

What Does the State Want from Murat Arslan?

In an intensive care unit in San Francisco, a young man is fighting for his life. His name is Yiğit. A brilliant 20-year-old student studying computer engineering in the United States. After a motorcycle accident, he is connected to machines, entrusted to the prayers of his family. Yet there is someone else who ought to be in that room today: his father. A judge who has now completed his ninth year in Sincan Prison in Turkey: the last president of YARSAV and recipient of the Václav Havel Human Rights Prize, Murat Arslan.

Two continents, tens of thousands of kilometres, and between them a thick wall: the wall of the State's obstinacy against a judge. It is long past time to ask the question: What does the State want from Murat Arslan?

How many years does it take to silence a judge?

Murat Arslan is a jurist who worked for years as a rapporteur at the Constitutional Court and later served as president of YARSAV, the Association of Judges and Prosecutors, an independent organisation of judges and prosecutors in Turkey. After the coup attempt, YARSAV was shut down by an emergency decree; along with thousands of judges and prosecutors, Murat Arslan was taken into custody and arrested in October 2016. Today, he is still in Sincan. The judgment against him is for "being a leading member of the FETÖ/PDY armed terrorist organisation." Many domestic and international legal organisations have repeatedly stated that, from the structure of the evidence to the procedure of the trial, this case is political in nature and that the conviction is heavy-handed and baseless.

The closure of YARSAV and the punishment of its president on terrorism charges have been described by peer organisations across Europe as a symbolic attack on judicial independence. From MEDEL (Magistrats Européens pour la Démocratie et les Libertés – European Judges for Democracy and Freedoms) to Judges for Judges, virtually every legal organisation in Europe has said the same thing in their statements.

The sentence handed down to Arslan exceeds ten years; the Court of Cassation has upheld this ruling. Formally, then, the State is clearly declaring what it wants: "I want to isolate you from society for more than ten years." But what does it want in reality? Is it punishing only a single person, a single judge; or an institution, a mentality, a possibility?

YARSAV's "crime": The possibility of an independent judiciary

YARSAV was a professional association that spoke out in favour of the independence of the judiciary from the executive, defending merit, the rule of law and the separation of powers. It was a member of international judges' organisations, it had counterparts in Europe; in short, instead of a judiciary closed off from the world, it advocated for a judiciary that spoke in terms of universal standards.

Precisely for this reason, in the great purge that followed 15 July, it became a symbolic target. Tens of thousands of public officials and more than five thousand judges and prosecutors were dismissed from their posts; thousands were arrested. YARSAV, meanwhile, was erased from the landscape with a single emergency decree. The State thus sent a clear message:

"If you build an independent association within the judiciary, you will lose not only your career, but also your freedom."

Murat Arslan's personal story was turned into the harshest and most visible embodiment of that message. It is no coincidence that when the Parliamentary Assembly of the Council of Europe awarded him the Václav Havel Human Rights Prize in 2017, the citation emphasised his "struggle for the rule of law and human rights."

So we can probably write the first item on the list of what the State "wants" from Murat as follows:

To intimidate the very possibility of an independent judiciary.

Second demand: Institutionalising fear

Today in Turkey, how many judges can sit on the bench and, when faced with a freedom of expression case, a file against a human rights defender, or a political trial, render judgment without asking themselves: “Am I really deciding according to the law, or am I calculating what might happen to me?”

Thousands of judges and prosecutors were removed from office without any individualised evidence, their names appearing only on lists; some were arrested, some forced to leave the country. In such an environment, keeping people like Murat Arslan behind bars functions like a constant alarm ringing not only in their own minds, but also in the minds of those who remain on the bench.

The fact that Murat is still being held in prison, despite having the legal right to benefit from conditional release or supervised freedom, and that he is denied both, is an explicit message not only to him, but also to serving judges and prosecutors:

“If you cross the line, you know how this ends.”

Here, the State’s second “demand” becomes clear:

To turn fear from an individual feeling into an institutional reflex.

Judges and prosecutors develop instincts not to protect fundamental rights, but to calculate what might happen to them. This erodes the very spirit of law. Even if the legal texts remain the same, the backbone of legal practice is broken. Because in truth, everyone is deciding while mentally glancing toward Murat Arslan’s cell.

Third demand: Oblivion and silence

So why, despite all the international reactions, the human rights awards, and the reports written about his case, is he still inside? This is where the State’s third demand comes into play:

That Murat Arslan be forgotten.

Lengthy pre-trial detention and long sentences target not only physical liberty but also memory. In the early years people talk, campaigns are organised, articles are written. As time passes, the agenda shifts, new crises erupt, new names are imprisoned. Old cases are relegated to the status of “ordinary prisoners of fate.”

Yet the case of Murat Arslan is not a matter of individual fate; it is the X-ray of what has been done to the judiciary in Turkey. He is in prison because that X-ray is meant to be torn up and thrown away.

That is why the story of a father who cannot be at the bedside of his unconscious son in an intensive care unit in San Francisco is not just a family tragedy. It is the human cost of the State’s “silencing strategy.”

The absence of a father: A mirror of penal policy

No criminal justice system grounds its claim to justice solely on the axis of “offender–act”; at least in principle, it must also consider the human consequences of punishment. In many legal systems around the world, even if only as an exception, prisoners can obtain permission to visit a gravely ill close relative. Because there, the State says, “Despite everything, I must remain human.”

In Turkey, by contrast, what is humane is sacrificed to what is political. The severity of the treatment inflicted on Murat Arslan, and the fact that, despite his son’s accident, no remedial step has been taken, are clear indications that punishment has ceased to be an “aim” and has turned into revenge.

Yet criminal law is not there for revenge, but for justice. And justice does not operate through personalised grudges, but through universal principles: the presumption of innocence, legality, proportionality, an independent and impartial tribunal...

In Murat Arslan's case, international legal organisations have laid out at length how each of these principles has been violated. Nevertheless, the file was neatly wrapped in the "terrorism" label and shelved. Now the same label is used to declare even the most basic humane gesture – allowing a father to stand at the door of his son's intensive care unit – a "risk."

The real question: What does the State want from us?

The question "What does the State want from Murat Arslan?" ultimately leads us to another question:

What does the State want from us?

Does it want this:

"Do not speak of judicial independence, don't even think of forming associations of judges and prosecutors, don't dare open your mouth in the name of international law"?

Or this:

"Even if you see injustice, don't speak, don't write, forget; and if you cannot forget, at least keep quiet"?

If the answer is yes, this is not merely Murat Arslan's problem; it is the problem of every citizen of this country. Because one day, all of us will need the law. The injustice inflicted today on a judge in Sincan, tomorrow on a journalist or a politician in another prison, and the next day on any ordinary citizen, springs from the same judicial policies.