



Association of European Administrative Judges/Vereinigung Europäischer Verwaltungsrichter /
Fédération Européenne des Juges Administratifs
Associazione dei Magistrati Amministrativi Europei /
Based at: Europäische Rechtsakademie D-54295 Trier, Metzger Allee 4

Esteemed ladies and gentlemen,

AEAJ wants to thank for the opportunity to address you on occasion of this side event. AEAJ regrets that none of the AEAJ board members could participate in person today: due to serious family reasons, Vice-President Eva Wendler could not participate in person and none of the other board members of AEAJ was available on short notice. However, together with our partners of the Platform for an independent judiciary in Türkiye, we see it as our duty to contribute to these crucial issues which form the foundation of our European values.

Our platform has closely observed the developments within the Turkish judiciary in the past and we have seen a constant increase of undue pressure on judges since 2013, so far culminating after the attempted coup d'état in 2016. The circumstances, in which Turkish judge colleagues woke up at the next day after the attempted coup d'état, are well known and there is no need to unfold in more detail here. However, by way of example, we want to spotlight one Turkish judge colleague of ours, namely Mr Murat Arslan, whose proceedings were closely observed by the Platform.

Mr Murat Arslan was not only a Turkish judge but also president of the Turkish Association of Judges and Prosecutors (YARSAV). This independent judicial association has been dissolved by the government by one of the emergency decrees in 2016. Murat Arslan was dismissed as a judge in July 2016, in the immediate aftermath of the attempted coup d'État. In October 2016, he was arrested and remained in detention since then.

However, because of his courageous standing for judicial independence, the protection of fundamental rights and the rule of law, he was awarded the Václav-Havel Human Rights prize by the Parliamentary Assembly of the Council of Europe in October 2017.

On 18 January 2019, the 25th Court for “serious crimes” in Ankara sentenced Murat Arslan to 10 years imprisonment. He was found guilty of being a member of the armed terrorist organisation (namely of FETÖ/PDY) - a court proceedings which was far from being a fair trial and ignoring basic fundamental procedural rights of Mr Murat Arslan.

Also the appeal proceedings showed the same setting and pattern, namely no trial was held, also other basic fundamental procedural rights were simply ignored, it was a summary sentence without any reasoning. No evaluation of the evidence was made in the appeal procedure either, using a template to be basis for the criminal conviction. The same blatant deficiencies of a fair trial applies to the last instance judgement of the Turkish Supreme Court of 2nd December 2021.

All this reveals crystal clearly that it was a purely politically motivated judgment and by way of example brings to light the lack of rule of law in Turkey, as there is no independent judiciary in Türkiye.

However, let us turn to what can be done by European institutions to restore the rule of law in Türkiye. Let us highlight that Türkiye is still a member of the Council of Europe as well as candidate to accession to the European Union.

1.) The Council of Europe is a community of fundamental values. It is of utmost importance to have clear actions and a strong, consistent view regarding such devastations of the rule of law in its member states. 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.

We do call on you to take responsibility and demand the Turkish authorities to reinstall the Rule of Law in Turkey.

2.) Thus, we urge you in all your exchanges with Turkish representatives on the European level to convince Turkey to:

- a. to return to the rule of law by guarantees to build up an independent judiciary and stop political pressure and influence on the judiciary
- b. to stop court procedures where there is no proof of any involvement in criminal offence in the aftermath of the attempted coup d'état

c. to free all political prisoners and re-open final proceedings which had ignored basic international standards of a fair trial

d. to reinstate unduly/unfairly dismissed judges and prosecutors and return their confiscated assets.

Strasbourg, 21.6.2023