

President of the Better Justice Association, Atty. Mehmet Gün evaluates the European Union's Türkiye Reports

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“There is an unconditional need for a fundamental and comprehensive judicial reform”

“The European Union should open Chapter 23 on the ‘Judiciary and Fundamental Rights’ and Chapter 24 on ‘Justice, Freedom and Security’”

Following the European Union (EU) Commission's "2023 Communication on EU Enlargement Policy Communication" and "Türkiye Report 2023" dated 8 November 2023, the joint communication report to the EU Council titled the "State of play of EU-Türkiye political, economic and trade relations" prepared by Josep Borrell, High Representative of the EU for Foreign Affairs and Security Policy and Oliver Varhelyi, EU Commissioner for Neighbourhood and Enlargement, was published on 29 November 2023. Both reports will be discussed and finalised during the EU summit to be held on 14-15 December 2023.

The first report emphasises the significant deterioration in human rights, fundamental freedoms, civil society and the rule of law in Türkiye and that Türkiye continues to drift away from the EU. The second report draws attention to the Türkiye's efforts to halt escalatory dynamics in the Eastern Mediterranean, constructive attitude in bilateral relations with various EU countries, and the modernisation of the EU-Türkiye Customs Union can be started with the continuation of efforts to deal with commercial disputes and the evasion of sanctions against Russia through Türkiye's territory. President of the Better Justice Association Attorney Mehmet Gün evaluates both reports:

A positive agenda will resolve regional challenges too

“With Türkiye becoming a full member of the EU, the Mediterranean basin will become a cradle of civilisations as it historically has been and one of the leading power centres of the changing world. To achieve this, it is essential that the EU and Türkiye meet at and agree on common long-term goals and objectives. Power struggles, transactional relations and sanctions, and practices that suppress positive co-operation will only bring harm to both parties in both the short and long-term. The establishment of a positive agenda and consensus on shared objectives will see the challenges faced in the Eastern Mediterranean, the Aegean and Cyprus resolve themselves

within a framework of mutual benefit. This unity will spread stability, peace and calm to the most problematic regions of the world too.”

The Judiciary is the hidden lynchpin to EU-Türkiye relations

“Yet the most important obstacles to the EU and Türkiye’s meeting on common ground and realisation of common objectives are in the area of the rule of law and the independence of the judiciary. These two fundamental challenges the negative effects of which Türkiye has seen domestically, adversely affect the development of constructive cooperation. The judiciary and the rule of law are the key to overcoming these obstacles. The EU should open and resolve Chapters 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom and Security), even without further developments, so that the question of the judiciary, rule of law and fundamental rights no longer bind the furthering of relations. The EU’s stance on these wieldy questions, which will improve their relations at no further burden cannot be understood. The EU should not solely focus on economic interests and issues therewith. Both sides should develop incentivising methods instead of coercive and punitive ones.”

We must learn the lessons and right ourselves

Although the “State of play of EU-Türkiye political, economic and trade relations” may be considered relatively positive, President of the Better Justice Association Att. Mehmet Gün, draws attention to the criticism of Türkiye in many areas found in the “2023 Communication on EU Enlargement Policy Communication” and “Türkiye Report 2023”: “If we do not right ourselves soon, we will continue to pay higher interest on loans, it will become more difficult for us to conduct business and transactions, we will produce less added value, profit less, and of course these criticisms will continue.” Stating that the criticisms of the EU are despite authorities considering them “null and void”, Att. Mehmet Gün stated the following:

We must ensure politics’ complete removal of its hold on the judiciary

“In order to eliminate these criticisms as soon as possible and improve our system, we must first completely remove politics’ hold on the judiciary and render the judiciary fully independent. To this end, our association proposes a comprehensive judicial reform. Our proposals brought to the public’s attention with their publication in 2021 under the title ‘Turkish Judicial Reform A to Z’ have since been introduced, discussed, and met with positive reception both domestically and

internationally. Our reform proposals, which were shared with the House of Lords in London, and the EU bureaucracy and European politicians in Brussels in 2023, were found to be innovative and noteworthy. Our proposals, put to all political parties in our country, will ensure that Türkiye will become impeccable in its judiciary, a an example and pioneer in judicial systems, and will gain the moral high ground against the EU, and to criticise flaws in EU countries.

Sources of Criticism

President of the Better Justice Association Att. Mehmet Gün, has listed the issues that are the fundamental sources of criticism of Türkiye:

- The functioning of our seriously flawed democratic institutions is defective. The structural problems of the presidential system persist.
- In the 14 - 28 May general elections the media was biased and an unfair election environment favoured the incumbent party. Freedom of expression was restricted. State and private media outlets failed to ensure editorial independence and impartiality, precluding voters access to adequate and by doing so negatively impacting the right to making a sound choice.
- The constitutional structure leads to the concentration of all state powers in the hands of the presidency, with no sound or effective separation of powers between the executive, legislature and judiciary.
- The judiciary is very far from harmonising with EU standards. Türkiye's refusal to comply with ECtHR judgments is a cause for concern regarding the judiciary's efforts in meeting international and EU standards.
- There has been no progress toward eliminating the executive's inappropriate influence and pressure on judges and prosecutors, which undermines the independence of the judiciary.
- The lack of pre-determined, objective, meritocratic and uniform criteria for the promotion of judges and prosecutors is a cause for concern.

- As can be seen from the letter by İsmail Uçar, Chief Public Prosecutor of Istanbul Anatolian District, sent to the Council of Judges and Prosecutors, Türkiye is still in the very early stages of meeting EU standards for the fight against corruption.
- Deterioration around human and fundamental rights has continued. Legislation and application must be raised to EU standards.
- There has been a serious regression with regard to the freedom of expression. There has been no progress on the right to freedom of association and the right to assembly and demonstration. Legislation and practice in this area do not comply with international conventions and EU standards.