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The eye of European Lawyers in Turkey: Banu Kurtulan in interview

Wien. The Viennese Lawyer Banu Kurtulan is an expert on Turkey and legal issues concerning EU citizens of Turkish origin. Due to her familiarity with the matter, she will be sent to Istanbul in February by the European Bars Federation (FBE) as observer of court proceedings. It will be no less that the criminal process against some Lawyers, for their defense of Turkish military officers accused of having plotted a coup d'état.

In an interview with Recht Extrajournal.Net Kurtulan speaks about her professional field, the problems of Turkish country men and women in Europe and the challenges of the legal profession in Turkey.

Recht Extrajournal.Net: you are an Austrian Lawyer of Turkish origin and before the present commission of the FBE you were also involved at the European level for the European Association of Turkish Lawyers. Which are your professional fields?

Banu Kurtulan: It is about the promotion of the rights of Europeans of Turkish origin. It is about all people of Turkish background, including Kurds and other ethnical groups. Although there are agreements between the EU and Turkey, they are not all over kept: for instance, Turkish citizens are, according to association treaties between the EU and Turkey, preferential third country citizens, with their corresponding rights. For this reason we train our colleagues in the Bar Association, organize seminars and want to increase the general sensibility over this issue. But it is also about general human rights, the fight against discrimination and for tolerance.

Recht Extrajournal.Net: As a Lawyer, are you specialized in clients of Turkish origin in your Law office?

Kurtulan: Not exclusively. I have also Austrian, Serbian and other clients. My specialization field is general Criminal Law, Civil Damages Law, Family Law, Administrative and Constitutional Law. Notwithstanding, surely it happens in my practice, more than other lawyers, to have people with foreign origin bringing issues different than those of Austrian clients by birth. It usually starts by an often defective education, small incomes, etc. I am active in trying to solve the problem. When there is a problem, of which the State is guilty, then I say it. But people must also be told to be active, when they can change something.

Recht Extrajournal.Net: You will be in Istanbul representing the European Bars Federation to follow a process against high representatives of a Turkish Bar that stirs a great international sensation. There can always happen something unexpected.

Kurtulan: The process is about Turkish Lawyers that are been prosecuted, because they have practiced their profession and defended their clients, clients accused of the preparation of a military coup. For this reason, many years of prison could await these lawyers. The process should have finished in January, but it will continue in February, because the Attorney General said that he was not prepared and could not have a closing summing-up. The judge granted him more time for it, although there is in my view no ground to make so many men wait for so long. Finally, the Attorney General came without a closing summing-up.

Recht Extrajournal.Net: Is it not unusual that the FBE chose an Austrian Lawyer? What hopes bind the organization with the presence on the spot?

Kurtulan: I am also member of the Austrian Counsels for the Defense Association and the European Criminal Bar Association (ECBA), i.e., the European Counsels for the Defense Association, and was also there in the first process. From then on there was a familiarity with the issue.

The surveillance of the process through the FBE must show that the international attention is there, can create pressure and so contribute to a proper and fair trial. For me it is an honor to be in Istanbul representing the FBE and the Vienna Bar Association. The issue is terribly important. I find alarming that Lawyers have to defend themselves in Turkey, because they have carried out their professional duties. Fortunately we have not a comparable situation in Austria and hopefully will not have it in the future.

As background

The European Bars Association (FBE) represents more than 250 European Bars with 800.000 Lawyers. The Turkish-speaking Lawyer Banu Kurtulan is its official representative and observer in a sensational judicial process in Istanbul: the current Bar President, Ümit Kocasakal, and nine other members of the Presidency were prosecuted, because they stood up to guarantee the right of defense in Turkey, according to the FBE. What it really went about was specifically the internationally very observed Balyoz Process against 326 Turkish officers accused of preparing a coup d'état. Finally, Lawyers were taken to court.

The European Bar Association sends an Austrian Lawyer as observer to a process in Turkey

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Strasbourg/Istanbul/Vienna The European Bars Federation (FBE), which represents 250 European Bars and more than 800.000 Lawyers, sends an official representative and trial observer to Istanbul: the Turkish-speaking Austrian Lawyer Banu Kurtulan.

The background: Ümit Kocasakal, President of the Istanbul Bar Association, and nine others members of the Presidency were prosecuted, because they stood up to guarantee the right of defense in Turkey, according to the FBE. What it really went about was specifically the internationally very observed Balyoz Process against 326 Turkish officers accused of preparing a coup d'état.

Kurtulan will observe, as official representative and process observer of the FBE, the hearing of 7th January 2014 to be celebrated in Silivri, Turkey.

The FBE is official adviser of the European Council. Actions have been brought against ten members of the Council of the Istanbul Bar, because they have allegedly tried to influence members of the judiciary, according to one report. They risk a sentence of imprisonment of up to four years.

The facts behind this trial are that the Istanbul Bar intervened during a famous process, the Bayloz case, in April 2012, when some Turkish lawyers could no more exercise their constitutional duty to defend their clients. This kind of intervention of the Bar is allowed by the Turkish Law on Attorneyship, No. 1136.

The controversial Balyoz-Process should verify the existence of a plan for a coup d'etat by Turkish officers. After 2 years of proceedings the court has accused the 326 presumed instigators of a failed attempt of coup with high prison sentences.

"Political influence"

The European Advocacy, embodied by the FBE, sees this criminal process against the Board of the Istanbul Bar as a political undue influence in the judiciary and as a pretext of the Turkish Government to launch an attack against the principles of separation of powers and the rule of law, according to the FBE .

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Turkey

The Law at the mercy of the power

By Ronald Schönhuber

Dozens of unpopular Lawyers are now processed, and the evidences are dubious

The corruption raids reveal how politics exploit justice

Istanbul/Vienna.

[...]

"Pushed to the criminal corner"

Already on Thursday, in Silivri, scarcely 50 kilometers from Istanbul continued the so-called KCK-Process. 46 Lawyers have to defend themselves from the reproach of being members of the Union of Communities from Kurdistan, which are considered terrorists by the Turkish Government. Only four days after begins the process against members of the Progressive Advocacy Association, which at the beginning of January where arrested under the suspicion of being members of the urban guerrilla DHKP-C. And at the beginning of next year, almost all the Board of the Istanbul Bar Association must answer in the so-called "sledgehammer Process" for "undue influence on the judiciary".

It is doubtful that the accused lawyers, most of them critical with the Government, are having a fair trial and in accordance with European standards. "Here it is about intimidating legal representatives and pushing them to the criminal corner", says the Turkish-Austrian Lawyer Banu Kurtulan. She is one of the many European jurists that will fly to Turkey in the next days in representation of their national Bar Associations to observe the processes and to give them publicity.

For observers of the process it is doubtful the respect for the rule of law, given the long duration of the process - the court of the KCK-Process has met only eight times, although some of the accused have been two years in prison - and, especially, the presentation of evidence. [...]

"In many cases the evidences are accessible only for the judge, because they are classified as secrets of State", says Kurtulan. In view of this starting point, every Turkish lawyer must reflect three or four times if he will defend a client at all. Kurtulan does not think that this will change in the short run. Because the political will to set the fragile rule of law on stronger legs is only feebly distinctive.

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