



Europe, 15th July 2022

President of the European Commission, Ursula von der Leyen,

European Commissioner for Neighbourhood and Enlargement, Olivér Várhelyi

European Commissioner for Justice, Didier Reynders

President of the European Council, Charles Michel

President of the European Parliament, Roberta Metsola

Secretary General of the Council of Europe, Marija Pejčinović Burić

Your Excellencies,

The members of the Platform for an Independent Judiciary observed developments in the Turkish judiciary over the past years, not only from 15th July 2016, the day of the attempted coup d'état, onwards. Since December 2013, Türkiye has seen after all an alarmingly negative trend in relation to the rule of law and judicial independence. This trend escalated greatly in connection with the two-year state of emergency following the attempted coup d'état. The extended period of emergency rule had a devastating effect on human rights and the rule of law in Türkiye and led to various repressive measures being adopted in the name of counterterrorism and protecting democracy. After 15th July 2016 more than 4500 Turkish judges and prosecutors were dismissed and around 2450 of them were imprisoned and many of them subjected to inhuman treatment during their detention.¹ Six years have passed and yet no meaningful steps have been taken to bring back the rule of law to Türkiye nor has the plight been relieved of the Turkish judges and prosecutors that have been subjected to these mass dismissals and arrests.

The crackdown on the justice system, including the mass dismissal of judges and prosecutors, and modifications to the structure of judicial self-governance through constitutional changes, considerably undermined the Turkish judiciary's ability to administer justice and provide an effective remedy for human rights violations, both during and after the state of emergency.²

The fact that Turkish courts show a clear lack of independence in their decision making powers has in the meantime been complemented by a lack of will to implement the rulings of the European Court of Human Rights (ECtHR). Illustrated earlier this week in the ECtHR Grand Chamber judgment of 11 July 2022 on Türkiye's non-compliance with the Court's ruling in the case of Mr Kavala (Application no. 28749/18). And more specific regarding Turkish judges the decision taken by the Turkish Constitutional Court (4 June 2020) that the interpretation of national laws on the imprisonment of members of the judiciary pertains to the Turkish courts and not to the ECtHR,

¹ See for example the recent report *Torture Report On Judges And Prosecutors In Turkey* (May, 2022) <https://www.crossborderjurists.org/torture-report-on-judges-and-prosecutors-in-turkey/>

² See more in depth the recent Communication from the International Commission of Jurists (23/05/2022) for the 1436th meeting (June 2022) (DH) in the cases of Bilgen and Eminagaoglu v. Türkiye (Applications No. 1571/07, 76521/12) [https://hudoc.exec.coe.int/eng?i=DH-DD\(2022\)600revE](https://hudoc.exec.coe.int/eng?i=DH-DD(2022)600revE)

thus openly refusing to comply with two decisions of the ECtHR, *Baş v. Türkiye*, no. 66448/17 (3 March 2020) and *Alparslan Altan v. Türkiye*, no. 12778/17 (16 April 2019).

These facts demonstrate crystal clearly an open and demonstrative disrespect of the rule of law in Türkiye. The members of the Platform for an Independent Judiciary have repeatedly and openly warned against the brutal assaults and ill-treatment of imprisoned Turkish judges and prosecutors and gross violations of basic human rights which each European citizen should enjoy without discrimination. It is obvious that Turkish courts do not even follow basic minimum fair trial standards in the criminal proceedings against the detained judges and prosecutors.

The intolerable violation of the rule of law cannot be washed away and should never be used as a bargaining chip for reasons of realpolitik in negotiations with the Turkish government. Just paying lip service to the rule of law is not good enough.

Having in mind the miserable and uncertain destiny of thousands of Turkish judges and prosecutors and their families after the mass dismissals and mass arrests in July 2016, which is only the tip of the iceberg seen the bigger picture of the deterioration of the rule of law and massive and systemic human rights violations in Türkiye, we urge you to take all necessary steps and measures to make sure Turkey observes the principles of the rule of law as well as the independence of the judiciary and the basic human right of a fair trial for all.



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Duro Sessa
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Tamara Trotman
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