



Europe, January 19th, 2019

CRIMINAL CONVICTION OF MR MURAT ARSLAN

Yesterday, Vaclav Havel Human Rights Prize Winner Murat Arslan, President of the Independent Turkish Judges Association YARSAV, has been convicted under charges of being member of an armed terrorist organization (namely of being active member of FETÖ/PDY) and sentenced to 10 years imprisonment.

Mr Murat Arslan is a Turkish judge and president of the Turkish Association of Judges and Prosecutors (YARSAV). He has been arrested in October 2016 and remains since then in (pre-trial) detention.

He was awarded in October 2017 the Václav-Havel Human Rights prize by the Parliamentary Assembly of the Council of Europe.

During the past years the Platform for an Independent Turkish Judiciary, that assembles the four most representative associations of judges in Europe (AEAJ, EAJ, J4J and Medel) has observed the persecution and procedure against Murat Arslan and has informed the public and the politicians about it.

In the course of the ongoing (first set of) criminal proceedings, evidence on the concrete use of the communication system ByLock (similar to “whatsapp” or other communication means) and its evidential value for the concrete accusations was neither carefully analyzed nor thoroughly investigated.

Furthermore, the many violations of the Turkish Criminal Procedural Code, characterizing these whole proceedings, have culminated in an unbelievable

infringement of fundamental procedural rights in yesterday`s hearing. Basic fundamental procedural rights, like proper representation or right to appeal against biased judges, have been neglected and in this way also procedural safeguard of the Turkish laws were ignored. Against the background of European standards, the evidence brought forward by the public prosecutor cannot be regarded as sufficient evidence and has been nothing more than an enumeration of unproven assertions.

This ignorance of basic principles of a fair trial – which could be perceived immediately by European trial monitors in the hearings – shows clearly that this was a purely politically motivated judgment, again bringing to light the lack of rule of law in Turkey.

Mr Murat Arslan has not only shown to give full protection of fundamental rights within his duties as a judge, but has also resisted emerging pressure: both, pressure on Turkish judiciary and pressure against him. In all his activities as president of YARSAV he never restrained, despite his personal, judicial career was cracked down (having served as rapporteur in the Turkish Constitutional Court, he was later transferred). Inter alia, he openly pleaded for international support in the course of the worsening situation of judicial independence after the corruption scandal of political power had emerged in December 2013.

The dedication and integrity of Mr Murat Arslan is crystal-clearly visible inter alia by simple reference to sequences of his acceptance speech, after having been awarded the Vaclav Human Rights Prize 2017:

“We fight for judicial independence and impartiality, rule of law, and democracy. We were guided by values that aim at full independence, contemporary civilization based on equality, laicism, the rule of law, human rights and freedoms. We resist to all kinds of interruptions, which threatened these fundamental values. We struggled with defeating the rise of wall of fear where society was locked up. Prejudgments, baseless allegations unfortunately become the false truth in our society. We made no concessions of our values that we advocated under all kinds of

threats and pressure. We did what supposed to be done, and this approach was appreciated by the international society. Then we became representatives of a worldwide respected organization.

We did not leave our country's falling judiciary to one's fate. We left salvation markers to every corner for comeback. Today, we are having exiles, arrests in prisons, but it will not change the reality. The price that we are paying just raises our faith in the coming days that the rule of law and democracy will be internalized and raises our fighting spirit.

We will continue to show that there are always exclaimers against injustice and unlawfulness while many others, who were supposed to speak up, and resist, were sunk into silence under the pressure of empire of fair."

In this grave moment, the Platform wants to publicly express:

- **its solidarity to our Colleague Murat Arslan and his family, who will never be alone or without our solidarity and support**
- **its concern about the grave violation of fundamental rules perpetuated on this trial, already denounced by international observers, undermining the present conviction that must be characterized as concretely unlawful and unfair;**
- **its appeal to all European institutions to cease any cooperation with Turkish judiciary until Rule of Law is restored in the country and to use all means to convince Turkey to end its witch-hunt against judges and prosecutors**

Edith Zeller m.p.

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