigation should be launched against the Minister of Interior for making statements in violation of constitutional and criminal law.**

The rule of law can only be upheld through judicial independence, impartiality, and adherence to the fundamental principles of criminal procedure. It is a fundamental requirement of a democratic state governed by the rule of law that government officials refrain from interfering in the justice system, maintain impartiality regarding judicial proceedings, and respect fundamental human rights, particularly the presumption of innocence. Otherwise, statements of this nature originating from the executive branch will undermine the principle of the rule of law, compromise judicial impartiality and credibility, and lead to violations of individual rights.



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