



ASSEDEL's Statement for 21 October 2021 European Court of Human Rights' Meeting with NGOs and Litigators

ASSEDEL opposes any effort aiming to harm the Court's reputation. ASSEDEL commits itself to provide its best support to the Court which has been functioning effectively and fulfilling a historic and invaluable task, namely the supervision and the guaranteeing the implementation of the European Convention on Human Rights.

Justice delayed is justice denied, thus ASSEDEL hails the Court's new prioritization policy and "impact case" strategy which aims to deal with systematic human rights violations promptly. ASSEDEL is aware that with the increasing authoritarianism and populist attitudes in some of the member states, the burden and pressure on the Court has also increased. In such periods, when the violations of human rights, rule of law, and democracy reach high levels, the freedom of the victims who are exposed to severe human rights violations primarily depends on the decisions given by the ECtHR.

At this point, ASSEDEL supports and appreciates the work of the Court, and draws the Court's attention to the following points concerning the member state Turkey to deal with the human rights violations more effectively:

1) **Deprivations of liberty of the applicant as a direct consequence of the alleged violation of rights enshrined in the Convention should be considered in Category I:**

ASSEDEL appreciates the quick decisions that the Court has taken in the **Kavala** and **Demirtas** cases. Regarding journalists such as Ahmet Altan, Mehmet Altan, Şahin Alpay, Ali Bulaç, Atilla Taş, Murat Aksoy, Ahmet Şık, Murat Sabuncu, and Murat Aksoy imprisoned in Turkey, the ECtHR ruled that these journalists' rights to freedom and security, along with freedom of expression, were violated. Thanks to the corresponding decisions of the Court, all these journalists are free today. Correspondingly, the applications of three journalists who have been in prison for a long time have been pending before the ECtHR. ASSEDEL kindly requests their cases to be considered in Category I:

- **Hidayet Karaca**, the Chairman of Samanyolu Broadcasting Group, who was arrested at the end of 2014 with terrorism accusations, even though there was not the slightest act of violence, has been in a one-man prison cell for nearly 7 years. Karaca's application to the ECtHR in 2015 (**25285/15**) is still pending, despite his application has been on the Court's agenda for several years.
- Despite the fact that the application of **Mustafa Ünal (20973/18)**, the Ankara representative of the Turkish daily Zaman, who has been imprisoned since 30 July 2016, has been communicated to the government three years ago, no decision has been made by the ECtHR.
- Journalist **Mehmet Baransu (68309/16 and 41448/19)** was sent to prison on March 2, 2015, and has been in prison since then, that is, for about six years and seven months now.

2) Expressing the definition of "being a member of a terrorist organization" in a pilot case decision as a part of Category II:

The Court states in *Akgun v. Turkey* case (19699/18) that “in the absence of other evidence or information, the document in question, stating merely that the applicant was a user of ByLock, could not, in itself, indicate that there were reasonable suspicions that could satisfy an objective observer that he indeed used ByLock in a manner that could amount to the alleged offenses.”

As in the case of ByLock, Turkish authorities use the reasons such as newspaper subscription, union membership and, having a bank account to convict thousands of people, especially in ‘FETO/PDY’ cases. The Court has communicated a group of five cases regarding the criminal investigations against Hizmet Movement members on 19 February 2021 to the Turkish Government (Application nos. **15013/20**, **13762/20**, **14894/20**, **15669/20**, **17389/20**). ASSEDEL kindly demands from the Court to conclude these applications as soon as possible.

Such a decision would also contribute to reducing the number of cases stemming from the bogus terrorism charges presented by the Turkish authorities and reduce the burden on the Court.

3) Evaluation of property right cases within the scope of “impact cases”:

According to a [report](#) “after 2015, the Government’s purge against the Gülen Movement saw new types of unlawful and unprecedented interventions into the right to property. These are a) suspending the owner’s property right and overtaking the control of property through the appointment of a trustee board; b) closure of legal entities with an Emergency Decree and transferring its assets to the Treasury or other relevant public entities without any compensation; and c) taking control of a financial institution and having it bankrupted.”

The first victim of this seizure practice was Koza-Ipek Holding: a conglomerate of 22 companies, including a media group with two TV channels and two daily newspapers. The holding was seized by the regime on the 26th of October 2015, and the management of all of its enterprises was given over to a pro-government board of trustees.

Legally, the proprietors are not completely deprived of their property by confiscation. Although it seems that the proprietors’ use or disposal of their property is temporarily limited, in the case of Turkey, the confiscated properties are damaged by the pro-government trustees or even transferred to other private persons and foundations. The ECtHR emphasizes that for seizure and confiscation to be fair under Article 1 of Protocol No. 1 of the Convention, the actual harm to the owner of the property must not exceed what is inevitable (*Raimondo v. Italy*, § 33; *Borzonov v. Russia*, § 61; *Jucys v. Lithuania*, § 36).

In this sense, ASSEDEL believes that the Court can examine the applications regarding the right to property and take decisions for the compensation of damages and the elimination of the grievances of the owners who cannot obtain their rights in domestic law.

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