

The summary of Turkey's State of Emergency

First of all I would like to thank you for the opportunity to describe my point of view on what has been going on in Turkey recently. It means a lot to me to talk about the recent situation as a lawyer and I also accept this as a responsibility.

I would like to start with a general statement: ***Currently there is no judiciary in Turkey.*** The institutions in justice system are not working independently and impartially of the demands and priorities of the political power because today more than 2000 judges and prosecutors and around 300 lawyers are still in jail and **it directly means that the so called free actors of the legal area are mentally arrested. Even the numbers are still not certain but it's claimed that in total, more than 200.000 people are in jail.**

I would like to briefly describe the current situation of the rule of law 3000 judges and public prosecutors were suspended even before 24 hours had passed after the military coup attempt. It shows that the judges and public prosecutors were blacklisted according to their political opinions and that these lists were already prepared before the coup attempt.

Before the state of emergency, there were no restrictions to the access of lawyers. But in the first 6 months of the state of emergency, the right to access to a lawyer was restricted during the first 5 days of the detention. Now this restriction was removed through a new governmental decree; however it did not solve the problem because again with a governmental decree, the government had already changed the Criminal Procedure Law and right now, there is an article which restricts the right to access to a lawyer for the first 24 hours.

Also, the interviews between the lawyers and the suspects under detention in jail are recorded. The Decree also gives the prison guards the power to participate at the interview and seize the documents if they think it is necessary.

The right to information about the charges is an important issue these days which, of course, is one of the most important elements of the right of defence. For instance, many judges and prosecutors who are still in jail, defended themselves against the accusation of being a member of Gülen organization but they were arrested with the accusation of threatening to overthrow the constitutional order.

The other subject to be underlined is the presumption of innocence. We are witnessing how the judicial and administrative practices are combined through governmental decrees. As a result it is easy to claim that right now this principle is not valid for at least half of the society. Hundreds of thousands of public officers were dismissed with a justification of having a relation with terrorist organizations. It is obvious that in a state of law, such a dismissal practice definitely needs a judicial sentence. However today, hundreds of thousands of people are facing the results of a judgement without a judicial

process. So, since the state of emergency, the presumption of innocence has been violated more than ever.

In my point of view, in this whole picture the attorney immunity has to be underlined because it is impossible to imagine the existence of the right of defence, when there is no attorney immunity. The repression against lawyers – unfortunately – has a history in Turkey. But it was never like today. Right now, hundreds of lawyers are in prison. When the repression of the past and today's circumstances are combined, the result turns out to be a disaster for the right of defence. Many victims of the state of emergency, especially who are accused to be a member of Gülen organization, could not find a lawyer because lawyers are afraid to represent them.

Finally, the independence of the judiciary must be accepted as the main subject. As a lawyer, personally I do not remember any period in Turkey when the judiciary was completely independent. On the contrary, for some types of crimes or defendants, the judiciary was only a mechanism that worked for the benefits of the State. However, it is possible to claim that nowadays, there has been a fundamental change. **The arrest of 3000 judges and prosecutors also means that all the judicial mechanisms are working with the threat of arrestment today. In the sense of this reality, it is obvious that the defence of a suspect or the evidences in a file are less important than the benefits and desires of the State's power.**

Briefly, Turkey never was a rose garden. But the lack of trust in the judiciary had never reached this dimension. There was no right of defence for the opponents before the state of emergency. But after the state of emergency, not only for the part of the society who reacts against the reorganization of the state, but also for people who just have concerns, there is not a bit of chance to use the right of defence. **Today, in Turkey's courthouses or prisons there is no bit of justice, not even the hope of justice. We just have stories, explaining us how peoples lives were ruined under this completely under-control situation. We hope that one day these stories will be told everywhere and will help all of us to remember the importance of the rule of law, like bread, water and air.**

I would like to finish my words with one of my beloved colleagues; Selçuk Kozağaçlı. He is still the president of Progressive Lawyers Association and he has been practicing law for nearly 20 years. He is in jail since November 2017 with 20 more members of Progressive Lawyers Association.

He sent this letter to us:

"I spent 60 days in a one-person cell, under a full isolation. On the 60th day of my imprisonment, the guards came and told me that "my demand of participating in "collective events" was accepted". Wow! Now I have the right to go out of my cell every week once for 2 hours. I asked them the names of the prisoners that I could finally meet. And the answer was extra-ordinary: "For now, you will go out

from your cell but you will be alone!" So, I rejected.

One day after this occasion, my lawyers visited me. And next to our room, there was another prisoner, Deniz. He called me and told that I should accept to go out from my cell, even I would be alone. He said that he is doing this – alone –for more than 2 months and he shouted at me and said that I need to see the sky at least 2 hours in a week. Deniz is in a cell – alone - for one year already.

We do not have a judiciary in Turkey right now. What we have is just a group of public officers who are following the orders of the government. They are full of fear, because they know that whenever they make a decision which tries to focus on the fundamental human rights, - not a perfect one but for instance one verdict which is better than the average of the rest – they know that they will be a prisoner too. Or at least another judge, prosecutor or even the government will announce that they do not accept the verdict and not respect it. Like the last occasion about the Constitutional Court's verdict...

I should underline that I am not calling myself as a prisoner. When there is no judiciary, the people who are in jail can not be accepted as prisoners. We are just the hostages of this AKP regime. We were imprisoned under force by the power. This is all. As one of our beloved judges said, all these court decisions will only be valid through this government's life-period.

They are now forcing us to wear one single uniform and also try to defeat us with this pure isolation. But we are resisting with all our power and will.

I send my best wishes to all of you with hope and with the strong belief in our solidarity. Please don't worry and just remember, we are resisting this arbitrariness."