



Appendix 2: On the legal situation of Leyla Guven, HDP MP for Hakkari

The latest example to Turkish judiciary's politically motivated scandalous practices concerns the situation of our newly elected MP for Hakkari, Leyla Güven.

Leyla Güven is a well-known Kurdish political activist who had been first elected to the Parliament in 7 June 2015 elections. After loosing her seat in the snap elections of 1 November 2015, she continued her activism under the roof the Kurdish civic initiative, Democratic Society Congress (DTK). She was detained on 31 January 2018 while serving as DTK's co-chair and has since been held under pre-trial detention in Diyarbakir E-type High Security Prison. In the recent 24 June Parliamentary elections, she was elected as an MP for Hakkari from jail.

In the morning of 29 June, Diyarbakir Heavy Penal Court No.9 issued Güven's release upon her lawyers' appeal under Constitution and Law on Criminal Procedures that as an MP she could not be tried under arrest. While Diyarbakir E-type Prison administration kept delaying Güven's release unlawfully for hours, Diyarbakir Office of the Public Prosecutor objected to the Court's release decision arguing for a risk of her escape lest she would be tried without arrest. In the afternoon of same day, the Court issued a new decision for the continuation of Güven's pre-trial detention. The Prison administration cancelled Güven's release upon oral receipt of this warrant.

The prolonging of Güven's pre-trial detention involves serial violations of procedural law. It has to be underlined that Diyarbakir Prison Administration twice violated the law in this process, first, by not implementing the Court's release decision and, second, by implementing its arrest decision without written receipt of notice. Insofar as the arrest warrant itself is concerned, it is significant to note that prosecutors in Turkey were granted an unprecedented authority to object court decisions with a recent State of Emergency Government Decree. However, even under this emergency system, the procedural law obliges courts to review a file in its entirety when handling any prosecutorial objection. It is practically impossible that the court board in question could have re-examined Güven's file which comprises hundreds of pages in four dossiers in the matter of a few hours (during when its judge was heading hearings in other cases). It is obvious that the board's decision was not based on any legal review but on a Government order.

We would like to emphasize once again that with decisions such as these Turkish judiciary declares and reiterates its dependency on the Executive power by arbitrarily violating the rights and liberties of the members of political opposition. Our MP Leyla Güven's unlawful arrest, which further constitutes seizure of the electoral will, has to end and she has to be released immediately.

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