



*Europe, 29 April 2024*

Ms. Ursula von der Leyen

President of the European Commission

Ms. Věra Jourová

Vice President of the European Commission - Values and Transparency

Mr. Didier Reynders

European Commissioner for Justice

Mr. Josep Borrell Fontelles

High Representative / Vice- President

Mr. Olivér Várhelyi

European Commissioner for Neighbourhood and Enlargement

Ms. Marija Pejčinović Burić

Secretary General of the Council of Europe

Mr. Michael O'Flaherty

Commissioner for Human Rights (CoE)

Your Excellencies,

as representatives of major European organizations of judges and prosecutors, we are addressing you to express our serious concerns regarding the continued unlawful detention of Mr Murat Arslan, a prominent Turkish judge and president of the independent Turkish association of judges and prosecutors YARSAV.

The case of Mr Murat Arslan, winner of the 2017 Václav Havel Human Rights Prize, awarded by the Parliamentary Assembly of the Council of Europe, and of the International Association of Judges (IAJ) Judicial Independence Award in 2022, well epitomizes the erosion of fundamental legal principles in Türkiye.

Despite his unwavering commitment to upholding the rule of law and defending human rights, Murat Arslan has been arbitrarily detained since October 2016. He is currently detained in Ankara at the Sincan T Type Closed Penal Execution Institution. He had completed  $\frac{3}{4}$  of his sentence as of April 16<sup>th</sup> 2024.

The circumstances surrounding Murat Arslan's detention are particularly worrying, given his undisputed good behaviour and the presence of all further objective prerequisites for conditional release. We have now learned that Murat Arslan's request of conditional release has recently been rejected on the basis of arbitrary grounds, such as alleged insufficient efforts to reintegrate into society and unproven risks of recidivism.

This decision is a striking example of a troubling trend that can be observed in Türkiye, where subjective and arbitrary criteria are used to deny individuals their right to be released<sup>1</sup>. We would like to recall here the decisions of the European Court of Human Rights that have consistently ruled the detention of thousands of judges, prosecutors and lawyers in Turkey to be unlawful.

Such practices not only violate Mr. Arslan's fundamental rights, but also undermine the principles of justice and fairness enshrined in European Convention on Human Rights, with which the legislation and the practice of conditional release in member states must comply, as recalled by the Recommendation Rec(2003)22 on conditional release (parole) of the Committee of Ministers.

The amendments to Türkiye's Law on the Execution of Sentences and Security Measures, particularly those introduced in April 2020, have further compounded the challenges faced by individuals seeking conditional release. The inclusion of subjective criteria - such as the remorse for alleged crimes - in defining "good behaviour" raises serious constitutional and legal concerns, blurring the line between substantive criminal law and the law regulating the execution of sentences. These provisions do not appear to be in line with the aforementioned

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<sup>1</sup> <https://medelnet.eu/statement-of-the-platform-for-an-independent-judiciary-in-turkey>

Recommendation, that requires - with regard to discretionary release systems - that “the criteria that prisoners have to fulfil in order to be conditionally released should be clear and explicit” and that it “should be incumbent on the authorities to show that a prisoner has not fulfilled the criteria”.

Moreover, the reported discriminatory practices with blatant differences between prisons in Türkiye further exacerbate the challenges faced by individuals seeking conditional release. Inmates in the same legal and factual condition are indeed subject to different treatment, with conditional release being granted to those who are restrained in certain prisons while being denied in others. Unfortunately the Sincan Prison – as mentioned above: Murat Arslan’s place of detention - is known for a pattern of refusing conditional release without valid justification.

Mr. Arslan's case serves as a poignant example of the systemic injustices occurring in Türkiye over the past decade, that must not be accepted as the "new normal." As a member state of the Council of Europe, Türkiye is bound by common values and principles that include respect for human rights, the rule of law, and judicial independence.

The flagrant violations of these principles observed in Mr. Arslan's case, and countless others, demand the urgent attention of the international community as well as an immediate action by the European Union and the Council of Europe.

We therefore respectfully urge your Excellencies:

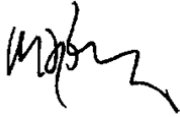
- to take all necessary steps with the Turkish authorities in order to ensure that Mr. Arslan's request of conditional release is reconsidered in a fair and impartial manner;
- to advocate for systemic reforms in Türkiye to safeguard the independence of the judiciary and uphold the principles of democracy and human rights;
- to ensure that all the decisions of the European Court of Human Rights are implemented, and that Türkiye complies with its international legal obligations by restoring all conditions required by the rule of law.

Sylvain Mérenne

President of the Association of European Administrative Judges (AEAJ)



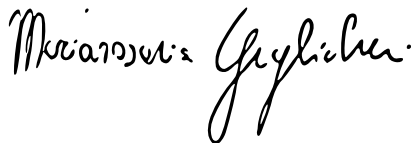
Mikael Sjöberg  
President of the European Association of Judges (EAJ)

A handwritten signature in black ink, appearing to be 'Mikael Sjöberg', written in a cursive style.

Tamara Trotman  
President of Judges for Judges

A handwritten signature in black ink, appearing to be 'Tamara Trotman', written in a cursive style.

Mariarosaria Guglielmi  
President of Magistrats Européens pour la Démocratie et les Libertés (MEDEL)

A handwritten signature in black ink, appearing to be 'Mariarosaria Guglielmi', written in a cursive style.