



## LETTERS FROM THE TURKISH JUDICIARY 2016 – 2017

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## Introduction

Almost three years have passed since the July 2016 attempt of *Coup d'État* in Turkey.

From the very early hours after the attempted *Coup d'État*, MEDEL started receiving worrying information about the arrest of Judges and Prosecutors, without any procedural guarantees or evidence supporting those arrests.

MEDEL has immediately reacted, saying that it was hard to understand how and why judges and prosecutors performing daily their judicial duties could be involved in such an event and could face detention only because of their freedom of judgment and opinion.

Since then, the repression that hit judges and prosecutors (as well as lawyers, journalists, professors, policemen, members of the Parliament and more than 100.000 civil servants), accused to be affiliated to the terrorist organization accused by the Turkish government to be responsible of such crime has reached an unprecedented scale.

What was in the beginning difficult to understand became clear: we were standing before an orchestrated and premeditated campaign, directed to the destruction of the independence of the judicial system in Turkey.

What the world was witnessing was nothing else than a purge of the Judges and Prosecutors who had the courage of speaking freely and fighting for a truly independent Judiciary, which was made based on a list that had clear signs of having been prepared well in advance of the *Coup d'État*: it included the names of deceased magistrates and mentioned courts which the magistrates concerned had left much before. All the detentions, dismissals and confiscations of assets were taken without trial and without reasoned decisions. When interrogated, our colleagues were only asked about their judicial associations' preferences and their involvement in the elections of the Turkish Judicial Council.

More, the dismissed Judges and Prosecutors were replaced by newly appointed judges and prosecutors, directly selected by the government within the members of the ruling party, and not, as before, through open public competition, based on juridical preparation, and specific professional training.

YARSAV, the Turkish association member of MEDEL and of the European Association of Judges, and the most actively committed to the values of independence of the judiciary and Rule of Law, was immediately administratively dissolved.

Standing before this scenario, MEDEL and all the other associations of Judges and Prosecutors could not stand silent.

MEDEL formally deliberated that it does not recognize the illegitimate decision of the Turkish Government to dissolve YARSAV, so it still considers it a full member of MEDEL and its board members as fully active magistrates.

Together with the *European Association of Judges*, the *European Association of Administrative Judges* and *Judges for Judges*, we formed the *Platform for an Independent Judiciary in Turkey*, through which we have been denouncing the destruction of the Rule of Law in Turkey, calling for the immediate release of the Judges and Prosecutors detained and for an independent assessment of the judiciary in Turkey, with the full involvement of international observers.

With the passing of time, the international community became more and more aware of the deterioration of the situation in Turkey. On December 2016, the European Network of Councils for the Judiciary has suspended the observer status of the *Turkish High Council for Judges and Prosecutors*, considering it “*does not currently comply with the ENCJ Statutes and is no longer an institution which is independent of the executive and legislature ensuring the final responsibility for the support of the judiciary in the independent delivery of justice*”.

Under the appointment of MEDEL (and also EAJ), in October 2017 the Parliamentary Assembly of the Council of Europe has awarded Murat Arslan, the President of YARSAV, the Vaclav Havel Human Rights Prize.

Since then, Murat Arslan has been convicted to 10 years of imprisonment, after a process which hasn't met the basic standards of impartiality and guarantees of defense, with the hearing of anonymous witnesses and the constant changing of judges during the sessions.

During these years, MEDEL received many messages from colleagues, relatives and other sources, concerning what happened to judges and prosecutors in Turkey, which used to be respected professionals, carrying on their duties while sharing views, experiences and commitment to the values of democracy, Rule of Law and independence of the Judiciary with European colleagues and professional associations.

MEDEL believes that such messages, which describe directly what occurred to thousands of colleagues, how the procedures developed and which are the consequences of them, are an important source of information from inside the attacked Turkish judiciary.

MEDEL also believes that these messages, gathered together without comments and modifications (apart from anonymizing them) provide for an impressive witnessing of the incredible acceleration of the falling of Rule of Law in Turkey. As for editing, MEDEL deemed it appropriate to anonymize the messages, for safety reasons, as requested by the senders.

A great deal of these messages contained very elaborated commentary notes, aimed to underline the unlawfulness of the measures adopted during the counter Coup d'Etat. And, to this end, they quoted General Principles as well as the case-law of the European Court of Human Rights. It was impossible to reproduce in this Booklet a great deal of these contents of the letters. Anyway we quote some of them as the demonstration of how deeply such rules, such principles were and are rooted among the Turkish Lawyers, the Turkish Judges, the Turkish Prosecutors. They represent a common mother-tongue (Koiné) belonging to each one of us. Through this collection, everyone may have further elements to assess how far the distance from legality principles arrived in a country with which MEDEL had long-lasting relationships of friendship and common commitment to Rule of Law principles.

With the contribution of our member associations, we are now publishing the letters translated in many languages. MEDEL hopes that this continued testimony is a signal of solidarity and renewed commitment to the core values of justice in Europe.

The fight that is currently fought by all the courageous free Judges, Prosecutors and Lawyers in Turkey must be seen as the fight of all those throughout the world who remain committed to the values of the Rule of Law. It is therefore a common struggle, not just a struggle for the sake of the Turkish people. As long as one single Turkish Judge or Prosecutor is imprisoned for his fight for an independent Judiciary, no Judge elsewhere in Europe may feel completely free and independent.

As Murat Arslan said in his acceptance speech of the Vaclav Havel Human Rights Prize: *"I am speaking to you from a jail in a country where the rule of law is suspended, that moves far away from democratic values, where dissidents are silenced, human rights defenders, journalists, people asking for peace, people who shout out that children should not die are labelled as terrorists and jailed. (...) The price that we are paying just raises our faith in the coming days where the rule of law and democracy will be internalized"*.

The bureau of MEDEL

### **Note of the Editor / Imprint**

The letters published were received by the office of MEDEL in Berlin, mainly via e-mail, starting from 16/07/2016. For the first letters ( from 16/07/2016 to 1/08/2016) the date was kept in order to show how the situation was evolving; for the following ones the date was omitted.

Letters from 1 to 13, from 15 to 18, 27, 29, 30, from 34 to 37 were received from judges and prosecutors. Letters 14, from 19 to 25, 28, 31, 33 were received from wives or children of judges or prosecutors. Letters 26, 32, 38 were received from other sources.

Apart from anonymization (i.e. cancelling the names, family references, cities and names of prisons which may lead to the identification of the senders) no other editorial intervention was made on the letters. The letters were mainly sent in English by not mother tongue senders, or in Turkish translated by the editor.

### **Imprint**

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## **Time Table of Events**

July 15

22:30 - A couple of soldiers blocked the bridge.

23:45 - A Military Coup Statement announced in a public TV.

00:04 - President Erdogan made a statement, accused Fethullah Gulen being behind of military coup, call people occupy streets and resist the military punch, added judicial procedure initiated.

04:30 - The Ankara Chief Public Prosecutor made a statement inform upcoming arrests.

05.30 - Press conference defined failed military coup, “a present comes from God”

09:00 - 140 members of the Court of Cassation, 48 members of the Council of State , 2 members of the Constitutional Court ve 5 members of the Council arrested, for 2745 judges and prosecutors issued a arrest warrant.

14:00 - 2745 judges and prosecutors suspended by the Council.

22:00 - The suspended judges list published in the internet. Several mistakes, not updated work places, retired judges, already dismissed judge, also a prosecutor Ahmet Bicer altough he was already died, was in the list.

21 July - State of Emergency

24 August - 2847 judges and prosecutors dismissed without having defense. ( number exceeds 4500), 2500 judges in jail, and 600 of them in a tiny cell.

## Letters

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[1 - 16/7/2016]

Dear Colleagues, It seems that there has been a serious coup attempt.

As a judge, and as an experienced citizen, Initially, it is not easy to say what is going on in deep- in reality ...

Despite the fact this attempt was very serious and organized action and it failed within 12 hours thanks to the Erdogan's reaction.

Since the very beginning, all government representatives and Erdogan have seemed very calm and they charge Gulenist as responsible of this attempt. All of the perpetrators are being rebelled as Gulenist attempters.

Erdogan said yesterday referring this event where hundreds citizens died- thousands wounded "...this insurgency "is a blessing from Allah, because it will allow us to purge the military"

This can be understood...! I think no more explanation needed...

According to some news- official agencies, some dissident members of High Council of Judges and Prosecutors and supreme court's justices who have already been blacklisted and declared as Gulenist will be detained by Ankara Chief Public Prosecutor Office...

This is not also surprising for us!...

This news would explain something! and it is not surprising to see new waves of detain, arrest, dismissal in the bureaucracy, judiciary as well as the military...May be the biggest cleansing operation for dissident will be carried out by the government...soon

To sum up, after this stage, nothing will be able to surprise us...

There have been many things which are very strange...

We will see what this attempt will bring or take away...

The importance of your support will definitely double for us...

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[2 - 16/7/2016]

High Council of Judges And Prosecutors -HCHP 2.nd Chamber has suspended in total 2745 judges and prosecutors...Probably On the ground they are Gulenist...

The list of suspended judges or prosecutors has not been proclaimed...yet

I am included in the list some say police coming to detain us my spouse and me. Good by friends

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[3 - 16/7/2016]

3.I left my two kids (5 and 9 year old) to my inlaws. Still waiting for police to knock on my door so depressing. My wifeweep.

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[4 - 16/7/2016]

Dear colleagues,

I also will be dismissed and detained. I don't know how to explain. I just have done my job and criticize the government regarding judicial developments that you already know very well.

We may not see each other again. Thank you for your support up to now. We will not have any commination opportunity.

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[5 – 17/7/2016]

I am still at home waiting. X was detained couple hours ago. Only thing they said to him is you are a member of terror organization equipped with guns. He asks more info and evidence. They did not show anything so he used the right to remain silent. Now they will search his home.

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[6 – 17/7/2016]

Dear friends, Our colleague X. is arrested. Only reason the judge mentioned is because his name is "in the list of Judicial Council" that's all. In other two cities, our colleagues have been released with control measures (not to go abroad).

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[7 – 18/7/2016]

Me and my wife have been detained

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[8 – 20/7/2016]

I was released today but what happens next I don't know. It is turning into witch hunt. The prosecutor has the right to appeal to put me in jail again. So there is a possibility I can be arrested again. Please aware all competent persons of your countries and Europe. The state of country is getting worse. Please keep up good work. We need your help more than ever. My family and X.'s family are destroyed. We are suspended and not a judge anymore.

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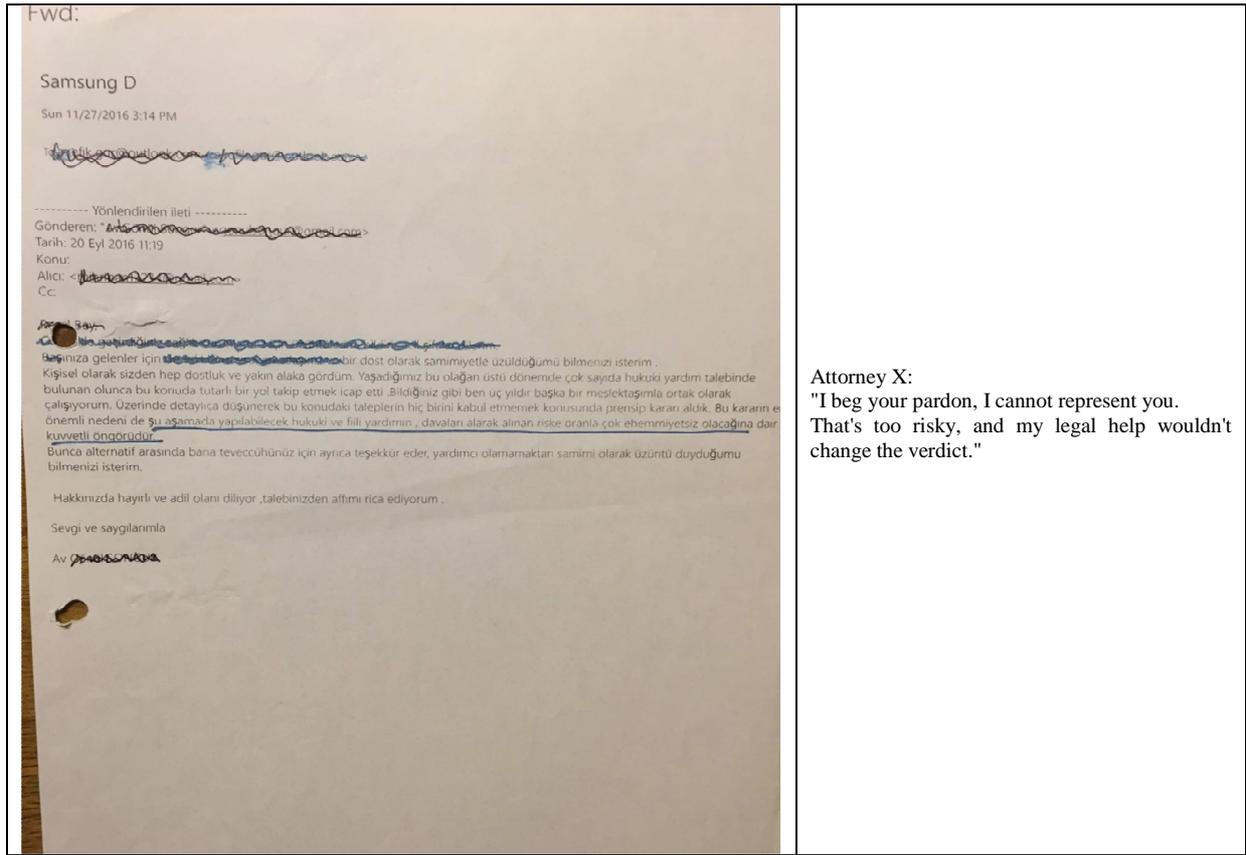
[9 – Without Date]

First of all, there is a confidentiality order on all of our cases. Which means that none of us can share any document including testimonies, indictments, court order etc. It is criminal offence and put us in more danger.

Second, the list was prepared by HSYK (you can see public remarks of the head of the High Council, he states that the number of judges can be reduced or increased. he also said the list is prepared after two years work)

Third, the detention period varies from city to city. In some cities it lasted 4 days, in some only one day. However, aftermath of declaration of state of emergency the detention period can last up to 60 days. The government announces that they are working on it.

Fourth, No one can reach their lawyers even arrested and jailed ones. I submitted a petition during my detention in prison to the Ministry of Justice stating that I have right to see my lawyer you cannot put any restriction on it. I don't have the petition. Even if I have I can't send because of confidentiality order.



Fifth, None of our families can reach us either in jail or in detention center.

Sixth, the weather is so dark. No one can reach each other including families and lawyers. So don't expect any document from us. Everything is closed. Now helicopters are flying on the cities because of state of emergency. Internet access can be restricted at any moment because the state of emergency gives the government a lot of power including lifting basic human rights.

Seventh, do not call any competent person in Turkey regarding someone. It can be assessed intervention and it is criminal offence.

[10 – Without Date]

These links below (...) show the name of judges and prosecutors who have been suspended on 16th of July 2016. Some of them are in custody some of them are arrested and put in jails. Suspension list is at the same time arrestor detainee list. So first the HSYK suspended then the prosecutors launched investigations and the courts put many of them in jail (arrested). only one person breaks free. The rest is either arrested or detained.

The link shows that a prosecutor, Mr. A. B., who died two months ago, is in the list which shows which judges will be detained.

HSYK'nın görevden aldığı hakim ve savcılarının isim listesi				
MEVLÜT BEDEL	Tetkik Hâkimi		PDY	
#	ORHAN AKINCILAR	İdare Mah. Üyesi	ŞERMİN AKINCILAR ÖĞRETMEN İBB FATİH SULTAN MEHMET İÖO	PDY
#	FATİH GÜRGEN	İdare Mah. Üyesi	ISMAHAN GÜRGEN DOKTOR KEÇİÖREN EĞİTİM VE ARAŞTIRMA HAST. UZMAN DOKTOR FTR ANABİLİM DALI	PDY
#	MURAT DUYGUN	İdare Mah. Üyesi	NEŞE ÇAĞLAYAN DUYGUN AVUKAT AVUKAT	PDY
#	MEHMET COŞGUN	Vergi Mah. Üyesi	RUKİYE COŞGUN İCRA MÜD. YRD. ADALET BAKANLIĞI	PDY
#	ERHAN ÖZGECİ	Vergi Mah. Üyesi	AYŞE GÜL ÖZGECİ ÖĞRETMEN TEKNOLOJİ VE TASARIN ÖĞRETMENİ	PDY

About 6 hours after the start of the coup attempt, part of a list of judges published on the Internet who are to be arrested.

It is obvious that the list was prepared before the attempted coup. The list of administrative judges and prosecutors who will be detained did not take place in news but what's up groups like YARSAV's one.

[11 – Without Date]

Dear Colleagues,

Today 2847 judges and prosecutors including me were dismissed from the profession permanently. None of the judges and prosecutors was given a right to defense themselves. Namely all colleagues were removed without having their defense. Now the dismissed judges can appeal against the decision of the High Judicial Council to the Plenary of the High Council within 10 days. Then after having the result of this appeal judges have the right to appeal to the Council of State (supreme administrative court) within 60 days. Appeal in the supreme admin. court will be 2 steps.

After ultimate decision of the council of state judges can challenge, by complaints regarding human rights violation in the judicial and administrative process of dismissal, within 30 days before the Constitutional Court. If there is still no remedy judges may make an application to ECHR within 6 months. It seems a long journey, at least 3 years before making application to ECHR.

Karar No	Tutanak No	Karar Tarihi
2016/426	17	24/08/2016

yerleştirilmesini sağladığı, bu gibi yöntem ve araçlarla örgütün nihai amacına ulaşmaya çalıştığı anlaşılmıştır.

**3) Örgütün Sosyo-Kültürel ve Zihinsel Yapısı:**

Örgüte üyelik için kesin bir kriter yoktur. Türk, kürt, laz, çerkez, ermeni, sünni, alevi hatta yapıya uzak gibi duran gruplardan, ateist ya da yahudi, hristiyan dinlerine inananlardan da paralel yapılanma içerisinde yer alanlar bulunmaktadır. Bir başka ifade ile FETÖ/PDY'ye üyelik için dindar olmak veya inançlı olmak şartı aranmadığı gibi müslüman olmak da gerekli değildir. Bu örgütün içerisinde her türlü suçta bulaşmış, alkol müptelası, kumarbaz, hırsız, tefeci, rüşvetçi kişiler de vardır. Ancak örgüt anlayışında, dini vecibelerin yerine getirilmesi veya Kur'anın yasakladığı eylemlerden kaçınmaktan ziyade, "para" öncelik arz ettiğinden, himmetini veren kişinin işlediği suçun veya günahın bir önemi bulunmamaktadır. Meşru olmayan yollardan elde edilen kazançtan

The 72-page long decision of HSYK to order the collective dismissal of 2,847 judges and prosecutors for "mandatory".

[12 – Without Date]

The first emergence law is in force as of today. It brings as follows:

1. The duration of detention/custody is extended up to 30 days.
2. All governmental staff including judges and prosecutors who are in the suspicious list will be dismissed without any disciplinary investigation. The law says "the assessment of any level of connection with Gulen organisation" is enough to be dismissed. There is no need to be proved just "assessment by the executive"
3. YARSAV is closed down as of today according to the list annexed to the emergency law. There is no YARSAV anymore.
4. Arrested or detained persons may not be contacted with their lawyers if the court says so.
5. The family visits are narrowed.
6. The lawyer and client conference will be recorded. If anything in their talk is considered suspicion the right to reach a lawyer can be forbidden by a court decision.
7. Detainees or arrested ones will have 10 min. phone call with their inner family members in each 15 days. (previous law says detainees can talk once a week and not only with full/large family members but also 3 more other people determined by detainee)
8. A person can be represented by max. 3 lawyers not more.

It basically brings that all private institutions which allegedly have any level/type of connection with Gulen organisation are taken over by the government. Moreover, all judges and prosecutors and the other governmental staff are dismissed without any disciplinary investigation. There is no need to wait for until end of the ongoing cases. Nothing to say. It is almost over. Please distribute the email without my name as much as possible

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[13 – Without Date]

New situation from the judiciary-

- Judges who release the detained ones, will be transferred, and might be suspended by the High Council of Judges soon.-
- No judges want to be assigned to the “Sulh Ceza Hakimlikleri: Penal Judge of Peace” for the pre-detention and arrest measures.-
- All judges who haven’t detained/arrested are threatened to be on the list anytime.-! Detained Judges have so limited (almost no connection) with their families and attorneys.-
- Most of the attorneys do not want to defense the detained/ arrested judges.
- City: Y: In the interrogation process, one judge dealt with 37 judges and prosecutors alone, and did not ask any questions, but then arrested all of them saying that I was ordered to do so from Ankara. And in the same city, arrested ones were not allowed to change their clothes, have their basic needs, and communicate with anyone.
- There's Prosecutor A.B. name on the list. He was deceased 57 days before the arrests started.
- In the other hand on the list: there's the city name that colleagues work which shows not current places but the places 2 years ago.
- All these info shows that the list was ready at least 2 years ago.

Current situation in public agencies.

1. Ministry of Education dismissed 60.000 teachers.
2. Ministry of Finance 2.000 personal
3. Intelligence Agency 100. Personal
4. All of the military judges.
5. Almost 3000 judges and prosecutors.
6. No one can go abroad from public agencies.
7. All deans of public and private universities are out of job. They forced them to resign and they had to resign today.
8. Many journalists' press cards are cancelled.
9. Some journals are gathered and put broadcast ban.
10. Some of academia were dismissed.
11. Thousands of police officers were dismissed (appx 10.000)
12. 247 city and town governors were dismissed.

Tonight, the state of emergency is declared. Namely all human rights can be removed. They can put public duties to people between 18 and 60 years old. They can confiscate everything.

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[14 – Without Date]

REPORTED BY WIFE:

(Judge): Detained and Arrested

After detention he could contact with his wife for the first and the last time. They spoke on the phone for a few minutes. During the interrogation he was asked:

During the coup attempt who were you with and what did you speak on?

Which high school did you graduate?

Which test prep centre (Turkish: Dershane) did you go to?

Did you participate the counting of the elections of High Council of Judges and Judges in 2014? Did you record the counting?

The Judge’s attorney doesn’t answer the calls anymore because of the fear.

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[15 – Without Date]

There is no evidence in no of our cases. I saw it from colleagues files who are in jail with me.

There is only a list. Prosecutors say "I have only list and there is confidentiality order so I cannot show you anything else)

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[16 – Without Date]

Which test prep. center did you go to?

In Turkey, in order to enroll to any type of university you have to take "the national university entrance exam". Due to insufficiencies in Turkish education system mainly/particularly in high schools you must go to exam preparation centers. There are courses/classes which prepare you to the national exam in those prep. centers. It is so hard to pass the national exam without prep. centers which are legally established by private sector.

Some of the prep. centers was said to be close to Gulenist. By asking this question the prosecution wants to know whether there is a link between you and Gulen. Ironically, most of the current politicians' kids including the President's ones were prepared by those education centers. Assuredly most of prosecutors/judges on duty now or their family members are also prepared in those centers. And most probably, they are also so scared while asking this questions to judges who are under arrest because of the fact that they also went those centers.

Did you participate the counting of the elections of High Council of Judges and Judges in 2014? Did you record the counting?

As you remember there were three main stream candidates during the last High Council election: 1. YARSAV, 2. the Association of Judicial Unity (pro-government) and 3. independent candidates (allegedly some of the independent candidates are close to Gulenist or Gulen movement or now terrorist organization).

Some of judges had roles in election process like in every election process. Someone must count the votes. Some of judges and prosecutors wanted to observe the process of the election by waiting in the courthouses. This type of judges were quite a lot. Many judges did not trust each other and wanted to protect their votes like in every other elections in different aspects of our lives.

Why did the prosecutors ask this question?

They are asking because they want to learn which candidates or groups you supported. Simply they are trying to figure out which candidates you vote for. According to your vote they will determine what type of judge you are (YARSAV, Pro government or independent).

It is quite obvious that If you voted for the Association of Judicial Unity (pro-government) and everyone knows it you are in safe. Nothing can happen to you. I don't believe anyone in the list of 2735 judges is a member of the Association of Judicial Unity (pro-government).

They protect their members from this investigation. Current administration of judiciary and judges and prosecutors who handle our cases are the members of the Association of Judicial Unity.

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[17 – 28/7/2016]

Ankara Prosecution Office ordered that all possessions/properties of the number of 3049 judges and prosecutors who are under the investigation will be confiscated as of today.

Don't go abroad, don't work, not paid, don't sell property.....

We don't have anything now. No home, no car, no insurance for kids anymore Getting worse and worse.

It is time to die

[18 – 1/8/2016]

Dear Colleagues,

Among other unlawful things, I would like to mention a clear violation of law on confiscation and its huge impact on our families.

As you remember, upon the request of Ankara Prosecution Office, Ankara Penal Court of Peace (established by the government against basic international principles, for example any appeal to these courts' decisions are decided by the same kind of courts, closed loop system) ordered confiscation of vehicles, houses and shares/bank accounts of judges and prosecutors until the end of the criminal investigation.

Why is it so important for us?

As you know, suspended judges cannot be paid fully, they get the half of their salaries and in the case of permanent removal, which is most likely to happen soon, no payment (salary, allowance etc.) at all. Because of the confiscation, we are not able to sell our properties to save or keep our life. It is a brutal punishment to our kids, wives and other inner family members. We are still innocent unless proven guilty. There is no evidence at all to confiscate our properties.

What does confiscation law say?

Turkish Penal Procedure Code numbered 5271 article of 128 states that "Seizure of immovable goods, rights and credits.

Article 128

(1) The following items belonging to the suspect or the accused may be seized in cases where there are strong grounds of suspicion tending to show that the crime under investigation or prosecution has been committed and that they have been obtained from this crime;

- a. Immovable goods,
- b. Transport vehicles of land, sea or air,
- c. All kinds of accounts in banks or other financial institutions,
- d. All kinds of rights and credits by real or juridical persons,
- e. Valuable documents,
- f. Shares at the firm where he is a shareholder,
- g. Contents of the rented safe,
- h. Other assets belonging to him.

Even in cases where these immovables, rights, credits and other values of belongings are in possession of individuals other than the suspect or the accused, the seizure is also permitted.

(2) The provisions of subparagraph one are only applicable to the following crimes:

- a) The following crimes as defined in the Turkish Penal Code;
  1. Genocide and crimes against humanity (Arts. 76, 77, 78),
  2. Smuggling migrants and human trading (Arts. 79, 80),
  3. Theft (Arts. 141, 142),
  4. Aggravated theft (Arts. 148, 149),
  5. Breach of trust (Art. 155),
  6. Fraud (Arts. 157, 158),
  7. Fraudulent bankruptcy (Art. 161),
  8. Producing and trading of narcotic or stimulating substances (Art. 188),
  9. Forgery of money (Art. 197),
  10. Forming an organization in order to commit crimes (Art. 220),
  11. Cheating in public bids (Art. 236),
  12. Fraud in fulfilling of obligations (Art. 236),

13. Embezzlement (Art. 247),
  14. Bribery by force (Art. 250),
  15. Bribery (Art. 252),
  16. Crimes against state security (Arts. 302, 303, 304, 305, 306, 307, 308),
  17. Crimes of an armed organisation (Art. 314), or supplying such organisations with arms (Art. 315),
  18. Crimes against state secrets and spying (Arts. 328, 329, 330, 331, 333, 334, 335, 336, 337),
  - b) Smuggling weapons as defined in the “Act on Firearms and Knives as well as Other Tools” (Art. 12),
  - b) Embezzlement as defined in the Banking Act (Art. 22/3 and 4),
  - c) Crimes as defined in the Combating Smuggling Act that carry imprisonment as punishment,
  - d) Crimes as defined in Arts. 68 and 74 of the Act on Protection of Cultural and Natural Values.
- (3) A decision on the seizure of an immovable shall be enforced by taking a note in the title.
- (4) A decision on the seizure of vehicles operating on land, sea and air shall be enforced by taking a note in the title, where they are registered.
- (5) A decision on the seizure of accounts financial enforced at banks and other institutions shall be by immediately informing the bank or financial institute by technical communication means. The related decision shall also be notified to the bank or financial institution separately. The interactions at the bank account, aimed to make the decision of seizure ineffective, which are conducted after the decision has been rendered, are void.
- (6) A decision on the seizure of shares at a firm shall be enforced by notifying the administration of the related firm and the head of the commerce title by technical communication means immediately. The related decision shall also be notified to the related firm and to the directorate of the financial institution separately.
- (7) A decision on the seizure of rights and credits shall be enforced by immediately notifying the related real or juridical person by technical communication means. The related decision shall also be notified to the real or juridical person separately.
- (8) In cases where there are violations of the requirements of the decision on seizure, Art. 289 of the Turkish Penal Code related to the “misusing of the power of protection” shall apply.
- (9) Seizure under the provision of this Article shall only be decided by the judge.

On 21st of February, 2014 the article above was amended and new provisions were added to the article. According to new article 128, the decision of confiscation can be made by High Criminal Court and the court must decide on it unanimously. The new provision also states that before ordering confiscation the High criminal Court must have a report from relevant institutions like Ministry of Finance, the Banking regulatory and Inspection Board.

After declaration of state of emergence, The Emergence Decree Having force of Law numbered 668 came into force Article 3/i of the Decree states that Penal Court of Peace decides on confiscation without having report from relevant agencies. In urgent situations the prosecutors can order confiscation subject to judge's approval within 5 days.

As you see from the articles above, in both the Emergence Decree Having force of Law and Turkish Penal Procedure Code numbered 5271 there must be strong grounds of suspicion tending to show that the crime under investigation nor prosecution has been committed and that properties have been obtained from this crime. Those are our properties obtained through our salaries paid by the state. We notice/inform the High Council regularly of our properties. if we have property that we cannot explain its source it is already a crime and subject to both criminal and disciplinary procedure.

The confiscation is arbitrary use of power and illegal, a clear violation of law. The confiscation is going to destroy us because of the fact that we are not able to sell our properties to survive under these horrible days.

Actually, the government has showed its intention already. Last week before the confiscation order was issued, the Minister who is responsible for land and other immovable property registration agency publicly announced that "I gave an order to Land Registration Agency not to allow any transfer or sale of property of those whom you have suspicion. Before any transaction you will ask the police and prosecution office" As you figure out from his public remarks they have already decided on who is guilty who is not. This is completely outrageous. We are judged by not only judiciary but also the executive simultaneously.

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[19 – Without Date]

X was appointed to the Province of Y as a judge after he had performed his task in the Province of YY for 2 years. He had heard the cases on the issue of terror offences in exceptionally competent courts. Then he was appointed to his hometown. Just thinking that he would begin to a new life in order, he was detained and then arrested over the charges of having a link to armed terrorist organization and attempting to coup without any absolute evidence and specific facts by his colleagues, not recognizing him by interrogating him as for whom he had voted in HSYK election, held in 2014. His properties was also seized by Turkish Government and they had to evacuate the house.

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[20– Without Date]

I am a 17-year-old boy from Turkey. When the failed coup happened in Turkey, I was in Europe with my family having our holiday. My father 'was' a prosecutor and my mother 'was' a judge. We returned to Turkey next because we knew we were innocent but despite the fact we would have stayed in Europe, my parents were put in jail, in order to prevent them running away before the trial. Our bank accounts and private property has been taken over by the government. The lawyers are threatened by the government so no lawyer accepts the cases, even if they do we can't afford it because the government took our money. The lawyers who are assigned by the government just make it look like the suspects have lawyers. They do not help at all. The conversations between the suspects and lawyers are recorded and being listened. They put my parents in a cell which are used for punishment one month ago, for no reason. It has been 120 days since I had any kind of communication with my mother. When asked they don't answer or why our communication is banned. My father and mother are in the same folder and there is no difference between their cases. They transferred her to a different jail last week in Y. which is a 5 hour ride from our home and when we called the jail and asked they said it is still banned for us to get in touch with her. I haven't received any reply to my petitions. Like I mentioned before it has been 4 months since I saw my mother. This is against the law in any circumstances. I am just a son who wants to see her mother what kind of danger could I cause!

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[21 – Without Date]

I am a Turkish student at Ankara University Faculty of Law. Aftermath of the failed coup attempt in Turkey, on July the 15th, my father, who had been a judge, was unlawfully and without a valid legal basis and a legally substantiated proof arrested and expelled from his job, although he was not involved in such a disastrous attempt as an honorable judge who has been serving to his country for many years. After he heard the coup involvement allegations about him and his 140 colleagues (only Supreme Court members are 140, total number of dismissed judges is approximately 4000), he hadn't even attempted to flee and he would rather be staying at home waiting for police. Closed Prison where my father has been withheld is a new construction with a lot of shortcomings such as uncompleted heating, electricity and water installations alongside the hygienic deficits. Briefly deteriorating all

conditions obviously aiming to expose them to physiological breakdown to dismay and deter them so as to make them resorting to be the confessor of a crime, that they have never committed, as the only way out. Approximately 140 former Supreme Court members are also kept in solitary confinement under the same conditions as my father.

In the meantime, the government, taking the advantage of the state of emergency that was declared aftermath of coup attempt, has been continuing to arrest the opponent journalists so as to suppress the opposition and to steer the whole media in the country in line with its policies, so much so that ordinary citizens sharing opponent political views via their social media accounts have been arrested or detained every passing day. On the other hand, pro-government media and social media accounts declare the opponents as traitors, affronting and insulting them, so as to create a chaotic and insecure atmosphere where discrimination and polarization against us prevail alongside intimidating and excluding hate speeches. Lately, my grandfather who was accused of downloading a smart phone texting application called as "by lock" was released after 4 days in detention, due to the fact that he was not able to use a smart phone because of his damaged fingertips. All in all, a sword of Damocles hangs over my whole family. Meantime, my mother who is a cancer patient since 2008 has been receiving chemotherapy due to relapse of her cancer due to getting through hard times after unfortunate and stressing events she experienced recently. Although she has acquired the right to early retirement due to physical disability, she was expelled from her job without giving a justification, through the last promulgated statutory decree. She will be deprived of her insurance, which is vital to pay for her medical treatment, 100 days after her dismissal.

My sister who has just completed her lawyer internship was faced with serial refusals in all her attempts to apply for a job in law firms due to being the daughter of a prisoner accused of being involved in coup attempt.

As the respectful people living a life in dignity, our lives became upside down suddenly. Because of the lack of sense of justice and impartiality of Turkish legal authorities for appeal, we considered informing you, as an authority capable of voicing our concerns and the atrocities we are subject to, about ongoing contraventions and persecution as a last resort

Kind regards,

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[22 – Without Date]

I am a daughter of a Supreme Court judge. My father served justice as a Supreme Court (Yargıtay) judge for more than 30 years in total in Turkey. He has been kept imprisoned for over 2 months without any charge or evidence against him. He has never had any link to any religious community however he is accused of having a link to a religious movement. He has been always a loyal secularist. He has criticized the Erdogan regime for years, in his capacity, related to the government's corruption and aim to hurt secularists. He has decided cases based on the government's failure to police drug trafficking in schools. Supreme Court judges, as you can imagine, have the highest job security granted by the Constitution. To remove a Supreme Court judge there is a process to be followed. The way he was removed from duty is against the Constitution but also against International law. As his family, we have enough evidence that shows he has faced ill-treatment such as denied to clean water and food. I am very much disappointed that international community ignores this unlawfulness. Please show me a way to help my father. I am a teenage girl in high school. My father was a judge, he was honourable, respected judge, he was very successful in his job, after 6-7 years in his career he promoted as a high inspector judge and after several years service he promoted again as a chief inspector judge, he was travelling a lot. After July 15th, my life totally changed. My father got arrested, being a member of the "terrorist organization". I am trying to understand what my father did. Why those people even did give any chance to him, defend himself almost 4 months now. Why did

they take all our money. Why this people are so bad, why people doesn't respect other people right. Why no one is not listening to us.

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[23 – Without Date]

I am medical doctor. I married with 12 years public prosecutor X and we have 2 sons. My husband, our children and I were at home in the evening of July 15 as my husband stated in his query expression. We were terrified when we saw the coup attempt on TV.

In the evening of July 16, I saw my husband's name in the banishment list of judges and prosecutors.

In the morning of July 17, my husband received a call from Y. courthouse. After that call he went to the courthouse and was arrested in his office from that moment our lives were turned upside down.

This coup attempt was occurred by a terrorist organization located in Turkish Armed Forces. I cannot understand how my husband and the other (approximately 3000) judges and prosecutors associated with this disgusting attempt with no proof. The police searched our house like we are criminals even like we betrayed our country in absence of public prosecutor. After 4 day in custody, my husband was ejected to the court. The court decided to arrest him from being a member of terrorist organization with no proof.

In the evening of the July 20, my husband was sent to Y. closed prison. "Death penalty can come back" news in media and my husband's situation despite he is not guilty, put me in a indefinable psychology.

Neither I nor our lawyer during the first 10 days, we were not allowed to meet my husband in any way.

My husband's objections from inside and our lawyer's objections from outside were rejected.

We have been allowed to only the closed interviews from the 10th day.

My husband demanded the texts of State Of Emergency decree laws from the administration of prison but this demand rejected.

All of the 2847 judges and prosecutor's assets were frozen.

We were asked to evacuate our lodgings within 15 days by the notification.

My husband and the other judges and prosecutors were fired by High Council Of Judges and Prosecutors on 24/08/2016.

My husband has been in prison for 42 days with no crime. My husband was stigmatized by the society, his profession and our right to live together has been taken from us. This is unfair and we have no opportunity to defend our rights.

My husband is a good father. He cares about our children very much. He was not interested in politics. The most important things in his life are justice and family.

I feel desperate in all ways.

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[24 – Without Date]

My husband was a judge in Y. In 16 July 2016 while he was doing his job, he was suspended from his duty and at the same time custody decision about him published. When we saw the custody decision we all shocked because of his 2846 associates was in the same condition. I can't understand how can they know that my husband is guilty for coup, when just 12 hours passed after the coup ? My husband was playing card in our neighborhood's cafe.

My husband stayed in custody two days, then taken to questioning. Prosecutor asked him that questions:

Where are you when the coup attempt?

Do you know FETÖ, are you studied any FETÖ schools, are your children studied, is your wife associated with FETÖ?

Have you got any friend that associated with FETÖ? If you have, tell their names.

My husband has proof that where he is in that night. But prosecutor didn't investigate. Also my husband said that he hasn't got any connection with FETÖ. But after all he was arrested with just 10 minutes long trial.

Another shocked implementation was they brought them with group of 6-7 person and hear them only 3-4 minutes per person. Isn't it against the law? Our advocate tells us that after the trial he heard one prosecutors call. Prosecutors said to phone "we cannot arrest anyone with that proofs but the list from above."

There is no crime evidence about my husband but he arrested in 20 July 2016. He was sent to Y. prison. In first four days we couldn't get any information about him. We didn't know he was still alive or he was dead. I was so worried about him. I couldn't sleep at night. After this four days we could get information about him. Then non-contact visits started. Although 48 days passed we still can't contact visit him. Normally they open contact visit once a month. They can't allow our letters. My husband and their friends write petition from prison but their petitions didn't convey to authorized persons. Pen and paper isn't given to our husbands. So they can't write anything. My husband saw his advocate only once in these past 48 days and while they are meeting, a guardian was watching them. They didn't make any accusation. In July 2016 I went to my husband's courthouse room for take his personal wares. His name was deleted and his room was searched without permission. Almost I couldn't go in his room. I took my husband personnel wares with report.

In 24 August 2016 Wednesday HSYK discarded my husband and 2846 judges and prosecutors with only one enactment. After this in 2 September 2016 HSYK discarded more judges and prosecutors, in total 3390 judges and prosecutors. Discarded judges and prosecutors names and record numbers leaked on internet. A lot of discarded people wife has discarded from their jobs because of their husbands discarded from their jobs. Even lots of them work license taken. I'm a teacher and I am afraid of they will discard me too. So I am sending you this e mail from a cybercafé and different e mail address.

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[25 – Without Date]

I am the spouse of the Public Prosecutor X who is now under arrest in Y T-type High Security Closed Institution for the Execution of Sentences.

My husband while serving as the Public Prosecutor of Y was arrested after being charged with the offence of being a member of FETÖ/PDY terrorist organization as well as with the offence of attempting to overthrow the government Decisions and/or sanctions of suspension, expulsion or removal from office made against or imposed upon many public officials are kept out of the scope of judicial review. The balance between prosecution and defense cannot be maintained and is sharply deteriorated against defense; allegations of use of violence, threats and mistreatment in execution of punishment against detainees have risen sharply, and liens are placed against these people's property or their property is seized in an unjust manner, and they are deprived of many guarantees provided under the constitution, in particular freedom to claim rights and principal of natural judge.

On the other hand, a series of amendments to the provisions regarding the Supreme Council of Judges and Public Prosecutors have been introduced through a series of amendments to the Constitution on 07th of May 2010, and as a part of these amendments the composition of the Supreme Council of Judges and Public Prosecutors was revised as to the nomination of its members and the method of its formation. Through this revision, a new nomination and election procedure was adopted to allow judges and prosecutors to nominate and elect the members of the Supreme Council of Judges and Public Prosecutors. These new legal arrangements, which are consistent with the principles of a democratic state of law, unfortunately in practice have led to the use of unfair and unlawful practices

by those who win the elections against those who lose the elections. A look into the history of the Supreme Council of Judges and Public Prosecutors, for example only for the last two years would be sufficient to understand these issues. An examination of how the members of the Association of Judicial Unity who won the elections have been promoted to higher posts and how members of other associations that lost the elections were removed of their office and title would be sufficient to prove this fact. I am in the opinion that a careful examination of the decisions for the appointment and transfer of judges and public prosecutors before and after major investigations will be sufficient to understand these issues. I would also like to express that, immediately after the attempt of the evil (!) coup d'état on 15th of July 2016, the Supreme Council of Judges and Public Prosecutors held a meeting on the day immediately following the failed coup d'état upon the complaints of people who hold political office and suspended more than three thousand judges and public prosecutors, and judicial immunity of these judges and public prosecutors were lifted to allow them to be investigated, and more than two thousand judges and public prosecutors were dismissed from the profession by the Supreme Council of Judges and Public Prosecutors on the grounds of the failed coup d'état attempt.

My husband was arrested unlawfully. Let me put it this way;

- 1- There is no mention of acts that are alleged to constitute the offense(s) with which he was charged neither in the decision taken to arrest him nor in the decisions taken on the continuation of detention.
- 2- The necessity for arresting him is never explained in a concrete and reasonable manner neither in the decision taken to arrest him nor in the decisions taken on the continuation of detention. If he is released he would have no reason for fleeing or commuting an offence. This is because
  - a) All of his assets have been seized. As a part of these measures imposed by the government his bank accounts are blocked and are not freely available for use, and therefore he has no money at all.
  - b) He strongly believes that the investigation against him will be concluded with a positive decision and that he will be reinstated to his position. Consequently, he has no reason to flee or run away.
  - c) My husband never tried to flee before his arrest. After being called by phone, he promptly went to be present and appear at the place where he was invited. Nevertheless, examination and inspection was carried out prior to the decision taken to arrest him or the decisions taken on the continuation of detention to find out and to determine whether he would flee or not. On the other hand, he always says "I did not flee, and I won't because I know and believe that I am innocent and did not commit any offence.
  - d) Neither the judicial authorities nor the administrative authorities made any determination or assessment about an attempt of fleeing or risk of fleeing and more importantly the reason(s) for forming a reasonable suspicion is/are never mentioned in these decisions.
- 3- After a simple examination of my husband's statement taken in the Office of the Public Prosecutor one can easily understand that the questions directed at my husband were not directly related to the acts that are alleged to constitute the offense(s) with which he was charged but related to issues involving freedom of thought and opinion.

Here are some of the questions:

- \* Which schools you studied in?
- \* Where did you stay while studying in the university?
- \* Did you work or serve as a class representative or a member of an album committee while studying in the university?

\* For whom you voted in the elections of the Supreme Council of Judges and Public Prosecutors?

\* Have you ever done social media postings against the government?

\* Did you have a talk with your friends against the government?

To crown it all, my husband was dismissed from the profession based on a completely baseless allegation lacking in evidence. Interrogations and investigations which were initiated long before he took office and in which he was never involved as a prosecutor or judge were shown as grounds for his dismissal. Despite the fact that everyone should be responsible for his own acts and actions in accordance with the principle of personality of criminal responsibility and personality of punishment he was held responsible for acts and actions that are alleged to be committed by others.

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[26 – Without Date]

X (Judge) told that during the interrogation, prosecutor has no evidence but the list in front of her. She believes that the list and the questions came from the central government.

During the interrogation she was asked:

During the coup attempt whom were you with and what did you speak on?

Which high school did you graduate?

Which test prep center (Turkish: Dershane) did you go to?

Did you participate the counting of the elections of High Council of Judges and Judges in 2014? Did you record the counting?

She saw there was a 2 pages long list in front of them. She was the only person released that day. The prosecutor told her that he is in real danger now because of the decision he made. She told that everybody was talking about a new list of 1500 names that was prepared, and anybody could be on the list anytime.

She witnessed that some judges who arrested the other judges were crying after the procedure.

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[27 – Without Date]

Dear Colleagues,

We, 3500 judges and public prosecutors, were dismissed from our positions without any evidence and getting our defense, moreover accusing us of participating in the coup!

That is not all, what experienced in our country was worse than worse nightmare since the time of the attempted coup on 15 July;

Without showing any evidence, we were arrested put in handcuffs in presence/eyes of our colleagues, personnel, family members, children, were beaten, insulted, tortured and prisoned, isolated.

Husband and wife were imprisoned same time and children left behind alone. Some of our children are sending to orphanage due to this reason. Pregnant colleagues lost their unborn due to mistreatment. Some gave early birth. Some lucky ones were given the right to breast feed their children in prison.

This text is not a horror film scenario. Naked truth! This is a summary of what was experienced for the last two months. We can identify every event person by person.

This is currently what can be called genocide in Turkey. Because beside the treatment waged on us, our family members, spouses and children are also targeted. Our spouses, even our relatives, were also dismissed from their positions and children of some of us denied acceptance to State Schools.

All our assets acquired out of our salary savings and savings in banks were confiscated. Our credit cards were blocked and our families condemned to hunger.

To reiterate all these events took place without any evidence. No notification is served for any action taken against us, judgments regarding continuation of under custody. Most of us do not know even the file numbers, our lawyers are arrested and we find difficulty in finding lawyers to represent us, judges ruling a pending trial are removed from their positions. 188 High Judges, 4 members of the Higher Council of Judges and Prosecutors and 2 Member of Constitutional Court are arrested.

In short, within the framework of the created horror and terrorism environment, our basic rights of presumption innocence, personal crime and punishment and even legality are being brutally violated. Our only request is to have fair trial despite destruction of our lives. Because we know we did not involve in the coup actions! This is known by the authorities in Turkey. The reason for this savagery is that we are not registered member of Judgment Organization (Judgment Unity Platform) which is supported by the Government and as result we are marked and listed as opponents. Please be assured, this can also be proved.

Please reach us. Search for the means of contacting us. You will understand how horrible the situation is if you find an opportunity for any contacts with few of us.

Please follow the stages of investigation and trial processes. Please interview authorities and our lawyers, please study our applications filed and petition to European Human Rights Court.



You will notice there will be no trial. While 3500 judges and public prosecutors are arrested there is no even one proof! We are legal people not coup plotters.

We damn and reject every coup. But we cannot find the opportunity of proofing our innocence as a result of application of genocide and horror environment in our Country. You are the ones who will afford to enable our voice to be heard from this deep well.

P.S. Since the date of 21.09.2016 I've been in solitary confinement (cell isolation) without any reason. X (prisoned Judge)

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[28 – Without Date]

My husband X who has been public prosecutor for 16 years, was detained after atrocious failed coup, which happened in July 15th, while he was Public Prosecutor.

I learnt hideous coup attempt by my husband's call after he watched the news on TV on the evening of July 15th. At that time my husband was working on his cases which he brought to our home from courthouse in Y while I was with my family in YY. We were terrified about the news on TV as a citizen, whose country's history is full of coups. On the evening of July 16th, I saw my husband's name on 'Sabah Newspaper's website with a headline 'Judges and Prosecutors Involved in Coup'. As soon as I saw it, I was on my way to YY with my family. In the morning of July 17th, we went to

courthouse after my husband got the invitation from Chief Public Prosecutor's Office of 0. And from that moment, I was in the middle of incidents, which were the first time in my life and I truly wish that nobody experience it.

My husband was interrogated with such questions below

- Did he or his wife, his brothers stay at a house or dormitory which belong to armed terrorist organization through their education life?
- Which magazine subscriptions does he have now or did he have in the past?"
- Does he have Money at the bank and which banks has he made transaction with from past to present?
- Did the terror organization make contact with him?
- Was he in the polling place during the election of Supreme Council of Judges and Prosecutors (HSYK), was he an observer and did he use a camera at that time?"
- When was he aware of coup attempt?

And although his answers were all 'no' to these questions, detention and search warrant was given for the reason that he was a member of armed terrorist organization.

Our home address in that decision was the house that we had lived there for 3 months 15 months ago. Our home was searched without a public prosecutor after house search warrant was given for the right address again. During the search, a computer, which was given by State, and a USB flash driver including the decisions, a nonfunctional telephone among our daughter's toys that I used before and 3 CDs including our trip photos were seized without delivering the copies to us.

At the end of 4 days detention period, in court, arrest warrant was given for being a member of a terrorist organization just by calling the crimes' names abstractly without pointing out the facts that what the evidences of being a member of that terrorist organization are, when and how he become a member, which actions he take for that armed organization and likewise without pointing out the evidences of his attempt to abolish the constitutional order and how he commit these crimes.

I feel really awful when I read the accusations...

My husband was sent to Y closed prison, on July 20th.

I was shocked by the public 'We want capital punishment.' sentences and the 'What you ask is going to be done' comments of president and politicians. Because we are being remembered with the persons who attempted to coup and this has come upon us while we are innocent, when 'the capital crime' comes back...

Dear members, neither we nor our lawyer could make contact with my husband for the first 10 days.

- The objections, that my husband from inside and our lawyer from outside did, were rejected.
- We can only make non-contact visit after 10th day.
- We could only get 'proxy' on 09/08/2016
- Contact visit is forbidden.
- We could use our right to speak with telephone every 15 days for the first time on 18.08.2016
- Still sending letter is forbidden.
- Document exchange is forbidden during lawyer's meetings.
- Lawyer's meetings are made with a guardian and they are taken video by a camera
- I learnt from my husband that the demands for decree laws texts, published during the state of emergency, that my husband and probably all detained judges and prosecutors wanted from prison administration, weren't met.
- On the first day of visit, I learnt that science and puzzle magazines, which I gave to the prison for my husband, weren't delivered to him

- I learnt from my husband that the demands of regulations and envelopes, which my husband - and probably all judges and prosecutors in there- wanted from prison administration to write the petition of objection, weren't met.
- I have a petition that my husband wrote to be applied to European Court of Human Rights but I have hesitations about whether it will be delivered or not.

I am trying to explain my situation to everyone and everywhere to make myself heard in this position where I can't even take breathe.

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[29 – Without Date]

Dear Colleagues,

As you know, the High Judicial Council dismissed the number of 2847 judges and prosecutors on 24th of August, 2016 by the decision numbered 2016/426.

The council did not give a right to defense any of those dismissed judges and prosecutors. Namely, the council decided on dismissal without having the judges' defenses on the matter.

The council states in its decision that since it is concluded that there is coherence/junction and relation/link between said judges and prosecutors and FETO/PDY organization dismissal of those judges and prosecutors is decided unanimously pursuant to the emergency decree numbered 667, article 3.

Notably, the council did not use the words "members of the organization". What I mean by that: the number of 2847 judges and prosecutors are accused of being members of terrorist organizations in the ongoing criminal investigation. However, the council avoided to prefer the word of "member". It would rather using the words " link, junction and/or relation".

Despite of this preference in the decision, the Vice President of the Council, Mr. Mehmet Yilmaz, made public remarks by constantly using the word "member".

He went a step further in his Twitter account, quoted "it was decided by the plenary of the council that the number of 2847 judges and prosecutors whom found members of the FETO terrorist organization were dismissed. As a head of judicial administration, Mr. Mehmet Yilmaz already decided that 2847 judges are the members of a terrorist organisation. It purports at least 3 things:

1. Clear violation of the right not to be labelled as criminal, including bias
2. Pressure on the courts and prosecutors regarding the ongoing investigation
3. Violation of presumption of innocence

Let's move to the grounds of the mass dismissal. The decision is made up of 61 pages with general comments and grounds. Nothing can be found referring specific facts attributable for each judge in the list. They enumerate general grounds for everyone of us. So no one knows which ground is for which judge. Namely no one knows the allegation brought against himself or herself.

These are the grounds:

1. The legal activities in the Justice Academy,
2. Attendance to education in profession,
3. Attendance to English course,
4. Sending abroad for educational purposes,
5. Appointments to administrative duties such as directorate general, reporter judge in the ministry, head of departments in the ministry, inspector board administration,
6. Remarks in social media accounts,
7. Complaints sent to the Council regarding those judges,
8. Disciplinary and criminal investigation cases regarding those judges,
9. Queries in local areas of the judges,
10. Decisions of judges regarding FETO organisation cases,

11. The reports of police department,
12. The decisions of judges regarding removal of police officers who were considered members of the FETO,
13. The information regarding their social life,
14. Communication programs used by members of the organisation,
15. The reasoning in the recent detention orders and arrest warrant regarding judges,
16. Prosecution interrogation minutes,
17. The words of confessors

For example, the decision does not say anything about me specifically. I saw my name in the list. I don't know which one of the allegation above I must pick up.

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[30 – Without Date]

I was working as a judge before I was suspended from my duty by the second chamber of High Council of Judges and Prosecutors (“HCJP”) just like other 2744 judges and prosecutors on the date of 16.07.2016 upon the coup attempt took place on the date of 15.07.2016, that I have neither supported nor helped and I am certainly against to. Such along list prepared by the assembly, gathered in the early morning, shows that this decision regarding the suspension of 2745 judges is the execution of an already existed profiling list. Elimination of judges who are independent and impartial is aimed by this decision. I still do not know the reason for me to be suspended from my duty since the aforementioned suspension decision has not been delivered to me yet.

On the date of 16.07.2016, the Y Chief Public Prosecutor’s Office ruled for custody, search and seizure warrant concerning me in a way which is unlawful and clearly violating the rule with regards to the judicial guarantee granted to judges and prosecutors. According to the effective laws of Republic of Turkey, judges and prosecutors shall not be taken into custody and be arrested except for the situation in case being caught as in flagrante delicto of an aggravated crime. However, Y. Chief Public Prosecutor’s Office evading the law, stated that the coup attempt was still continuing to constitute a basis for the claim of flagrante delicto in its decision as if I attended the coup attempt. However this ground took place neither in prosecutor’s statement nor in the investigation of the Criminal Court of Peace after the proceedings of the search, seizure and custody warrant. The alleged crime was indicated as being a member of FETO/PDY (Fethullahist Terror Organization), armed terrorist organization at the Public Prosecutor’s Office and the Criminal Court of Peace with no reference to the claim of flagrante delicto. As it can be seen, the alleged crime was shown unlawfully as attending and supporting the coup at the Chief Public Prosecutor’s Office’s proceedings for the arrest since it is impossible to support the claim of flagrante delicto for the crime of being a member of a terrorist organization. Our names were leak to the press as coup plotter judges even if there were no such accusation after the dismissal decision of the HCJP. Revealing our names constitutes a clear violation of the rule of presumption of innocence granted by the European Convention on Human Rights (“ECHR”).

Unlawful practices continued after the proceedings of search, seizure and custody warrant. The Judges and Prosecutors Law No. 2802’s mandatory rule stating that the search shall be accompanied by an advocator and a prosecutor was also violated. In addition to that, my electronic devices were taken away instead of copying the data through taking images of them.

The search and custody was executed on 19.07.2016, three days after the date of the decision. Until that date, I waited at my house without any attempt to escape. Even though I was a judge and there was neither suspicion for escape, nor any attempt to resist to a police officer, I was handcuffed behind my back and taken to the police car from my house and to Y Police Headquarters being handcuffed behind my back. I was awaited for more than an hour standing up facing the wall and being

handcuffed behind my back at the Police Headquarters for the proceedings to be completed. Later, I and other 12 judges and prosecutors were taken to the detention room which is for only four people and is maximum of 10 square meter. Nor pillows neither blankets were provided and it was not allowed for us to use the bathroom during the night. During all of these events, I was not allowed to talk to my lawyer and my family was not provided information regarding my situation.

The next day, I was taken to the hallway of the Police Headquarters to conduct the proceedings to be referred to the court. For the 15 hours during my stay at the detention room, I was only provided with a small piece of bread and two small slices of cheese. We were awaited for more than one hour and a half standing up facing the wall and being handcuffed behind back with other judges and prosecutors at the Police Headquarters to be taken to the court house.

The events took place at the court house was also a total shame. Even though I was taken to the court house at around 2:30 pm on 20.07.2016, the prosecutor took my testimony at around 8:30 pm. I was forced to wait at the hallway of the court house with other 149 judges and prosecutors being handcuffed and circled by the policemen carrying long barrelled weapons. We were not provided any food or drink while we were waiting at the court house.

The prosecutor during my testimony asked very personal questions which were not related to the accusation (Which high school did you attend, were you sent to a foreign state by HCJP, have you ever been to the yearly committee of Academy of Justice etc.) and he did not reflect to any evidence. I and other 149 prosecutors and judges were made to wait at the court house without giving any information after the interrogation being handcuffed until 2:00 am in the morning. We were taken to the prayer room in the court house to stay over the night and waited handcuffed there during the night. The next day was also a shame. On the date of 21.07.2016, me and other 149 prosecutors and judges were made to wait handcuffed at the hallway of the court house and circled by the policemen carrying long barrelled weapons until 10:00 pm for the interrogation to be done by a judge. Again we were not given any food or drink within this time period.

I was arrested by the Peace Court of Criminal Jurisdiction by a template decision on the date of 21.07.2016 without reflecting any evidence, document or information, not asking any question related to the accusation. The court was unable to show how I am claimed to be associated with the said terrorist organization and which conduct of mine was thought to be aiding and abetting to the said terrorist organization.

I am still under arrest as of the date I am writing this petition. As if the arrest decision is not enough, my wife and son were also punished by seizing all of my property (my car, my bank accounts which I received and saved my salary and credit cards etc.). Suspension from my duty, seizure of all of my property, revoke of my passport and being arrested in the absence of suspicion for escape through violating the Law show what an unlawful prosecution that I am facing with.

Later, I am dismissed from my profession by the General Assembly of HCJP without being given a chance to exercise my right to defend, a fundamental constitutional right. Dismissal decision was also taken assuming that I was associated with FETO. However, this decision similar to the decision for arrest also failed to present an evidence regarding the accusation. The said 60 pages reasoned decision did not specify even my name and failed to make an individual explanation on how I was assumed to be associated with FETO. 2841 judges and prosecutors were dismissed by this single decision without an individual explanation or justification. It shows that this decision aimed to purge thousands of judges and prosecutors in a way which is against the rule of law. It is obvious that the prosecution and the dismissal decision is a threat to undermine the jurisdiction which shall be independent and impartial.

I am of the opinion that the opinions, which were against the claimant administrations that I wrote for the administrative files, caused me to be in the dismissal list. However I have always been fair, independent and impartial pursuing the rule of law.

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[31 – Without Date]

I am a prosecutor wife. After abhorrent 15 July coup attempt, my husband was firstly suspended, then he was dismissed from the profession and subsequently, his salary and property were confiscated.

My husband struggled against the terrorism for years in a manner of self-sacrifice in a period in which the terror events were so widespread and violent. I have never forgotten that a member of Supreme Court had called my husband once upon the increasing terrorist attacks and told him that: “My dear brother, as we watch the news regarding terrorist clashes, we were so worried about you that we are begging you not to go out without an arm for your security” and my spouse said in response: “My dear colleague, my hands both hold a pencil and write but not able to fire a weapon.” He has never used his gun even once a time, given him by the government. While my husband had been struggling against the terrorism in such dangerous conditions, unfortunately in these days, he is charged on being a member of terrorist organization.

I think that these accusations are unbelievable. Almost 3500 judges and prosecutors including my husband were dismissed from the profession on the grounds of same allegations. It makes up for more than one quarter of whole judiciary. A sensible person cannot possibly admit that more than one quarter of that in a country have a connection to the terrorist organization.

Immediate after he was suspended, we learnt the detention warrant was issued about himself, and then he decided not to be submitted due to insensible, unlawful and arbitrary practices. We have never heard from him since then.

My little child asks me why we cannot come together as a family and where about his father is. What can I tell to my child? How can I survive on my own as a woman alone? The people around us have begun to see us as if we are terrorist. Moreover, such a few or no one helping has left around us. Earning his salary by hard work and doing his utmost effort, we cannot even draw it from the bank. We are his family needing his salary. What an unfairness circumstances!

Unlocking the door by means of locksmith and entering inside without a galosh, the police officers had stormed in home for house-search, while I was absent. When I arrived at home, I found it as disgraceful. According to my neighbors’ statements, the police officers, carrying out the search in my house, got thirsty, and my neighbour, participating in a search, tended to give a couple of water from the refrigerator but they refused to drink and added in response: “nothing can be eaten or drunk in these terrorists’ house, Beware! You also do that!” Upon this, my neighbour took the water from her home. All my neighbours, participating in the house search, bear witness to this event.

I want to ask these police officials what evidence, revealing us as a terrorist, they obtain. These treatments are so denigrating that we are not able to sleep at nights. We are all the family members frightened of our house being stormed again.

In July 18, I went to court house in order to take my husband’s belongings but I was behaved as a terrorist. First of all, they did not allow me to come in then I told them I wanted to take my husband’s personal belongings. One hour later I came in the court house. Taking hold of my arm, a police officer stopped me and said that we were going to my husband’s office under his supervision. Preventing him from grabbing my arm, we went to upstairs and had a meeting with a head of that department. They told me that I could take my husband’s personal belongings under a video-camera recording and keeping minutes. At the meantime we passed to the office, the police officer accompanying me told that deputy chief prosecutor wanted to have a meeting with me on the phone. We went to his office. He also treated me as if I was a terrorist. He stated that I could not take my husband’s personal

belongings until the investigation was completed. I said ok, but they prevented me from leaving the court house. After I had been waited for a long time in the court house, I was allowed to depart from there. Shamefully, they followed behind me by a car to the destination I went up.

I was exposed to the pressure by the deputy chief Prosecutor and his subordinate police officers whom should be utmost affiliated to the law and human rights. Until yesterday, I was a wife of a prosecutor awarded and succeeded in his profession but today, I am in such bad circumstances that I could not look at peoples' face. Who will account for the trauma I and my family subjected to?

One month later, I went to court house in order to look for my husband's personal belongings again. They told me that they put them in a box and if I wanted I could take them. I moved them to a taxi under the accompaniment of the security officials. Just we were departing from there, the taxi was stopped with a whistling sound. Security officials told me that the prosecutor ordered to meet with me. We took the belongings down from the taxi again and then I went to upstairs alongside the prosecutor. I was interrogated as a terrorist by him. At last, I could manage to take our belongings and leave there. The police officers are still often come to my home and ask for my husband. They tell to my neighbours that my husband is a terrorist and being careful against him. In other words, they are trying to cause my neighbours to lose their sympathy for us and also make us alone.

Please tell me that who will wipe up these experiences from my memory? How will these injuries in our heart be cured?

Not allowing to defend himself, my husband was firstly suspended, then he was dismissed. I can't possibly approve of his dismissal as a wife. I would kindly desire to be put an end to these injustices and to be eliminated of the pains of my husband, my family and all the desperate spouses being in such a circumstance like mine.

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[32 – Without Date]

Although performing for 3 years in the Province of Y, X had completed his east region task, he was appointed to the Province of YY as a prosecutor in 2011. He performed here as an exceptionally competent prosecutor on the issues of terror cases. Despite he completed 3 years, being a compulsory service period, he stayed 2 more years in line with his will there. In 2015, at the time when the peace process was ended and the terrorist attacks increased dramatically, he supported his recruit colleagues, appointed there recently. After spending 8 years of his job life in east and southeast region under poor conditions and in a self-sacrificing manner, he was appointed to the Province of YY. Just thinking that he would begin to a new life in order, he was detained and then arrested over the charges of having a link to armed terrorist organization and attempting to coup without any absolute evidence and specific facts by his colleagues, not recognizing him, by interrogating him as for whom he had voted in HSYK elections, held in 2014.

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[33 – Without Date]

I am wife of Justice X, which works for Court of Cassation. He has more than 20 years successful working experiences as a judge. He worked at the court house till 5:30 pm in July 15. When he came to home, he started to work on his new book about criminal law. It was a regular day for us. Everything was fine until late night. Although we had learnt about the failed coup attempt from TV like everybody, my husband is accused of being part of military coup now. It is such a ridiculous allegation that I have never witnessed in my life. As a result, my husband is jailed in Y Prison now, and it has completely ruined my life.

First, he spent 5 days for interrogation. During the five days, there was no explanation from law enforcement about where he was, what the accusation was.

All our assets are confiscated. I got a message from my son that his passport was revoked, without any reason rather than his father.

I was shocked when I saw my husband. He lost weight, looked to me so tired, and paled. I had a chance to talk to him just a couple of minutes behind bars. He said to me. During the interrogation, the condition was just terrible. He waited to be interrogated for 5 days in a terrible room, stayed with roughly 30 persons, lying down concrete floors. There were two times meal served a day, which is only a piece of bread with jam, not fresh at all. Because of food, they were all diary. They were treated very badly in order to force them confess. The intent was to hold him till 30days, which is the maximum detention limits under the rule of emergency. But, they were informed that a human rights delegation was going to pay a visit to the facility. That's why they had evacuated the facility in terms of maintaining it such as painting etc.

He was hurriedly interrogated, and arrested, and then sent to Y Prison. Although it is a kind of one person small room, he was with 6 persons together. Therefore, they had to sleep one after another for 2 hours every day. There were not enough beds for each of them. There was only 2,5 hours hot water for a week, which was impossible to have a bath for all of them. Although, prison administration did not meet basic needs such as slipper, towel, under wear, they were not allowed me to bring him some stuff. Prison has a store, which prisoner can shop. But it is very expensive, and not easy to get everything he wants. He should order first, and has to wait so long time to get it. It sometimes took for a month to get an simple order.

When I visited him last time, I have unfortunately learnt that he was jailed in a dark, small cell alone for ten days, and I believe he is still in there. It is completely arbitrary decision made by prison administration without informing neither him nor his lawyer. He has filed so many petition to ask what was the reason they put him a jail. They haven't ever responded his petition so far. He resisted, and so many times wanted to see the director of prison. Finally, It was told him that he was jailed because of a telephone call coming from ministry of justice. Newspaper, books are forbidden in his cell. The cell is quite dirty. He has been exposed to psychological and mental torture for days. His hands both was constantly shaking when I saw him. He looked to me physically and psychologically exhausted. I was devastated to see him like that.

It made me so sad. I never forget him any minute I live. It is impossible to sleep when I think him he is under these terrible conditions.

I visited to general director of prisons in ministry of justice. I asked the reason why they have been treating my husband like that, and why they put him in cell alone for days. He said to me " My husband did not support pro government candidate called judicial union platform (YBP) in the judicial election."

I said my husband is innocent, he did nothing.

My husband is still in cell. It is clearly unlawful. There is nowhere apply to. All doors are closed to me one to one. The only way left to raise my voice is to write.

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[34 – Without Date]

I am one of the thousands of judges who has been dismissed and detained in the aftermath of the July 15, 2016 coup d'état against the elected government of Turkey. I learned the military coup attempt on July 15th while playing games with my children at home. I strongly condemn any attempt to overturn the democratic order by military coups. The officials of the Turkish government should investigate crimes committed during the attempted coup, including murder and causing bodily harm, and to hold those responsible to account. Authorities should conduct this investigation while fully upholding human rights, as well as general principles of law such as, among others, presumption of innocence, individuality of criminal responsibility and punishment, no punishment without law, non-retroactivity

of criminal law, legal certainty, right to defense and equality of arms. I have served my country for 10 years as a judge, and never took part in any illegal activities. I made all the contests at the highest level of achievement and I was appointed to the rank of first class judge by the Higher Council of Judges and Prosecutors (HSYK). Except this current investigation, I have not been charged with or been the subject of an investigation. On July 16, the day after the attempted coup, the Higher Council of Judges and Prosecutors (HSYK) issued a list of 2,745 judges and prosecutors who were to be suspended on the grounds that they were suspected of being “members of the Fethullahist Terrorist Organisation / Parallel State Structure (FETÖ/PDY).” I wonder how it could be possible that so many judges and prosecutors could be suspended only one day after the attempted coup. There must have been a pre-established list since that some of the judges/prosecutors who passed away earlier or retired were surprisingly in the list. This list may be pre-established in the aftermath of Higher Council of Judges and Prosecutors election in 2014. Under a July 23 government decree, judges and prosecutors “assessed to be members of terrorist organizations or a structure, entity or groups that carry out activities that the National Security Council has ruled are against national security or assessed to be in connected or in contact with them” will be permanently discharged from their posts and banned permanently from practicing as a judge or prosecutor. A July 31 court decision freezes the assets of 3,048 judges and prosecutors under investigation. The High Council of Judges and Prosecutors (HSYK) permanently discharged from my post on August 24, 2016. My name, alongside thousands of others, has been published by the authorities in the official gazette and nearly all media in lists of judges and prosecutors dismissed because they are suspected of terrorism. In democratic societies special guarantees apply to the members of the judiciary to uphold their independence and impartiality. If there are serious reasons for thinking that they acted in ways incompatible with their function, their dismissal must be subject to the strictest scrutiny and highest evidentiary requirements. The relevant decisions of the High Council of Judges and Prosecutors (HSYK) did not meet such standards. While expounding at length on the threat posed by FETÖ, including anecdotal examples involving judges and prosecutors, these decisions included in their operative part only a universal, stereotypical and non-individualised reasoning to which two lists of 2845 and 543 names were simply appended. The cases referred in the decision were not related with me. According to the Law on Judges Prosecutor no. 2802, before any disciplinary punishment was given, an investigation had to be carried out by an inspector. At a minimum, persons should be able to have access to evidence against them and make their case before a decision is taken. The principles of “objectivity” and “impartiality” were breached since that I could not able to defense myself before the relevant decisions of the High Council of Judges and Prosecutors (HSYK). Although I requested the evidence of individual guilt, the High Council of Judges and Prosecutors (HSYK) was not even answered. In sum, the High Council of Judges and Prosecutors (HSYK), dismissed judges and prosecutors on the basis of an “assessment” (rather than a reasoned judgment) of their membership or contacts, without having to observe any of the constitutional or legislative safeguards designed to protect the members of the judiciary. When I heard that Ankara prosecutors’ office had issued a decision to detain 2,740 judge sand prosecutors, including me, I went to police. I was kept in the custody for 5 days in very bad conditions, and ill-treated (not torture) was subjected to. 5 days later I was arrested on charges of being a member of the FETÖ/PDY, without having to observe any of the constitutional or legislative (Law on Judges Prosecutor no. 2802) safeguards designed to protect the members of the judiciary. During the hearing the judge said that I was accused of belonging to FETÖ/PDY, but neither the judge nor the prosecutor presented any evidence. Decisions to arrest and detain me have been made simply because my name appeared on the list of High Council of Judges and Prosecutors (HSYK). The judge and the prosecutor has presented no evidence in court to substantiate any alleged criminal conduct by me and the decision to arrest contained no evidence of individual guilt. Under human rights law, in determining

whether to keep anyone in pretrial detention, courts must, at a bare minimum, have enough evidence to establish a reasonable suspicion that the person committed an offense. To justify an extended period of detention, courts need evidence of specific facts and personal circumstances relevant to the accused justifying the detention. My objection to decisions to arrest and detain were also rejected although there were no evidence of individual guilt. On the other hand, my wife who was working in a Ministry was also permanently dismissed by a Decree dated 01.09.2016. In addition to this, a life-long ban from working in the public sector (which includes the practice of law), annulment of all my family members' passports, eviction from staff housing and freezing of assets of me created unnecessary hardship and victimization for my family. All my assets have been confiscated, which is also a kind of punishment not only for me, but also for my wife and our children. Therefore, we lost our all income. Any measure treating family members of a suspect also as potential suspects should not exist in a democratic society, even during a state of emergency. I dismissed and arrested without cause and all of these also created unnecessary hardship and victimization for not only for me but also for my wife and our children. As a result, general principles of law such as, presumption of innocence, individuality of criminal responsibility and punishment, no punishment without law, non-retroactivity of criminal law, legal certainty, right to defense, the right to a fair trial, and equality of arms should be effective in Turkey.

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[35 – Without Date]

On 16/07/2016 around 04.00 o'clock, while the coup attempt was still in place and was not yet suppressed, Deputy of Chief Prosecutor Necip Iscimen from the Office of Chief Prosecutor in Ankara, Bureau for Crimes Against Constitutional Order, declared on Haberturk Chanel that a warrant for taking into custody of some judges, public prosecutors, Supreme Court, State Council and Constitutional Court members was issued. Since the coup attempt was not yet suppressed and the culprits of this treacherous attempt were not yet fully identified, it is clear that the warrant for taking into custody and suspension from the office was directly targeted at judges and public prosecutors.

I learned about the decisions to suspend judges and public prosecutors from the office and take them into custody in 16/07/2016 (2745 judges and public prosecutors). When I arrived to my home around 18:00 and saw that my house was searched and my lock was changed, I realized that it was decided that I should be taken into custody as well, so I went personally to the Police Headquarters and surrendered.

I was detained in the Police Headquarters custodial prison for 3 days. I remained there, with 10 people in a room for 5 people, in a hot and airless environment. Only dry food was given in the custodial prison and I had some problems since there were no separated male-female toilets and there was only one bathroom. I could only take shower with cold water. This situation is contrary to the Article 93 of the CMK (Cumhuriyet Mahkeme Kanunu – Republic Court/Common Law) and to the Article 25 of the Seizure-Custody-Search-Statement Taking Regulations. My hands were handcuffed behind my back and were injured.

Contrary to the Article 21 of the above mentioned Regulations, I was not allowed to see family members or my lawyer during my custody.

My house was unlawfully searched in my absence. Since the Penal Court of Peace issued its questionable “ad-hoc” custody-search warrant between 16/07/2016 and 17/07/2016”, the lawful search period started in 7/16/2016 at 00:00 and ended at 23:59. Thus, even though search could only be conducted until the beginning of 17/07/2016 at 00:00 my house was unlawfully searched at 02:30 on 17/07/2016. Inviolability of domicile was violated and my possessions were taken without my approval.

Under article 88 of the No 2802 Judges and Public Prosecutors Law; if judges or public prosecutors are not caught in flagrante delicto needed for Heavy Penalty, they cannot be taken into custody, they cannot be stopped and searched and their houses cannot be searched either. Despite this provision of law, my guilt was assumed in advance without any fact indicating in flagrante delicto; without any proof to cause reasonable doubt or strong criminal suspicion; and without relying on any substantial data. Thus, the taking into custody and search warrant issued according to TCK articles 309-314 about the members of terrorist organizations does not correspond to any universal rule of law.

According to article 119 of CMK (Criminal Procedure Law) Irregular Search was conducted.

Contrary to article 119/4 of CMK a prosecutor did not join the Search.

Contrary to article 121 of CMK a copy of Search proceeding was not given to each of the participants/attendants.

Contrary to articles 134/3-4-5 of CMK, during the search of the house my digital possessions were confiscated without taking IMAGE files thus enabling the manipulation with digital possessions and turning them into "Illegal Evidence"

Contrary to article 127/3 of CMK, after the confiscation of possessions this procedure was not "approved" by the prosecutor.

Contrary to article 147 of CMK, during the taking of the statement by the public prosecutor, the questions asked were "in the form of a survey", related to personal life and aimed at determining personal ideals and opinions, while no substantial criminal charge was made, nor was any substantial proof manifested.

While the statement was being taken, it was specified in the preliminary report of the HSYK (Supreme Board of Judges and Prosecutors) that the questioning started, while in the preliminary report of the Supervisory Board it was specified that the questioning is not in the file. In the preliminary report of the Supervisory Board of the Supreme Board of Judges and Prosecutors it was only specified that "the questioning to determine membership in a terrorist organization had started". On the other hand, the prosecutor already determined guilt for membership in a terrorist organization and coup against constitutional order and I was taken into detention by another prosecutor without my statement being taken at all.

Illegal Interrogation Method was used by the Penal Court of Peace in the course of the interrogation. On 20/07/2016 around 06:00 AM we were taken from the custodial prison and, after taking doctor's report and prosecution defense, we spent 20 hours waiting until the judge started the interrogation around 02:00 in the evening. We were made to wait without neither sleep nor rest in crowded little rooms and we were tired when we were taken to the interrogation so our right to defend was made limited., Prohibition of Torture under article 3 of the European Convention on Human Rights was violated.

Arrest warrant issued by the judge from the Penal Court of Peace is contrary to law. In article 309 of TCK, no acts were specified pointing to the in flagrante delicto in relation to the coup attempt crime. According to article 101/2 of CMK, no substantial evidence was shown to imply reasonable suspicion for arrest warrant.

According to article 101/2-c of CMK, not a single fact was shown to justify the detention measure or to prove that any events have taken place in this concrete case.

According to article 107/2 of CMK, the possibility to personally inform the close ones about the detention was not provided.

According to article 88 of No 2902 Judges and Public Prosecutors Law; even though in flagrante delicto needed for the heavy penalty was not found, taking into custody and arrest warrants were issued. The fact that the In flagrante delicto report was not issued highlights this situation.

The Custody-Search Warrant issued for me violated the presumption of innocence by stating: “judges and public prosecutors that are members of FETÖ”.

The judge conducted the interrogation between two heavily armed policemen contrary to “publicity principle”.

The judge that issued Custody-Search Warrant and the judge that issued Arrest warrant on my name are husband and wife, thus judge impartiality principle was violated.

A warrant for “preventive suspension and permission for questioning” of judges and public prosecutors is unjust and unlawful since it relies on a preliminary report from the Supervisory Board of the Supreme Board of Judges and Prosecutors that is on itself considered as a non-operant institution. Preliminary report is absent from the public prosecutors file.

It is clear that in a situation lacking life safety and proper working environment collecting evidence on 2745 judges and public prosecutors at one swoop and connecting these evidence with judges or public prosecutors in a preliminary report dated on 16/07/2016 would be physically impossible in the ordinary course of the material life ,since it would take around 260 hours to prepare the lists even if only 5 minutes in average would be needed for each judge or public prosecutor. Blacklisting of judges and public prosecutors contrary to law is a preceding circumstance. Previous public prosecutor A. was prosecuted with a sloppy and baseless preliminary report. He passed away a few months ago as a result of a heart attack.

General Secretary Assistant of the Supreme Board of Judges and Prosecutors shared, not through official channels, but on his Twitter account “We Are Collecting FETO Bastards” together with a table showing Heavy Penalty Centers. This was then re-tweeted by another General Secretary Assistant. This clearly shows that the Supreme Board of Judges and Prosecutors which should be impartial, objective, independent and acting on material evidence is behaving subjectively and groundlessly.

Even if some proofs related to the alleged accusations existed, the names of 2745 (later more than 3700) judges and prosecutors were publicly revealed without any hesitation, leading to the irreversible en masse damage to the accused ones, all without evaluating their professional work, their accession, quality and quantity of their pending work and their civil status. Thus, the basis of disciplinary questioning and one of the most important principles of Criminal Procedure, “the personality principle in crime and punishment” was violated.

Material and legal grounds for heavy sentence have not been specified, exculpatory evidence have not been collected and the ability to collect the exculpatory evidence was taken from us by the decision of immediate custody and incarceration. Hence, "Presumption of innocence" , "Right to Legal Remedies" and "Right to Active Defense" specified under article 6 of the ECHR have all been restrained thus harshly violating the "Right to a Just Trial".

On 15/07/2016 immediately after the coup attempt a meeting was held by the General Assembly of the Supreme Board of Judges and Prosecutors. On 16/07/2016, five principal members chosen by the Supreme Board of Judges and Prosecutors were suspended in an improper procedure. The warrant for taking into custody was issued the same day. Two members of the Constitutional Court, 140 members of the Supreme Court and 48 members of the State Council were taken into custody. Two members of the deprived assembly chosen by the second office of the Supreme Board of Judges and Prosecutors and other members chosen by the executive organ were not able to effectively conduct appraisal and personalization and were making subjective decisions in a chaotic environment.

The list with the information about spouses of judges and public prosecutors that were suspended and their professional information was published, not through the official channels of the Supreme Board of Judges and Prosecutors, but through Internet sites such as “Adalet Gundemi” or “Oda TV”, and through applications such as WhatsApp. These lists were later confirmed. In this way; judges, public

prosecutors and their families were publicly targeted. The spouses in public service were also suspended.

The presence of a statement: “The members of FETO should all be eradicated”, on the Facebook page of the judge that issued the warrant for taking into custody is contrary to the judge impartiality principle.

Since the judges and public prosecutors could not meet with their defense lawyers before the issuing of the arrest warrant, the Right to Defense and a Fair Trial specified under article 6 of the EHRC was violated.

During House Search conducted in my absence IMAGE files of the confiscated laptops and tablet were not taken, thus enabling unlawful manipulation with these digital tools.

Dozens of police officers were putting pressure and interrupting the accused ones and their defense lawyers in the course of the interrogation held by the interrogation judge, thus obstructing any elaborate defense.

Arrest warrant and Suspension warrant turned into a method to intimidate and suppress judges and public prosecutors because some judges that released a suspect, and some public prosecutors too, were suspended and taken into custody.

The gravity of the situation is even clearer when we consider that some lawyers who advocated the situation were also taken into custody.

The principle of inviolability of domicile and workplace specified under article 8 of the ECHR was violated with the unlawful issuing of search warrant on my name. My right to property specified under article 1 of the additional protocol no 1 of the ECHR was violated with the suspension warrant on my name.

My right to property was violated again when my assets were unlawfully frozen.

The method of getting from presumption to evidence as a rule of Preliminary Criminal Procedure specified under article 6 - Right to a Fair Trial of the ECHR was violated.

My physical and intellectual freedom was restricted as a result of an unlawful incarceration, damage that cannot be compensated was made and will be made. Thus, my Right to Liberty and Security specified under article 5 of the ECHR was violated.

My Right to Prohibition on Torture and Inhuman and Degrading Treatment or Punishment and my Right to Defend specified under article 3 of the ECHR were violated by the use of Unlawful Interrogation Method.

The requirements for the Right to a Fair Trial specified under article 6 of the European Convention on Human Rights such as: independent trial, impartial trial, presumption of innocence, to be informed promptly of the nature of accusation, to have adequate time for the preparation of defense and the right to a justified sentence were all violated.

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[36 – Without Date]

I worked as a prosecutor for six years in Turkey. After the coup attempt of 15 July 2016, I was arrested and then detained with the accusation of alleged membership or connection to contact with "FETÖ/PDY (Fethullah Terror Organisation/Parallel State Structure) and of alleged involvement in the failed Coup of 15 July.

I have been kept under detention for more than 8 months without any evidence and reasonable suspicion. During my detention the right to fair trial, the principle of innocence and the principle of individuality in crime and punishment have been violated by the decisions of prosecutor and court

The domestic remedies related to the detention are ineffective since the decisions for detention and release were made not by the independent courts but by the judges ruling under the directives of the HCJP which is not independent of the executive. The decree Law no:667 adopted after the failed coup

waives the liability of officials for measures taken during the state of emergency. The European Court Of Human Rights, however, have found that the applications of the detained judges before it are inadmissible, as they did not exhaust the domestic remedies (the judgement on HalilSari/turkey and mercan/Turkey of 2016)

After my detention, I was also dismissed by a decision of the HCJP without considering the principles of independence and immunity of judges specified in the Constitution Of Turkish Republic and the ordinary rules of the judges and prosecutors code no: 2802. /n total , 3628 judges have been dismissed from their positions and the basis of the emergency decree low no:667.

The decision of the dismissed was not individualised and reasoned with the verifiable evidence at the pre-decision stage, the HCJP deprived me from the right to defend myself in person. Moreover, the members of the HCJP who made the decision of dismissal were not independent of the executive.

Therefore, The European Network of Councils for the judiciary resolved to suspend the observer status of the HCJP on 8th December 2016 after the collective dismissal of Turkish judges and prosecutors. The ENCJ, in its decision, emphasised that the HCJP is no longer an institution which is independent of the executive.

During the period of my detention the violations of my rights and freedoms have continued for instance, although appealed against my detention (also the prolonged detention) and have applied for release many times next "first instance court" ( not a tribunal) has turned down the most of my applications with lacking reasons or stereo typed grounds. The acts have not been notified me.

Some of the measures with relation to the dismissed of judges also unduly penalised the family members of them, for examples, the eviction from the home which was owned by the state and the cancellation of the passports of all family members

Finally, The Decree Low no. 685 introducing a mission does not provide a legal remedy for the unlawful detention of Turkish judges and prosecutors. On the other hand, the remedy introduced in the decree law for the applications to the courts against such illegal procedures and dismissals and cooperate with Turkish authorities to find such a remedy for the violations of rights.

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[37 – Without Date]

1. I am a citizen of Republic of Turkey. I was working as a member of the Supreme Court. But now, I am a legal expert who cannot use the title of judge or judge identification, nor can I practice law. I want to inform you of how this came to be and to spread the voice of mistreated Judges and Public Prosecutors.

2. During the 30 years of my official life I never discriminated anyone based on gender, race, language, religion nor religious denomination. I was never under investigation. I never received any disciplinary punishment. I did not maintain connections or relationships with any political group, party, congregation, organization etc. while I was holding the office. I did not act in unison with any formation of that nature, nor did I assume any attitude towards them.

3. A constitutional referendum was held in Turkey in 2010. According to it, a majority of the members of Supreme Board of Judges and Prosecutors (HSYK) was to be elected by Judges and Public Prosecutors. Election was called for with a list created for obtaining a consent, containing the opinions of Minister of Justice at that time and of ministry bureaucrats.

4. A large portion of ministry supported candidates from the list were chosen into Supreme Board of Judges and Prosecutors. After HSYK was created in this way, number of Supreme Court members was increased by 137 members from 250 into 387 and number of State Council members was increased by 61 members from 95 into 156 according to Law No 6110. In 2011, election was held by HSYK for newly created memberships and vacant positions.

5. As I continued to perform my duties in high court with great dedication, government officials became troubled by certain questioning and prosecution procedures conducted by some judges and public prosecutors as they were performing their duties in courts of first instance in some provinces and districts. These government officials targeted members of the judiciary in statements with allegations that members of the judiciary are involved with some illegal actions.

6. In order to neutralize, pacify and deactivate members of the judiciary whose activities, ideals, thoughts and life style it did not approve and the group that collaborated during the election for HSYK, in between new HSYK elections the government created the Association of Judicial Unity (YBP) that included judges and public prosecutors who shared the thoughts and ideas of ministry bureaucrats. It collaborated with them. YBP candidates won the election because of the promise of salary increase for judges and public prosecutors (indeed, the salaries increased after the election) and due to the logistical and transportation support.

7. The first action of HSYK after it begun active duty with the support of the government was to make lists of judges and public prosecutors active in courts of first instance for whom HSYK believed did not vote for HSYK's own candidates. The places of duty and titles of judges and public prosecutors who ended up on the lists of opponents were changed as per numerous decrees without any real or just reason.

8. The government on one hand continued its efforts to change membership structure of High Courts of Justice by targeting the ones believed not to appreciate the state of affairs and not to respond well to government's expectations and, subsequently, to neutralize and relieve of duty those deemed opponents, different in opinion. In order to insure that, it introduced Law No 6572 to increase the number of departments and members of the Supreme Court and State Council, even if there was no real need nor the necessary infrastructure to support it. With this article, number of members of Supreme Court was increased from 387 to 516, while number of members of State Council was increased from 156 to 195. After this stage, in accordance with the government's desires and expectations new members were chosen by HSYK and membership structure of High Courts of Justice was changed. But the government was still not satisfied, in Friday, July 1, 2016 without any new incident being named or any reasonable and objective justification given, a new Law numbered 6723 was approved in Turkish Grand National Assembly with the purpose to relieve of duty members of High Courts of Justice that were believed not to have given their vote to heads of departments supported by the government, that were deemed opponents, and whose life style and world-view were not appreciated.

9. While this article was still in Presidency awaiting to be approved, a coup attempt happened in Friday, July 15, 2016. Only 3-5 hours after the coup attempt, while it was still unknown what exactly had happened and when the details of the event did not yet come to light, statements were made about questionings conducted by Republic Chief Prosecutors in accordance with request and desire of the government as if Supreme Court and Supreme Court members, judges and public prosecutors, prepared, supported, desired and de facto participated in the coup.

10. In the first stage, the decision was made that 140 Supreme Court members, 2 Supreme Court Department Chiefs, 48 Supreme Court members, 2 Constitutional Court members, 7 Military Supreme Court members, 2 Military Supreme Administrative Court members and 2745 local judges and prosecutors that were placed on opponent lists and who were going to be relieved of duty in accordance to the Law No 6723 are to be searched for, detained and arrested.

11. These people were detained under the accusations of attempt of annihilation or alteration of Constitutional Order and membership in armed terror organization called Fethullah Terrorist Organization, Construction of a Parallel State (FETÖ/PDY), even though no substantial evidence supporting this accusation was found, defense statements were not taken, presumption of innocence

and principal of individual criminal responsibility were violated, and a clear court order was not issued. A portion of them was freed under the condition of judicial control. After that, additional decisions were made for taking 678, 189, 203 and 192 so in total 1262 people into custody. More than 4000 members of High Court of Justice, Judges and Prosecutors were temporarily relieved of duty. Thousands of judges and prosecutors, members of high courts and members of HSYK and Constitutional Court were evicted from lodging buildings they were living in. First only half of the salary was payed. Then salary was not payed at all. Eight months passed in the meantime, but no official criminal charge was yet raised.

12. After that, it was decided that these judges and public prosecutors (chosen) by HSYK and members of High Court of Justice appointed to lower degree courts as per Law No 6723 are to be relieved of their duties. In the decree enacted by the order of state of emergency it was decided that “Without asking for the verdict of conviction they will no longer work in public service, they will not be taken into service directly or indirectly; they will be stripped of their commissions, they will not be reemployed into offices they were performing their duty in; they will be evicted from public housings or lodging buildings they reside in within fifteen days, they will not be allowed to use titles and occupational names such as chief or member of High Court of Justice, judge or public prosecutor and they will not be able to take advantage of rights related to these titles and occupational names”.

13. The passports of these judges, public prosecutors and their spouses were canceled. Their registered guns were seized. Their assets and bank accounts where precautionary blocked.

14. Because supporters of power in media outlets manipulate public opinion, because of the atmosphere created when the government announced the state of emergency, and because of the discriminatory and suppressive behavior and attitude of HSYK that behaves as if it is an institution directly connected to government; public prosecutors and judges that are conducting investigation of the coup attempt are worried that they too will suffer the same consequences, thus they evaluate their colleagues under investigation as traitors and enemies of the state and do not abstain from the gravest measures and verdicts.

15. When Law No 6723 was accepted in Turkish Grand National Assembly I was performing my duty as a member of the Supreme Court. On Monday, July 11, 2016 a group of 21 Supreme Court and State Council members gathered in front of the building of Supreme Court. In accord with article 25 “Freedom of Thought and Opinion” and article 26 “Freedom of Expressing and Spreading of Thought” of the Constitution of the Republic of Turkey and falling within the scope of European Convention on Human Rights, a statement free of any criminal element was given against Law No 6723. This statement appeared widely on different media outlets, broadcasting organizations and Internet sites.

16. One day after that event news under the title “Investigation started into 21 members of Supreme Court and State Council that gathered to protest the new law changing the structure of high courts” appeared on media outlets and broadcasting organizations.

17. Under these conditions it seemed improbable that I will be chosen as a member of Supreme Court again. For this reason, I decided to retire.

18. Law No 6723 came into force upon being published in Official Gazette dated on 23/7/2016. With this law all the members of the two high courts (Supreme Court and State Council) were dismissed from office as per Temporary Articles added to laws for Supreme Court and State Council. Within 2 days since 23/7/2016 when the Law came into force, 75 members of State Council and 267 members of Supreme Court were reinstated by the High Council of Judges and Prosecutors. The rest was assigned to lower degree courts, to investigative judicature or to public prosecution.

19. I was not given any (official) notification considering my assignment. Thereby, neither could I submit a “reexamination” request considering my assignment, nor could I “object” to the General Assembly.

20. My membership in the Supreme Court was undermined by the Law, while my right to a remedy was taken from me as well. My right to access courts was violated. For this reason, I filed an appeal directly to the European Human Rights Court.

21. According to both our Constitution and the clauses in the Law for Judges and Public Prosecutors it is not possible to “inflict a disciplinary punishment to civil servants without providing them with the right to defend themselves”. According to the European Convention on Human Rights, a person accused of an offense has a right of defense. The right of defense is a universal right.

22. In fact, I am required to prove my innocence. In other words, I am trying to prove my innocence even though I am not charged with any particular offense. It is hard, even impossible, to prove something does not exist. It is much easier to prove something exists. If I committed any offense, it needs to be proven.

23. Presumption of innocence is guaranteed according to article 38 and article 15 sub-article 2 of our constitution, likewise it is recognized as a universal presumption according to article 6 sub-article 2 of the Convention for the Protection of Human Rights and Fundamental Freedoms. Thus “No one can be considered guilty until that guilt was confirmed by a court decision”.

24. Publishing my name in Official Gazette as a member of FETÖ/PDY organization and relieving (me) of civil duty without any conclusive court decision, without recognizing the presumption of innocence, without recognizing the right to defense, without giving any reason or relying to any evidence to explain my connection to this organization is a serious violation of human rights. Furthermore, stating “proven guilty of having connections with FETÖ/PDY organization” in the justification of decision is equivalent to having the court/trial replaced by HSYK General Assembly. Whereas, according to article 9 of our Constitution; “judicial power is exercised by independent courts in the name of Turkish Nation”.

25. 60 pages long collective justification with the decision for dismissal related to 2847 people was written by HSYK General Assembly. To write in this way a justification on the subject involving heavy penalties such as dismissal violates the right to legal security.

26. According to the universal principal of individual criminal responsibility, it is not possible to inflict punishment on a person due to another person’s offense. Nobody can be held responsible for another person’s actions. Everybody should be held responsible for their own actions. Despite this principal, my spouse who was working as a medical assistant was temporarily suspended because I was taken into custody and dismissed from civil service. After that, she was dismissed from civil service according to the decree enacted by the order of state of emergency.

27. This was not enough for HSYK either, because I was dismissed from civil service, my son was dismissed from civil service as well.

28. Since the reason for dismissal from official service is registered in Social Security Institution database as “OHAL/KHK” (Decree Enacted by the Order of State of Emergency (Olaganüstü Hal Kanun Hükmünde Kararnamesi) then we could say that these people are being marked and stigmatized. When I apply for work, the employer will refuse to employ me upon considering this situation and I will remain unemployed. This will in fact cause me and my family to face civil death. This stigmatization will not remain limited to myself, it will affect the future of my children, and consequently influence all of my family members.

29. It is not reasonable, logical nor compatible with the rule of law that a Ministerial Cabinet or a Legislative Body use judicial authority thus putting itself in place of a Judicial Body by giving a

verdict as if there was a clear conviction verdict to be given; and hold judicial members responsible for a vile coup attempt on July the 15th.

30. The decision of dismissal made by HSYK General Assembly was published in Official Gazette on 25/8/2016. As per Law No 6087 Article 33, I submitted in due time my request for reexamination of the decision made by General Assembly. Although no decision was yet made on this subject, in other words although the decision was not yet made final and my official post was still ongoing, my September, October and November salaries were not payed. I was forced to file a lawsuit to administrative court. Lawsuit is still ongoing. On one hand I was dismissed from civil service in such a way that I will never again be able to work in civil service, on the other hand although my official post/commission was still ongoing, the salary I was entitled to was not payed.

In conclusion;

31. When I was performing my duty as a member of Supreme Court, I was added to the list of opponents only because I did not embrace vision, idea and life style of the political power. I was not reelected as a member of Supreme Court because I was present during the reading of a declaration that criticized a law written with the purpose of ending our membership. A decision for my detention, search and arrest was issued on the morning following the coup attempt that I would never recognize since it is contrary to democracy and national will. I was in custody for 4 days. After that I was released on conditions of trial without arrest. Since my membership was dropped by operation of law, I was appointed as Investigating Judge by HSYK. I was temporarily suspended.

32. On Wednesday, August 24, 2016 I was dismissed from civil service. My name was published on HSYK web site and in Official Gazette together with names of 2847 other people as if I was a member of a terrorist organization. In this way I was convicted to living like a terrorist. My reexamination request was rejected by HSYK. In the meantime, although my employment was officially still ongoing, my September, October and November salaries were not payed. Although I wanted to retire, I was not yet able to do it. My passport and passports of my family were canceled. My registered guns were seized. The bank I was taking my salary from unilaterally canceled my credit card without even notifying me.

33. In relation to my dismissal from civil service and in violation of the principal of individual criminal responsibility, my wife who was working as a medical assistant was dismissed from civil service. I ended up in a situation that I cannot use the title of judge, cannot find work in any position and cannot practice law. My children are in grave position. I was evicted from state lodging building and forced to rent a place to live. I have no sources of income. I spent 30 years working as a judge.

34. I kindly ask you to hear our voice, to notify concerned institutions, to help before International Organizations, to take a closer interest in your mistreated colleagues and to sympathize with approximately 5000 judges and public prosecutors who were detained and lost their jobs.

35. I kindly ask you not to share my name or my address with Republic of Turkey state authorities and to keep it confidential. I believe you will understand why I make such a request. Nothing else needs to be said.

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### **Judge M. Tosun died under Erdogan's Persecution**

Erdogan annihilates judiciary and the judges:

Mehmet Tosun, rapporteur judge of the 11th chamber of the State Council of Turkey, was 29 years old. He was dismissed on the pretext of the July 15 coup attempt. He has been married for 1 month

when he was arrested. He will be called as the second victim who died in the judiciary during Erdogan's civilian coup.

He was the second victim; Because, the first victim from judiciary was Prosecutor Seyfettin Yigit. He was also blacklisted because he did not vote for the Judicial Council (HSYK) member candidates of the Erdogan supported pro-gov YBD members, he was dismissed after 15th of July, he was arrested, objected to the decision of dismissal, wrote letters to all the state officials, including the President Erdogan. He took when his voice not heard and branded as "terrorist" to heart, his death was recorded as suicide in official records. The HSYK rejected his objection to the decision of dismissal because of his death, and they did not even release an official condolence. Even their colleagues were afraid to be accused of "helping the terrorist organization (!)" and could not participate in the funeral of their fellow friends.

The second victim, Mehmet TOSUN, was treated in the hospital for a long time due to his illness starting 2 years ago with cough and spreaded to his lungs. After being discharged, he was treated in hospital for 2-3 days a month. In the course of the treatment, He lost 35 kilograms, dropped form 80 kg to 45 kg. The heavy drugs he used had harmed his immune system. He was a kind, loving, gentleman who loved very much. His colleagues were helping him in his work, thinking of his health. With the support of his family, after years of treatment he recovered from his illness, intended to marry, engaged and finally married.

In the prime of his life, when he has been married for 1 month, he was accused of membership of "terrorist organization", was dismissed from the profession and was arrested when he thought "he put his life to rights". However, his conscientious colleagues said, "They will not arrest you for the diseases you have suffered." He was a sensitive person, He also took things to heart. The officers that forelock-tugging in front of him, treat him as if he is a "traitor", they did not even give him bread and water. Finally, when he was arrested and entered prison, he relaxed a little, and said, "This place is better than custody(!)"

Months passed by in prison, all objections to detention/arrest were rejected by printed decisions. The ward was crowded, hygiene and oxygen were not enough in the prison. The disease was relapsing again. Being examined by a doctor, starting the process of re-treatment was not as it was in the outside, everything obstructed in the bureaucracy of the iron bars. He also objected to his detention/arrest by adding documents about his illness, but his demands were "not seen in place".

The illness in his lungs has progressed. After seven months, no indictment was written about him, and even without able to knowing what and which evidence he was accused, two days ago his illness increased in his ward, and he passed away without any notice. He was buried, prayed for as "Mehmet Tosun the man" without the title of "judge".

They say Goodness to the badness is the Man's deed, Goodness to goodness is Everyone's deed, Badness to goodness is the work of evil spirits.

Because he was the "Man" in the character who could do good even to those "evildoers" who did evil against him.

A grieving spouse, and colleagues who are afraid of even crying he left behind.

God rest his soul

## Murat Arslan<sup>1</sup>, imprisoned Turkish judge, wins Václav Havel Human Rights Prize 2017

### Speech of MURAT ASLAN

I am speaking to you from a jail in a country, where the rule of law is suspended, moves far away from democratic values, dissidents are silenced, human rights defenders, journalists, people asking for peace, people who shout out that children should not die labeled as terrorists and jailed. Imagine a country, where prisons become beaten tracks for human rights and freedom fighters, like an empire of fear plunged into darkness. Yes, it is true that the country has not taken lessons from Europe's unpleasant experiences during the early 20th century, therefore the country lives the same experience of becoming a totalitarian regime laboratory now.

However, it should not drive anyone to despair. We have never sunk into despair. As a matter of fact, the existence of our kids does not allow us to be hopeless. If there is someone somewhere fighting for rights and freedom, and taking the plunge, then that means there is always some hope for the future. That's why we hopefully set forth and organized in the judiciary.

We founded The Association of Turkish Judges and Prosecutors (YARSAV) in 2006, because we believed that independent and impartial judiciary which safeguards the freedom is sine qua non in a modern and democratic constitutional state that is grounded in human rights.

We fight for judicial independence and impartiality, rule of law, and democracy. We were guided by values that aim at full independence, contemporary civilization based on equality, laicism, the rule of law, human rights and freedoms. We resist to all kinds of interventions which threatened these fundamental values. We struggled for defeating the rise of the wall of fear where society was locked up.

Prejudgements, baseless allegations unfortunately become the false truth in our society. We made no concessions of our values that we advocated under all kinds of threats and pressure. We did what is supposed to be done, and this approach was appreciated by the international society. Then we became representatives of a worldwide respected organization.

We did not leave our country's falling judiciary to one's fate. We left salvation markers to every corner for comeback. Today, we are having exiles, arrests in prisons, but it will not change the reality. The price that we are paying just raises our faith in the coming days that the rule of law and democracy will be internalized and raises our fighting spirit.

We will continue to show that there are always exclaimers against injustice and unlawfulness while many others, who were suppose to speak up, and resist, were sunk into silence under the pressure of empire of fear.

Increasing reflection of trauma stemmed from authoritarian mindset will make our inner voice get overflow, and our voice will disturb more those people who caused this trauma.

We defend rule of law, human rights, and modern democratic values. This resistance would be the last stance for protecting our liberty and democracy.

We should never forget that history of humanity is full of such brave revolutionists, who pay the price for their belief, and this legacy will be carried by them.

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<sup>1</sup> Murat Arslan is a former Turkish judge in the Judges and Prosecutors Union (YARSAV). On 26 October 2016, he was arrested. In 2017, he was awarded the Václav Havel Human Rights Prize at the **Parliamentary Assembly of the Council of Europe**. The announcement of the Prize, which honours human rights defenders in Europe and beyond, cited his work to uphold the independence of the judiciary in Turkey. Arslan was also accused of supporting the FETÖ.

I am proud of having this prize, (devoted to great intellectual and politician Vaclav Havel) on behalf of my colleagues and freedom fighters, who suffered from dismissal, persecution, and prisoned. I hope the prize will bring significant contribution to our freedom fight.

In this occasion, I would like to express my sincere gratitude and thank to the members of the PACE, the selection panel, the International Association of Judges, (which always supported our democracy and rule of law fights, and I am always proud of being member of it.), and other judges associations, the European Association Of Judges For Democracy And Freedom-(Medel), the Association of European Administrative Judges and Judges for Judges, and my colleagues, members of YARSAV.

Finally, I want to thank my dear wife Sevilay, and my sons (Burak Emre and Yigit Eren), who are the real heroes of democracy struggle of Turkey.

I salute you all, and hope to meet you in the peaceful bright future.

MURAT ARSLAN



Europe, January 19<sup>th</sup>, 2019

### CRIMINAL CONVICTION OF MR MURAT ARSLAN

Yesterday, Vaclav Havel Human Rights Prize Winner Murat Arslan, President of the Independent Turkish Judges Association YARSAV, has been convicted under charges of being member of an armed terrorist organization (namely of being active member of FETÖ/PDY) and sentenced to 10 years imprisonment.

Mr Murat Arslan is a Turkish judge and president of the Turkish Association of Judges and Prosecutors (YARSAV). He has been arrested in October 2016 and remains since then in (pre-trial) detention.

He was awarded in October 2017 the Václav-Havel Human Rights prize by the Parliamentary Assembly of the Council of Europe.

During the past years the Platform for an Independent Turkish Judiciary, that assembles the four most representative associations of judges in Europe (AEAJ, EAJ, J4J and Medel) has observed the persecution and procedure against Murat Arslan and has informed the

public and the politicians about it.

In the course of the ongoing (first set of) criminal proceedings, evidence on the concrete use of the communication system ByLock (similar to “whatsapp” or other communication means) and its evidential value for the concrete accusations was neither carefully analyzed nor thoroughly investigated.

Furthermore, the many violations of the Turkish Criminal Procedural Code, characterizing these whole proceedings, have culminated in an unbelievable infringement of fundamental procedural rights in yesterday`s hearing. Basic fundamental procedural rights, like proper representation or right to appeal against biased judges, have been neglected and in this way also procedural safeguard of the Turkish laws were ignored. Against the background of European standards, the evidence brought forward by the public prosecutor cannot be regarded as sufficient evidence and has been nothing more than an enumeration of unproven assertions.

This ignorance of basic principles of a fair trial - which could be perceived immediately by European trial monitors in the hearings - shows clearly that this was a purely politically motivated judgment, again bringing to light the lack of rule of law in Turkey.

Mr Murat Arslan has not only shown to give full protection of fundamental rights within his duties as a judge, but has also resisted emerging pressure: both, pressure on Turkish judiciary and pressure against him. In all his activities as president of YARSAV he never restrained, despite his personal, judicial career was cracked down (having served as rapporteur in the Turkish Constitutional Court, he was later transferred). Inter alia, he openly pleaded for international support in the course of the worsening situation of judicial independence after the corruption scandal of political power had emerged in December 2013.

The dedication and integrity of Mr Murat Arslan is crystal-clearly visible inter alia by simple reference to sequences of his acceptance speech, after having been awarded the Vaclav Human Rights Prize 2017:

“We fight for judicial independence and impartiality, rule of law, and democracy. We were guided by values that aim at full independence, contemporary civilization based on equality, laicism, the rule of law, human rights and freedoms. We resist to all kinds of interruptions, which threatened these fundamental values. We struggled with defeating the rise of wall of fear where society was locked up.

Prejudgments, baseless allegations unfortunately become the false truth in our society. We made no concessions of our values that we advocated under all kinds of

threats and pressure. We did what supposed to be done, and this approach was appreciated by the international society. Then we became representatives of a worldwide respected organization.

We did not leave our country's falling judiciary to one's fate. We left salvation markers to every corner for comeback. Today, we are having exiles, arrests in prisons, but it will not change the reality. The price that we are paying just raises our faith in the coming days that the rule of law and democracy will be internalized and raises our fighting spirit.

We will continue to show that there are always exclaimers against injustice and unlawfulness while many others, who were supposed to speak up, and resist, were sunk into silence under the pressure of empire of fair.”

In this grave moment, the Platform wants to publicly express:

- its solidarity to our Colleague Murat Arslan and his family, who will never be alone or without our solidarity and support
- its concern about the grave violation of fundamental rules perpetuated on this trial, already denounced by international observers, undermining the present conviction that must be characterized as concretely unlawful and unfair;
- its appeal to all European institutions to cease any cooperation with Turkish judiciary until Rule of Law is restored in the country and to use all means to convince Turkey to end its witch-hunt against judges and prosecutors

Edith Zeller m.p.

President of the Association of European Administrative Judges (AEAJ)

José Igreja Matos m.p.

President of the European Association of Judges (EAJ)

Tamara Trotman m.p. President of  
Judges for Judges

Filipe César Marques m.p.

President of Magistrats Européens pour la Démocratie et les Libertés (MEDEL)

## Appeal for Donations to support the Turkish Colleagues

**If you would like to support the persecuted Turkish colleagues and their families please give donations for the costs of their defense and the international trial observation on the following account**

Internationalen Rechtshilfe-Fonds; Juristen für Juristen. (**J4J**)

IBAN: DE11 3306 0592 0005 3433 63

BIC: GENODED1SPW

Sparda-Bank West eG

International Mutual Legal Assistance Fund: Jurists for Jurists (**J4J**)

Statutes of the association

§ 2 (1) The purpose of the Association is

- (a) the promotion of mutual legal assistance for judges who are politically persecuted;
- (b) the promotion of international understanding, respect for the democratic rule of law and human rights, the rule of law and the defense of judicial independence.