



## FOR AN INDEPENDENT JUSTICE IN EUROPE

Marking the anniversary of Giovanni Falcone's assassination by the Mafia in 1992, MEDEL pronounced the 23<sup>rd</sup> of May as the alert day for the independence of justice in Europe. On this date, we are invited to reflect on the need for an independent and effective justice all over Europe and its importance for the safeguard of European citizens' fundamental rights and freedoms.

In the last decade, many threats came to light, leading to a growing mistrust of citizens towards the European integration project: the economic and financial crisis; the threat of terrorism; the migration phenomenon. All of these threats, and the responses given by European institutions and national governments, while putting in danger the integration effort, have nonetheless underlined the essentiality of an independent judiciary that all over Europe must be able to protect the basic freedoms and rights of all citizens.

In their need to tackle the problem of insufficient economic growth, EU and USA are secretly negotiating a free-trade agreement (the TTIP), according to which, among other measures, is being considered the creation of an international investment court. This would put multinational corporations at the same level as sovereign States, based on the presumption that national courts of the EU member states cannot grant effective legal protection to foreign investors. As MEDEL points out in its opinion released today, there is no objective justification or legal basis for the creation of such a court and all European citizens must be highly concerned about this proposal. A secret, special, private arbitration tribunal overriding the States' courts is established for no other purpose than to defend the interests of multinational corporate greed. This tribunal shall grant multinational corporations legally binding privileges; it shall have the power to punish States and, at the same time, it will not be accountable to citizens, as well as of not having to comply with the rules of the democratic game or face the popular uproar or its victims who will be seen as "collateral damage".

The fight against terrorism, on the other hand, has led to the adoption of measures that endanger the freedom of European citizens, without being able to solve the security problem. As MEDEL stressed in its Pisa Declaration of last March, the contamination of the law and the criminal procedure by derogation measures used in the fight against terrorism in France and the attempt to integrate in ordinary law the exceptional measures and the unlimited extension of the "state of emergency" cannot be seen as a normal situation in a democratic society.

Adding to all this, in an attempt to divert attention from the disastrous response of European governments and institutions to the migration crisis, the EU has reached an agreement with the Turkish government that puts shame on all Europeans, disregarding the clear acts of violation of the separation of powers by the Turkish

government the relocation of judges and public prosecutors without consent; the arrest and dismissal of judges and prosecutors exclusively for acts regarding their duties; the total disrespect of the independence of the Judiciary in public statements by the Turkish president.

These are only some worrying examples of the threats that the judicial power faces all over Europe. Many others could be pointed out, as the unacceptable measures taken by the executive power in the judiciary in Poland, with the paralysation of the Constitutional Tribunal, or the interference of the secret services in the Romanian judiciary.

As in many occasions MEDEL has remembered, the right to have access to an independent justice is not a privilege - it's a fundamental right of all European citizens. The economic and political powers cannot cross the ultimate boundary of the separation of powers, the only principal that guarantees the respect for the basic rights and freedoms and ensures that all Europeans, individual citizens or institutions, regardless of their origin or economic status, are equal before the law.

We cannot remain passive while the independence of the judiciary is being put under threat all over Europe - it's a citizenship duty to stand up against all attempts of interference in the independence of the judicial power. We owe it to the memory of Giovanni Falcone. We owe it to the future of Europe.

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