



STATEMENT OF THE PLATFORM FOR AN INDEPENDENT JUDICIARY IN TURKEY ON THE EROSION OF RULE OF LAW IN TÜRKIYE

The Platform for an Independent Judiciary in Turkey reaffirms its deep concern about the erosion of the Rule of Law in Türkiye, as evidenced by recent cases, that describe a systemic pattern of disregard of fundamental principles of fair trial by Turkish courts at every level.

All this undermines the principles of justice, human rights, and democracy as well as the basis of the European Convention on Human Rights system as a whole, and requires immediate attention.

Mehmet Osman Kavala and Şerafettin Can Atalay: A Grave Violation of Democratic Principles

The cases of Mehmet Osman Kavala, a prominent human rights defender, and Şerafettin Can Atalay, a lawyer and MP, represent the top of an iceberg of thousands of cases of judicial misconduct and political interference.

Mehmet Osman Kavala's arbitrary detention, and subsequent conviction for his alleged role in organizing the Gezi Park protests, is a clear violation of his fundamental rights. The European Court of Human Rights determined in 2019 that Kavala's detention was unfounded, emphasizing its objective of silencing him and other human rights defenders. Despite this ruling, Kavala has been subjected to a flawed trial resulting in a severe sentence, indicating a blatant disregard for the principles of fair trial and due process.

In the case of Şerafettin Can Atalay, the Turkish Constitutional Court initially ruled in favour of his right to be elected and engage in political activity. However, the subsequent non-implementation of this judgment and Atalay's conviction highlight a persistent failure to uphold judicial decisions and protect individuals' fundamental rights.

The Yüksel Yalçınkaya Case: A Systemic Violation of Human Rights

The Yüksel Yalçınkaya case serves as a further stark example of the systemic nature of human rights abuses within the Turkish judicial system. The ECtHR landmark decision nullifying investigations and convictions along the principle 'Nullum crimen sine lege' reveals the gravity of the issues affecting not only Yalçınkaya but also thousands of others, in the context of a systemic failure in guaranteeing fair trial, legal certainty, and freedom of expression.

Council of Europe Parliamentary Assembly Resolution 2518 (2023): A Call for Action

The Platform for an Independent Judiciary in Turkey aligns itself with the Council of Europe Parliamentary Assembly Resolution 2518 (2023), urging Council of Europe member and observer States, as well as the European Union to:

- Urge the immediate release not only of human rights defender Osman Kavala and Can Atalay, but of all those who are currently detained or convicted unjustly.
- Take urgent action to support improvements to the protection of the Rule of Law and human rights in Türkiye.
- Ensure the application of targeted sanctions against officials responsible for the arbitrary deprivation of liberty of Osman Kavala and others, either by member states or through collective action.

The legal system of Türkiye is currently in agony, with a judiciary operating without independence. To steer the nation away from this crisis and mend the damage inflicted upon judicial independence, it is crucial to ensure the implementation of decisions of the European Court of Human Rights.

These decisions are grounded in international common legal values and serve as a beacon of hope to restore the Rule of Law. The healing process for the widespread destruction of legal norms and principles can only be achieved by embracing and upholding the universally recognized standards articulated by the European Court of Human Rights. In doing so, Türkiye would embark on a path of recovery, ensuring the preservation of democratic ideals and the protection of fundamental rights for all its citizens.

The historical backdrop of relations between Türkiye and Europe developed across a long time span, originating from the establishment of the Council of Europe. In the past years, Türkiye maintained robust ties with European values, reflecting a commitment to shared principles and mutual cooperation.

In light of this enduring history, the current crisis calls for an action rooted in these longstanding connections: Türkiye, as an integral part of Europe, should persist in upholding the shared values and ideals; it is imperative that any solution to the challenges faced by Türkiye is approached from the perspective of preserving its role within the European framework, ensuring the sustained strength of the historical and cultural ties that have defined this enduring relationship.

The Platform for an Independent Judiciary in Turkey emphasizes that the Parliamentary Assembly of the Council of Europe must act according to the principles set forth in Resolution 2518 (2023) and that a solution to restore Rule of Law should be sought through the implementation of ECtHR decisions in Türkiye, ensuring that the country remains anchored to the principles of the Council of Europe and the European Convention on Human Rights.

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