

CURRENT SITUATION OF JUDICIARY IN TURKEY **September 2016**

E-mail send to *Medelnet* by Dieter Deiseroth, Judge at the Federal Administration Court of Germany

Dear colleagues,

for your information: We are here in Germany in contact with a judge who worked at the Turkish Council of State. After he got the hint via Twitter on Wednesday before the coup d'état that his name was on the "list" of pretended "criminal judges", he fled from Turkey to Germany (by plane). Meanwhile he applied for asylum in Germany.

In the attachment I enclose an article ("CURRENT SITUATION OF JUDICIARY IN TURKEY") in English, which was written by him.

A German translation of this article (elaborated by Andrea Kaminski) will be published in the next volume of the German legal periodical "Betrifft Justiz" which will be published in September 2016.

Best greetings [...].

The Report of the Turkish Judge:

CURRENT SITUATION OF JUDICIARY IN TURKEY:

Even before the latest coup attempt, for last 3-4 years Turkey was moving away from democracy, rule of law, freedom of expression and media and losing its vision of EU membership. President Erdoğan gradually took control of all government institutions. To create his single man regime he wanted to control not only legislative and administrative power, but also judiciary, media, universities, even civil society.

After 17 and 25 December 2013 great corruption investigation, involving four cabinet member and their son and also close circle and some family members of President Erdoğan, the ruling AKP government decided to tie judiciary to the executive power. At the beginning of 2014, the structure of the High Board of Judges and Prosecutors (HSYK) is changed and by the new regulation, the Minister of Justice were given broad authority to send away current judges, public prosecutors and judicial inspectors, reappoint new ones and to start disciplinary proceedings. Even though this new regulations was cancelled by the Constitutional Court, new appointments haven't been withdrawn. The new election of HSYK is being won by the government supported Platform of Union at the Judiciary.

That association is openly supported by the government¹, and they never hide their loyalty to the government and they promised to work in line with government.²

Later government created new courts as "criminal justice of peace" which were described as a project court to carry out further purging³. These new single judge courts are being criticised to be against natural judge principle and right to a fair trial because of its closed circuit trial system. Because they are authorised to carry out investigations against terror organisations and organised crime and during these investigations they are mandated to assess the demands of search, capture, seizure, measures, judicial control and arrest. But there is no way to appeal higher courts against their decision and all objections will be held by the next criminal justice of peace.

Since he control judiciary, in recent years President Erdogan has arbitrarily closed opponent newspapers; removed thousands of judges, prosecutors, police officers and public officials from their positions just because they did their job properly. He has declared his dissidents enemies of the state and spies of foreign intelligent services.

To control high courts, on 13.6.2016 the Government submitted a draft bill to the Turkish Grand National Assembly to annul the positions of high court members. (Later enacted as a Code Nr. 6723 Law and published at the Official Gazette on 23.07.2016⁴) According to this draft bill, the positions of members at the Council of State and also Court of Cassation (High Court of Appeal) shall be terminated, the number of the members of the High Courts shall be decreased and members who are not elected again, going to be appointed as a judge to one of the first instance courts or maybe as a rapporteur judge to the same institution. As a result, the acquired rights of current members of the High Courts and the principle of the natural judge and security of tenure will be violated clearly. For this reason the draft is criticised by many academicians, jurists and bar associations⁵. Because when they were elected as a member of the Council of State in March 2011, it was guaranteed by the Turkish Constitution that they are going to retain this position until age of 65. This draft legislation was also contradict to the case law of ECtHR (Baka v. Hungary, App. No:20261/12).

Ruling AK Party member of Parliament Justice Commission Cahit Özkan⁶ and also Minister of Justice Bekir Bozdağ⁷ openly declared that this proposal prepared to purge all members of "Parallel State Structure – FETÖ Terror Organisation" in high courts, but they didn't submit any proof to support their very serious accusations.

A group of high court judges considered this extraordinary and excessive interference to the judiciary by executive power, shall harm severely the principle of legal certainty, acquired rights of judges and the principle of separation of powers and they made a press release and they demanded Turkish Grant National Assembly to withdraw this bill⁸.

Later they became target of government controlled media and threatened to be dismissed from our profession⁹. At the same time the administration of the Council of State and also Court of Cassation started disciplinary procedure against them to show their loyalty to the President Erdogan¹⁰.

¹ <http://www.aljazeera.com.tr/haber/davutoglu-sicil-affi-ziyareti>

² <http://www.aktifhaber.com/yargida-iktidara-biat-gibi-aciklama-1039357h.htm>

³ <http://www.sivasetcafe.com/Sivaset-Haberleri/6005-erdogan-operasyonu-vonettigini-agzindan-kacirdi>

⁴ <http://www.resmigazete.gov.tr/main.aspx?home=http://www.resmigazete.gov.tr/eskiler/2016/07/20160723m2.htm&main=http://www.resmigazete.gov.tr/eskiler/2016/07/20160723m2.htm>

⁵ <http://www.sozcu.com.tr/2016/gundem/cubbemi-kimsenin-onunde-iiiklemem-gerekirse-1294986/>

⁶ <http://www.sabah.com.tr/gundem/2016/07/04/feto-yukse-yargidan-temizlenecek>

⁷ <http://www.yenisafak.com/gundem/yargida-pensilvanya-ile-irtibatli-kisiler-var-2481601>

⁸ <http://www.sozcu.com.tr/2016/gundem/yukse-yargi-sokaga-cikti-1309404/>

⁹ <http://www.haberdar.com/gundem/yargitay-uyeleri-cubbeleri-ile-aciklama-yapti-yasa-geri-cekilmeli-h41015.html>

¹⁰ <http://www.yenisafak.com/gundem/yargitayda-cubbeli-sov-2492848>

¹⁰ <http://www.yenisafak.com/gundem/o-sova-iet-sorusturma-2493244>

In the midst of this stressful atmosphere, a failed coup d'état took place at 15th of July evening and midnight in Turkey. When the coup attempt began, even before it is unknown who is behind the coup, Erdogan immediately accused of certain parts of the society of instigating it; in his term the "parallel structure" and he called the coup attempt as "a gift from God". Erdogan pledged to cleanse the country of the viruses and heralded to purge all his opponents from government offices¹¹.

Early in the morning at 4:30 am, the government controlled media announced that 140 members of Court of Cassation and 48 members of Council of State will be detained by the order of Ankara Chief Prosecutor¹². Later in 17th of July, 140 members of Court of Cassation and in 18th of July, 48 members of Council of State are dismissed from their profession in a single session and in a very short time without due process of law¹³. This was a miracle! Even before the coup plotters names come to light, the chief prosecutor of Ankara identified the names of collaborative judges, found reliable and convincing proofs only in a few hours!

Before coup attempt took place, on 11.07.2016 at anonymous twitter account¹⁴ some Council of State member's names were listed as a member of so called "Parallel Structure". This method became usual way to stigmatize some people and later to dismiss them from their profession. Everybody in Turkey know that those anonymous twitter and facebook accounts established and financed by ruling AK Party, that's why they are called as AK Trolls. Actually many of those members are dismissed immediately after coup attempt.

Also next morning High Board of Judges and Prosecutors immediately gathered and declared that 2745 first instance court judges and prosecutors are suspended¹⁵ (later thousands of them either detained or arrested¹⁶). Obviously the lists were prepared for months even years before and they were immediately put into practice to purge all independent, impartial and democrat judges and prosecutors, without evidence of individual wrongdoing. President Erdogan started cleaning first of all in judiciary to eliminate further obstacles to carry out bigger cleaning in all part of the society. Even before the coup attempt took place deputy chairman of Turkish High Board of Judges and Prosecutors (HSYK) Metin Yandirmaz declared in his statement to Hürriyet Daily on 06.03.2016 that they identified approximately 5000 judges and prosecutors who are close or member to the "Parallel State Structure – FETÖ Terror Organisation" according to information given by the Presidency of the Republic of Turkey and the Prime Minister's Office. He said that they are making preparations to dismiss and to judge them. He also confessed that reports of committee of inspection of HSYK based on telephone records to reveal the organizational connection¹⁷. Metin Yandirmaz is a member of the Platform of Union at the Judiciary (YBP) which dominates current HSYK.

The lists of suspended judges and prosecutors, who are allegedly supported coup attempt, issued at the official web sites of Turkish state broadcasting channel TRT and state news agency AA¹⁸. At the same time some other lists also issued in different web sites¹⁹. But in fact the lists were prepared

¹¹ <http://www.bloomberg.com/news/articles/2016-07-17/coup-was-a-gift-from-god-says-erdogan-who-plans-a-new-turkey>

¹² <http://www.haberler.com/ankara-cumhuriyet-bassavcliligi-darbe-girisimine-8613640-haberi/>

<http://www.independent.co.uk/voices/turkey-coup-erdogan-purge-military-judges-criminals-getting-rid-of-secular-a7141556.html>

¹³ <http://www.karar.com/gundem-haberleri/48-danistay-uyesinin-gorevine-son-verildi-190740>

¹⁴ <https://twitter.com/paralelciler06/status/752489478619619328>

<https://twitter.com/paralelciler06/status/752489617673293824>

¹⁵ <http://www.bloomberght.com/haberler/haber/1894912-hsyk-2745-hakim-ve-savcivi-aciga-aldi>

http://www.cumhuriyet.com.tr/haber/turkiye/568472/Darbe_girisimi_sonrasi_vargil_operasyonu_2_bin_745_hakim_ve_savciya_gozalt_i.html

<http://www.haberler.com/hsyk-da-olaganustu-durum-hsyk-2-dairesi-2-bin-8615331-haberi/>

¹⁶ <http://www.kamusaati.com/gundem/gozalti-karari-cikarilan-648-hakim-ve-savcinin-isimleri-h11795.html>

¹⁷ <http://www.hurriyet.com.tr/5-bin-hakim-savci-tespit-ettik-40064585>

¹⁸ <http://www.trthaber.com/haber/gundem/hsyknin-aciga-aldigi-hakim-ve-savcilarin-isim-listesi-261380.html>

<http://aa.com.tr/tr/15-temmuz-darbe-girisimi-aciga-alinan-hakim-ve-savcilarin-isimleri-belirlendi/609286>

¹⁹ <http://www.kamusaati.com/gundem/hsyk-nin-gorevden-aldigi-hakim-ve-savcilarin-isim-listesi-h10919.html>

<http://www.memurlar.net/haber/596706/>

<http://www.hurriyet.com.tr/2-bin-745-hakim-ve-savci-icin-gozalti-karari-cikti-40149496>

months even years before. For this reason the name of Prosecutor Ahmet Biçer was on the list despite he has already died 2 months before²⁰. Besides HSYK was issued message of condolence for the same prosecutor²¹. Similarly the names of judges Metin Özçelik and Mustafa Başer were on the list of suspended judges because of their support to coup attempt, despite they were already arrested²² on 30.04.2015 and 01.05.2015 and also the names of prosecutors Süleyman Bağrıyanık, Aziz Takçı, Özcan Şişman and Yaşar Kavalcıkıoğlu were on the lists even though they were already dismissed from profession²³. Probably they forgot to update profiling lists. The columnist Burhanettin Duran at the government supporter Sabah daily declared on 23.7.2016 that "The names of Parallel Structure members, deciphered by the Turkish National Intelligence Service for two years are being purged at army, judiciary, education, health and media."²⁴ Deputy Prime Minister Mehmet Şimşek is also admitted that purging lists were already prepared before.²⁵

In the afternoon the president of Council of State invited all members of Council of State to issue a declaration to condemn coup attempt via SMS. But at the same time she also invited police forces into the court house. This was a shameful trap for members. You can watch the video that shows how a few fanatic Members accusing some other Members as a collaborators of coup plotters without proof and the administration of the Council of State inviting policemen in the Council of State's General Assembly Hall, in which there was a meeting to condemn coup attempt²⁶. Policemen stormed into the court house and detained 10 high court members²⁷ as if they are fugitive or mafia members. On Monday at 18.07.2016 Presidential Committee of Council of State gathered and at the same day immediately dismissed 48 members of Council of State from their job²⁸ in defiance of the law and without asking their defence. Even though there is no formal declaration at the web page of the Council of State, the list of dismissed members issued in some internet news site²⁹. Numbers of detained high court members increased rapidly and as of the date of 20.07.2016, 112 members of the Council of State, the Court of Cassation, the Constitutional Court, and High Board of Judges and Prosecutors are being arrested and sent to jail³⁰. The inquisitions were even more democratic, at least they were giving chance to victim for their last words.

Now let's look at the Code Nr. 2575 Council of State Act³¹ how the disciplinary proceedings should have taken place:

"Disciplinary Proceedings

Section 67. If the state or the activities of the President, Chief Advocate General, Vice-Presidents of the Council of State and the Presidents and Members of the Divisions are seen or reported to be incompatible with the dignity and honor of a supreme judge or to be causing disruptions to the work of the Council of State, disciplinary proceedings shall be carried out against them under the provisions of the present Act.

Transfer of the Issue to the High Board of Discipline

²⁰ <http://www.karar.com/gundem-haberleri/hali-sahada-kalp-krizi-geciren-savci-ahmet-bicer-vasamini-yitirdi-133654>

²¹ <http://www.hsyk.gov.tr/DuvuruArsivi.aspx>

²² <http://www.hurriyet.com.tr/hakim-metin-ozcelikin-ardindan-mustafa-baser-de-tutuklandi-28882854>

²³ <http://www.haberturk.com/gundem/haber/1180865-hsyk-5-savciyi-ihrac-etti>

²⁴ <http://www.sabah.com.tr/yazarlar/duran/2016/07/23/feto-tasfiyesinde-iki-kritik-husus>

²⁵ <http://www.dw.com/tr/%C5%9Fim%C5%9Fek-isimleri-%C3%B6nceden-tespit-etmi%C5%9Ftik/a-19425396>

²⁶ <https://www.youtube.com/watch?v=6piX8fw4ArA>

²⁷ <http://www.sozcu.com.tr/2016/gundem/yargitay-danistay-ve-sayistay-uveleri-de-gozaltina-alindi-1317646/>

²⁸ <http://www.karar.com/gundem-haberleri/48-danistay-uyesinin-gorevine-son-verildi-190740>

²⁹ <http://www.kamuvaati.com/gundem/danistay-da-gorevden-alinan-hakim-ve-savcilarin-listesi-tam-liste-h10930.html>

³⁰ <http://www.haberler.com/2-aym-uyesi-de-dahil-113-yuksek-yargi-uyesi-8630350-haber/>

³¹ http://www.legalisplatform.net/hukuk_metinleri/2575%20Nr.%20Code.pdf

Section 68. When the President, Chief Advocate General, Vice-Presidents of the Council of State and the Presidents and Members of the Divisions are seen or reported to be in a state written in the above Section, the transfer of the issue to the High Board of Discipline shall be assessed and decided by the Committee of the Presidency."

(Committee of the Presidency is established by 8.8.2011 Statutory Decree 650/s.7 and recomposed by 27.6.2013 Law 6494/s.9. Previously this authority was belong to the Committee of Presidents. While the Committee of the Presidents shall be composed of the President, Chief Advocate General and Vice-Presidents of the Council of State and Presidents of the Divisions according to Section 19, the Committee of the Presidency shall be composed of the President, three Presidents of the Divisions and three members of the Council of State according to Section 19/A)

"Initiation of Disciplinary Proceedings

Section 69. 1. The High Board of Discipline shall decide whether it is appropriate to initiate disciplinary proceedings, according to the evidence obtained and the nature of the state and activities. 2. If the Board decides to initiate the proceedings, it shall appoint three persons among the Presidents and Members of the Divisions other than the Members of the Board. If the person who is charged is also a member of the High Board of Discipline, he cannot participate in the sessions on this issue. Their places shall be filled according to the procedure shown in Section 20.

Form of the Investigation

Section 70. 1. Those who are charged with the investigation shall notify the person concerned about the state and activities attributed to him, hear his defence, hear the testimony of others under oath when needed, gather information about the matter and ascertain the evidence. 2. All public bodies, organizations and institutions as well as natural and legal persons are obliged to answer the questions put by the investigators and to fulfill other requests. However, the provisions of Section 49 are reserved.

Submission of the Report

Section 71. Investigators shall prepare a report about the inquiry that includes the information and evidence obtained and the opinion of the investigators on whether a disciplinary sanction should be imposed.

Procedure after Receiving the Report

Section 72. 1. The report prepared according to the above Section shall be submitted to the High Board of Discipline. Those who have carried out the investigation cannot participate in this Board. 2. The Chair of the Board shall notify the person concerned the result of the investigation in writing and invite him to present his defence in a period determined by the Chair, which cannot be less than five days. 3. The Chair of the Board shall assign the investigation file to one of the Members. 4. The Board shall review the matter on the bases of written evidence. If it deems necessary, it may decide to widen and deepen the investigation. 5. The person concerned may examine his file in the presence of the reporter Member.

Disciplinary Penalties

Section 73. 1. If the High Board of Discipline concludes that the existence of the attributed state and activities has not been proven, it shall decide to strike the file out of the list. 2. If the Board concludes that the existence of the attributed state and activities have been proven, taking into

account the nature and the gravity of the breach, it shall decide to issue a warning to the person concerned or invite him to resign or retire, depending on his service period. 3. If the decision of the Board is about the President of the Council of State, the Vice President, in all other cases, the President of the Council of State shall notify the decision to the person concerned.

Execution of Decisions

Section 74. If the person concerned does not comply with the decision that invites him to resign or retire within a month after the notification, he shall be deemed resigned. He shall be deemed on vacation for the one-month period.

Legal Action against the Disciplinary Penalty

Section 75. 1. The person concerned may file an action against the decision within fifteen days from the notification of the decision of the High Board of Discipline. This action shall be decided upon within three months after the defence is presented or after the period for the defence expired. Judicial recess shall not be taken into consideration in the calculation of this period. 2. Positions of the persons concerned shall not be filled until the case is finalized. 3. Those who have participated in the decision of the High Board of Discipline or carried out the investigation cannot take part in the deliberations of the cases concerning disciplinary penalties."

There is parallel regulation at Code Nr. 2797, the Court of Cassation Act section 43. But in the Act 2797, the member concerned shall be given ten days defence period instead of five.

These legal procedures haven't been fulfilled neither in the Council of State nor in the Court of Cassation. All proceedings started and completed at the same day. The Committee of Presidency of the Court of Cassation gathered one day after coup attempt at 17th of July on Sunday³² and The Committee of Presidency of the Council of State gathered two days after coup attempt at 18th of July on Monday³³ and decided at the same day in a very short time.

At the first stage of proceeding, before submission of the report to the High Board of Discipline, the investigators didn't notify the person concerned about the state and activities attributed to him, didn't hear his defence and didn't hear the testimony of others.

The Chair of the High Board of Discipline didn't send a written notification to any member under proceedings about the result of the investigation and didn't invite any member to present his defence in a minimum five days period. The Chair of the Board didn't assign the investigation file to one of the Members, the Board didn't review anything and didn't widen and deepen the investigation. The members concerned are not allowed to examine their files. Because there was no investigation, no investigators, no investigation files and no proofs. Some members were already detained and some others were being searched. Members of Committee of the Presidency and the High Board of Discipline were just followed the order of President Erdogan by sacrificing their judicial and human dignity.

Besides High Board of Discipline doesn't have an authority to dismiss investigated member immediately. It can only issue a warning to the person concerned or invite him to resign or retire, depending on his service period. If the person concerned does not comply with the decision that

³² <http://t24.com.tr/haber/vargitay-gozalti-karari-bulunan-140-uvevi-gorevden-aldi,350439>

³³ <http://www.karar.com/gundem-haberleri/48-danistay-uvesinin-gorevine-son-verildi-190740>

invites him to resign or retire within a month after the notification, he shall be deemed resigned. He shall be deemed on vacation for the one-month period.

High Board of Discipline didn't send any notification to members about the result of proceedings. For that reason one month waiting period haven't been started and the members cannot even be considered resigned. Since there is no immediate dismissal procedure in the Council of State Act or Court of Cassation Act, the decisions of the High Board of Discipline invalid because of absolute nullity. No administrative or judicial organ shall use any power without having legal and constitutional base. That's why, every member of Council of State and the Court of Cassation participated this shameful Disciplinary Proceedings has become a member of organized crime.

On the other hand, if high court members are dismissed by the decision of the Committee of the Presidency, as it is written in all media outlet, the decision must be deemed invalid because of usurpation of function. Because the Committee of the Presidency is empowered by the Code Nr 667 Statutory Decree section 3/1 on the 23.07.2016, enacted after coup attempt and it has no authority to dismiss high court members on 17 and 18.07.2016.

President Erdoğan declared state of emergency. In the roundup, more than 70,000 soldiers, police, judges, civil servants and teachers were suspended, detained, placed under investigation or arrested³⁴. They are accused of collaborating coup plotters and being members of armed terrorist group without single proof. The biggest witch hunting in Turkish history is going on and every day the list of detained or arrested people increasing³⁵.

There are clear evidences of torture and very ill treatment³⁶. Angry mobs are attempted to lynch some detained judges and prosecutors³⁷. It is nearly impossible for detainees to see their lawyers even their families.

The government issued first Statutory Decree (Code Nr 667)³⁸ and thousands of private schools, hospitals, universities, dormitories, unions, foundations, associations are closed and their properties confiscated. Detention period increased to one month. Dismissal of profession for public officers, especially for judges became very simple. People who are dismissed cannot be a public officer again. Dismissed judges, prosecutors and public officials will be obliged to evacuate their public housing in 15 days.

According to Code Nr. 667 Statutory Decree (section 4), academicians, civil or military public officials and workers, local administrations personnel will be dismissed by the administration of their institutions if they are considered to be member or to have somehow relationships to groups which are identified dangerous for national security by **National Security Council**. The process will be very swift and will not require disciplinary proceedings or court order. In terms of judiciary (section 3), the dismissal authority is given to the General Assembly of Constitutional Court for its members, to the Committee of Presidency of Council of State and Court of Cassation for their members, to the General Assembly of High Board of Judges and Prosecutors for judges and prosecutors and to a special committee appointed by Auditor General of Court of Accounts for commissioner of audits.

³⁴ <http://www.aksam.com.tr/ekonomi/hangi-kurumdan-kac-kisi-gorevden-alindi-feto-operasyonunda-son-durum/haber-537591>

³⁵ <https://www.theguardian.com/commentisfree/2016/jul/22/biggest-witch-hunt-turkish-history-coup-erdogan-europe-help>

³⁶ <https://www.amnesty.org/en/latest/news/2016/07/turkey-independent-monitors-must-be-allowed-to-access-detainees-amid-torture-allegations/>
<http://turkeypurge.com/graphic-torture-in-turkey-new-evidences>

³⁷ <http://www.cnnturk.com/turkiye/gozaltindaki-hakim-ve-savcilara-linc-girisimi>

³⁸

<http://www.resmigazete.gov.tr/main.aspx?home=http://www.resmigazete.gov.tr/eskiler/2016/07/20160723.htm&main=http://www.resmigazete.gov.tr/eskiler/2016/07/20160723.htm>

According to Turkish Constitution³⁹ article 118, **The National Security Council** shall be composed of the Prime Minister, the Chief of the General Staff, deputy prime ministers, ministers of Justice, National Defence, Internal Affairs, and Foreign Affairs, the commanders of the Land, Naval and Air Forces and the General Commander of the Gendarmerie, under the chairpersonship of the President of the Republic. The National Security Council shall submit to the Council of the Ministers the advisory decisions taken with regard to the formulation, determination, and implementation of the national security policy of the State and its views on ensuring the necessary coordination.

Obviously National Security Council is just an advisory committee for the security issues, composed of some politicians and military personnel. Neither National Security Council nor the Council of the Ministers has any judicial power. They can't label anyone or any group as a terrorist. This authority is solely belong to courts and also the court decision must be approved by the Court of Cassation. In Turkish Penal Code there is no identification of crime as a "Parallel State Structure" and there is no final court order neither about "Parallel State Structure" nor "FETÖ Terrorist Organisation". For this reason journalists Can Dündar and Erdem Gül are not sentenced for the accusation of aiding "FETÖ Terrorist Organisation - Parallel State Structure" (FETÖ-Fethullah Gülen Terör Örgütü/PDY-Paralel Devlet Yapılanması) in the case of publishing pictures of arsenal being sent to Syria by the Turkish National Intelligence Service. İstanbul 14. Aggravated Felony Court ruled that there is no final court order for the mentioned Organisation⁴⁰. Similarly when the high court members are being dismissed there is neither personal court decisions about those members nor final court order about "FETÖ Terrorist Organisation - Parallel State Structure". This terrorist organisation is merely personal invention of President Erdogan to purge all his dissidents even those who are independent or not loyal enough.

Besides the definition of crime in the Statutory Decree (Code Nr 667) is so vague and ambiguous that it is possible to punish everyone. According to this regulation it is possible to criminalise anyone if he has slightest tie to groups or organisations which are described suspicious by the National Security Council. This mean mass profiling and scrutinising of citizens, interference in private life and such a regime cannot be described as a democracy.

On 4.8.2016 the Turkish Constitutional Court announced that the General Assembly of Constitutional Court dismissed two of its member according to Code Nr. 667 Statutory Decree (section 3). The high court didn't mention any personal wrong doing for the dismissed members and didn't submit any evidence why they cannot continue their profession. Those two members (Alparslan Altan and Prof. Dr. Erdal Tezcan) were well known for their democratic stance and pro freedom of expression and right to a fair trial decisions. Alparslan Altan was used dissenting vote in favour of arrested journalist Mehmet Baransu⁴¹. In a suit of nullity they were both used dissenting vote against "criminal justice of peace". This is the best example how high courts became puppet of executive power and how they are far from European Court of Human Rights' standards. They sacrificed the reliability and independency of judiciary to satisfy personal ambition of President Erdoğan.

Alongside of profiling activities of National Intelligence Service, some government organisations encouraging people to inform suspected ones at their web pages⁴², some public unions are forced to give information about public officials⁴³, some public institutions trying to collect information through questionnaire form⁴⁴. One of the minister confessed that they will carry out mass purging, according to informations collected through telephone taps, social media sharing and messages, names of private schools, dormitory and teaching institution that public officials and their children attended, the names of unions, organisations, associations, foundations and other NGOs they are affiliated to and names of financial institutions they made some transactions⁴⁵. None of those activities and

³⁹ https://global.tbmm.gov.tr/docs/constitution_en.pdf

⁴⁰ <http://t24.com.tr/haber/can-dundar-ve-erdem-gulun-vargilandigi-mit-tirlari-davasinda-karar-durusmasi-varin.339070>

⁴¹ <http://t24.com.tr/haber/aym-2-uyesini-meslekten-ihrac-etti.353377>

⁴² <http://t24.com.tr/haber/dicle-universitesinde-gulen-cemaatine-yakin-personel-icin-ihbar-sistemi-kuruldu.354256>

⁴³ http://www.cumhuriyet.com.tr/haber/ekonomi/580518/_Bana_cemaatci_bulun_.html

⁴⁴ <http://www.sozcu.com.tr/2016/gundem/muharrem-ince-skandal-anketi-desifre-etti-1347030/>

⁴⁵ <http://www.haberturk.com/gundem/haber/1270682-10-kriter-belirlendi-bakanliklar-tasfiyeyi-buna-gore-yapacak>

relationship are illegal according to current law. President Erdogan called citizens to inform anyone without mercy, even if they are close relatives and friends, if they have somehow connection with Gülen Movement⁴⁶. This is typical characteristic of oppressive regimes such as former USSR, East Germany, Syria, Iraq, Iran and North Korea.

The Chief Prosecutor of Ankara demanded from court to confiscate all properties of suspended and detained judges and prosecutors⁴⁷. This demand unfortunately accepted by the so called court in a few days⁴⁸. It revealed that the government was profiling all its dissidents for a long time and now by this pretext it wants to clear up all its dissidents, even who are not loyal enough from all public offices. President Erdogan especially doesn't want independent and impartial judges because he considers them as an obstacle before his single man ambition. The army, judiciary and all state institutions hollowed out by purges and loyalty, not competence, became the test for advancement.

Public officers who have green passport are not allowed to go abroad immediately after coup attempt and later more than ten thousand public officer's passport cancelled and their exit forbidden. Since thousands of couple arrested at the same time, their children remained unattended. Stigmatizing thousands of citizens according to Turkish Intelligence Service's (MIT) unlawful profiling lists, labelling them to be member of imaginative ARMED PARALEL STATE STRUCTURE without due court process, dismissing them in an extraordinary way, confiscating their properties and don't let to them to go abroad is clearly HATE CRIME: President Erdogan copying the way Nazi Regime imposed on Jews. People who are detained will stay in prison for an indefinite period and they will certainly be sentenced according to MIT's unlawful profiling lists by the kangaroo courts.

Democratic and free countries should show their reaction and support for the rule of law and the independence of judiciary in Turkey. President Erdogan's dictatorial regime shouldn't be endured for the sake of refugee readmission agreement.

⁴⁶ <http://www.cnnturk.com/turkiye/erdogan-o-camiadan-dostlarinizi-ihbar-edin>
<http://www.ensonhaber.com/erdogandan-fetoculer-hbar-edn-cagrs-2016-08-10.html>

⁴⁷ <http://www.sueddeutsche.de/politik/tuerkei-tuerkei-will-privatvermoegen-von-richtern-und-staatsanwaelten-beschlagnahmen-1.3099914>

⁴⁸ <http://www.sozcu.com.tr/2016/gundem/hakim-savci-ve-vallilerin-mal-varliklarina-tedbir-1335002/>