



**INTERNATIONAL ASSOCIATION OF JUDGES
UNION INTERNATIONALE DES MAGISTRATS
UNION INTERNACIONAL DE MAGISTRADOS
INTERNATIONALE VEREINIGUNG DER RICHTER
UNIONE INTERNAZIONALE DEI MAGISTRATI**

Palazzo di Giustizia - Piazza Cavour – 00193 ROMA - ITALY

Paris, November 24th 2016

Mr President,

I have been informed about the violent attack to the IAJ and myself published in a public platform on the website of your association.

The text, quite inappropriately, seems to reply to an article that I recently published in the website “Research Turkey”. I cannot accept the accusations, which are unfair and incorrect.

According to your website, the goal of your association, and of its members, is, in particular, to undertake “*to make any efforts in order to protect the independence and impartiality of the judiciary*”

As regards the constant damage to the judiciary in Turkey which has occurred over many years, I ask myself what are the real efforts made by your association to respect the standards of an independent and impartial justice in the interest of citizens and the persons answerable to the law.

It is neither disputed nor questionable, that since 2014, many judges have been moved from one to the other side of Turkey pursuant to a simple decision of HSYK, in violation of the essential principle of irremovability.

It is neither disputed nor questionable that HSYK opposed, last May, the travel to Israel, for the annual meeting of the European Association of judges, of a Turkish delegate, a member of Yarsav association, in violation of the principle of freedom of association and expression.

Furthermore, it cannot be doubted that, after the attempted *coup* of July 2016, (which the IAJ, contrary to what you say, has resolutely condemned), many thousands of judges were suspended. At the end of August, they were dismissed from their posts without any due process, any precise accusation, and finally without any possibility to defend themselves.

It cannot be questioned that the decision of dismissal of thousands of judges at the end of August 2016, comprises only 62 pages and only general accusations which are not specific to individuals, but only the mere presence of a name on a list drafted under obscure conditions, but clearly before the coup d’etat.

It is, finally, also not questionable that the Yarsav association, a member of the IAJ and of the EAJ since 2009, was forcibly dissolved and that the most part of its officials were imprisoned.

Since 2012, the IAJ and EAJ has constantly appealed the Turkish authorities to respect the rule of law. After the coup d'état of July 2016, dozens of national associations of judges from all over the world have expressed their support for the Turkish judges who have been unfairly accused. It is difficult for me to think that you were not informed of these matters. I invite you to consult our website.

It is equally difficult for me to imagine that you were not aware of the many reactions from numerous international institutions to the serious violations, in your country, of principles which are generally accepted in Europe and in the world.

Did you not receive the work of the international commission of jurists which, in a report of June 2016, wrote that:

“The executive and legislative authorities should refrain from all actions and rhetoric contrary to the separation of powers. Legislation, administrative measures and public statements by representatives of the executive should respect the role and independence of the judiciary and the integrity of the composition and independent decision-making of the HSYK and should respect and enforce court decisions”.

Weren't you informed about the declarations of M. Zeid Ra'ad Al Hussein, High commissioner of the UN for the Human rights, in Geneva, on July 19th, 2016:

“The independence of the judiciary and of the legal profession is key to the fair administration of justice, and judges must be able to exercise their functions without undue restrictions, pressures, threats or interference. The mass suspension or removal of judges is cause for serious alarm, and reports that many have been subject to detention orders also raises concerns of arbitrary detention”

Did you not read the resolution adopted by the European network of Council of justice of September 28th 2016, the terms of which are:

“The ENCJ has expressed its concern, both before and after the attempted coup, that the approach of the High Council for Judges and Prosecutors to the transfer, suspension, removal and prosecution of judges has not been consistent with the principles of judicial independence.”

Did you not know of the report of the European Commission, of November 9th 2016, concerning the membership process of Turkey to the EU, where one can read:

“The extensive changes to the structures and composition of high courts are of serious concern as they threaten the independence of the judiciary and are not in line with European standards. Judges and prosecutors continued to be removed from their profession and in some cases were arrested, on allegations of conspiring with the Gülen movement. The situation worsened further after the July coup attempt, following which one fifth of the judges and prosecutors were dismissed and saw their assets frozen. There was no progress on the outstanding issues identified in previous reports and the recommendations made last year can therefore largely be restated: (...)

→ limit the role and influence of executive power within the High Council of Judges and Prosecutors and provide sufficient guarantees against transfers of judges against their will;

→ *introduce further safeguards against any interference by the High Council of Judges and Prosecutors in judicial proceedings.*

In addition: → limit any suspension of a judge, as a major infringement of guaranteed judicial independence under the Constitution, to cases of well-founded suspicion of serious misbehaviours; ensure that the system of disciplinary proceedings is guided by objective criteria without undue influence from the executive power;

→ (...) *ensure that any allegation of wrongdoing or crime is subject to due process based on evidence and fully transparent procedures under the authority of an independent judiciary and in full respect of fundamental rights, including procedural rights, notably as regards the respect of the presumption of innocence, individual criminal responsibility, legal certainty, the right to defence, the right to a fair trial, equality of arms and right to an appeal”.*

If you had been aware of these matters, you could have been able immediately to react and to take all necessary measures to condemn them to the Turkish government and ask for international support.

Unfortunately, reading your statements, it appears not only that there was no reaction at all against these intolerable violations of European values, but, even worse, that you consider the reaction of the Turkish government to be perfectly legitimate.

You seem to regret that the IAJ rejected, many times, and in a way that you qualify as insolent and arrogant, your application for membership and that we never engaged in discussions with you.

I allow myself to remind you that on the occasion of the intended election for the current members of HSYK, in October 2014, I personally went to Ankara with a Belgian colleague. Some meetings were arranged with the members of the « platform for judicial Unity ». They were cancelled by you without any explanation the day before.

Moreover, contrary to what you say, no formal application for membership of your association to the IAJ was ever presented. We therefore lack the means even to examine whether your association complies with the conditions of admission.

But I can nonetheless indicate that such a request would meet many difficulties.

The first one is that, according to art 11§ 1 of our internal regulations, “*Only one association or national representative group of each Country may be admitted to the International Association of Judges*”. YARSAV is and remains a member of our organization.

The second is that according to our Statute (article 11 § 3 and 4 of internal regulations), associations seeking memberships « *must furnish proof that its activities and its principles accord with those of the International Association of Judges, as embodied in its Constitution* » and that “*they are independent from executive and legislative powers in its own country*”

YARSAV fulfilled our requirements without difficulty, in 2009 and then in 2012, both of these essential conditions; on the other hand, it is not obvious, taking into account the matters I have reminded you above, that it would be the same for your association.

Finally, the threatening tone of the end of your statements, the unacceptable threat that you address to the members of the Presidency Committee of the IAJ, do not encourage us to welcome you into in the large world family of judges represented since 1953 by the International Association of Judges. In this regard, I urge you to read article 2c of our statutes, under which the purpose of the IAJ is to "promote and enhance friendly relations between Judges of different countries".

I can only hope for a normalization of the situation in Turkey and a return to the rule of law and so to democracy.

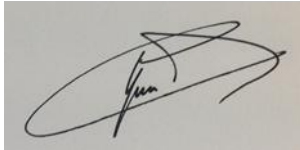
You can assume that the IAJ and the EAJ will continue to challenge all decisions which are incompatible with internationally recognized principles, and to defend, by all possible means, the independence of judges and of prosecutors, everywhere in the world, and in particular in Turkey.

To be totally clear, I am pleased to inform you that my Article published in Research Turkey, as well as your statements and this reply of mine, will be published in the IAJ website to ensure that people are aware of the real situation in Turkey.

Your sincerely

Christophe REGNARD

President of the IAJ

A handwritten signature in black ink, appearing to be 'Christophe Regnard', written over a light grey rectangular background.

Dr. Birol KIRMAZ
President of the Association of Unity in the Judiciary (YBD)
Cinnah Caddesi Piyade Sokak No 13
ÇANKAYA / ANKARA
TURQUIE