

Appeal

The End of the Rule of Law in Turkey

IAJ is concerned that the already oppressed judiciary will be turned into a totally depended instrument of power. Venice Commission confirms EAJ's fears.

The International Association of Judges, which followed the deterioration of the situation of the judiciary in Turkey since 2014 had to observe that since this date the High Council of Judges and Prosecutors, which is totally dominated by the government unlawfully used its power to transfer and discipline judges and prosecutors. After the attempted coup d'état it dismissed judges, which had been put on a list long before the coup without giving reasons for the individual case and without proper procedure.

In such a way since 15.7.2016 24,4 % of all judges (2538 out of 10382) and 24,3 % of all prosecutors (1121 out of 4622) were dismissed, the majority of them are in detention. The example of this destiny threatens those judges and prosecutors, who remained in office or were recently appointed without sufficient experience. It is more than doubtful that a judiciary in this situation can be addressed as independent.

Under these circumstances IAJ is alarmed by the analyses of the Council of Europe's Venice Commission¹ of the proposed amendments to the Turkish Constitution. The Constitutional experts of the Venice Commission conclude that the amendments "would place the independence of the judiciary under serious jeopardy" because of the determining influence of the President on the High Council of Judges and Prosecutors, which is the main self-governing body, overseeing appointment, promotion, transfer, disciplining and dismissal of judges and prosecutors. They also warn that while a state following a presidential system needs strong judicial control "the amendments would weaken an already inadequate system of judicial oversight of the executive".

¹ European Commission for Democracy through Law (Venice Commission) Opinion on the Amendments to the Constitution 13.11.2017 CDL-AD(2017)005

This appeal in no way is directed against the Turkish people or the Turkish nation, but it is based on the worries of IAJ that Turkey might lose its own fundamental values, which it shared with other democratic societies. Following the Opinion of the Venice Commission and the “Open Letter” of the European Association of Judges published a few days ago, the International Association of Judges considers that such development would end the Rule of Law in a country, which had a democratic tradition, which its people had manifested in the united brave defence of the terrible attack of August 15th, a country which had been committed to Human Rights and common European values.

IAJ, like previously EAJ (a Regional Group within our organization) therefore urges all well-minded people in Turkey and in the rest of Europe,

- to be aware of these developments,
- asks them to contribute to fully re-establish the independence of the judiciary in Turkey,
- to convince the Turkish authorities to reinstall the unduly dismissed and to free the unduly detained judges and prosecutors and
- to help the Turkish people to guarantee them an independent judiciary, which protects their rights and freedoms.

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