

INFORMATION NOTE

on meetings held with

the Council of Europe in Strasbourg (France)

on 16-18 April 2024

and

the European Commission in Brussels

on 23 April 2024

regarding

Recommendations for Judicial Reform, Justice in Representation, Anti-Corruption and Prevention of Bribery in context of the books “Turkish Judicial Reform A to Z” and “Turkey’s Middle Democracy Problems and How to Solve Them”

This information note summarises the exchange during meetings held by the delegation representing the Better Justice Association with representatives of the Council of Europe on 16-18 April 2024 in Strasbourg, France including members of the Parliamentary Assembly of the Council of Europe (PACE) and the Venice Commission, and the European Commission on 23 April 2024 in Brussels, Belgium, discussing the recommendations developed on “judicial reform, justice in representation, anti-corruption and prevention of bribery” in the context of the books “**Turkish Judicial Reform A to Z**” and “**Turkey’s Middle Democracy Problems and How to Solve Them**” prepared by the Association based on comprehensive studies and which have been opened for discussion at the national and international level.

The meetings were attended by a delegation of the Better Justice Association including the President of the Association Att. Mehmet Gün, Board Member Prof. Ali Murat Vural, Secretary General Ms. Tuğçe Özbilen, Director of Communications Ms. Beyza Berber and Press Advisor Mr. Sedat Pişirici.

The delegation had made an appointment with the Ambassador Nurdan Bayraktar Golder, Permanent Representative of the Republic of Türkiye to the Council of Europe (CoE) in Strasbourg, with the aim of providing written and verbal information about the program, aims and objectives of the delegation, prior to their meetings at the Council of Europe. However, this meeting did not take place due to a short notice change in the Ambassador's schedule.

On 16 April 2024, a meeting was held with the CoE Monitoring Committee Member, Austrian parliamentarian Stefan Schennach, PACE UK Delegate Lord George Foulkes, CoE Legal Affairs and Human Rights Committee Chairman, British parliamentarian Lord Richard Keen and Deputy Director of the CoE Human Rights Commissioner's Office Erliha Bicakcic. In these meetings, it was agreed that recommendations for solution, proposed in the "Turkish Judicial Reform A to Z" book developed by the Better Justice Association, to design a judicial system with an innovative and end result of providing quality services will enable a judicial system that works effectively and efficiently, is accountable and which demands and maintains full independence, which is important both to protect human rights and to improve general welfare.

Our delegation explained to the parliamentarians and bureaucrats that, in countries where the judiciary cannot provide services of quality, the system does not have the support of the public, that the public trusts politicians whom they can elect with their votes rather than judges whom they cannot elect; hence, public support for the independence of the judiciary is limited and problematic throughout the world, including in EU countries. In addition, it was also stated that, as judicial independence has become a political element and cannot provide quality services, it would be a more appropriate method to rethink judicial independence as a technical element that may be possible with provision of quality services and to undertake recommendations to improve the judiciary from this perspective.

On 17 April 2024, the delegation met with Pierre Garrone, Head of the Electoral and Political Parties Division of the European Commission on Democracy through Law (commonly known as the "Venice Commission"), George Papandreou, currently General Rapporteur on Democracy for the PACE Committee on Political Affairs and Democracy and former Greek Foreign Minister and Prime Minister, Jeremy Corbyn, current member of PACE and former British Labour Party leader, and the delegation of the Parliamentary Assembly of the Group of Liberals and Democrats (ALDE Group).

During the meeting with Pierre Garrone, Head of the Electoral and Political Parties Division of the Venice Commission, it was emphasised that the problems arising in the current environment can only be solved with an innovative approach, and that keeping in mind the root causes of the problems and social dynamics in the Commission's opinions on Türkiye

would lead to more effective results. In this context, if it is overlooked that first-degree judges elect one third of the members of the Supreme Council of Judges and Public Prosecutors (HSYK), as per the 2010 Constitutional amendment, are dependent on the Minister of Justice, it would also mean that politics will gain a majority within the HSYK would also be overlooked. As mentioned in the Venice Commission's Türkiye Report, which recognizes the possibility of persons who are not members of the legal profession (i.e. representatives of the execution) as being present in the management of boards of the judiciary, this is not an approach that serves the independence of the Turkish judiciary. In the system designed and proposed by the better Justice Association, it is explained that the function of being a professional institution of judges and prosecutors should be distinguished from the function of service provision and be organized as judicial professional institution of judges and prosecutors, thus eliminating the need for any persons other than the members of the legal profession in such institutions. It was also stated that the recommendations developed by the Association are advanced and necessitate a change in mentality for Türkiye.

It was also explained through examples that, without taking into account the anti-democratic delegation system in political parties, anti-democratic practices in professional public organisations (such as bar associations, chambers of commerce and industry, medical association, pharmacists' association) where the minority dominates the majority, the recommendations of the Venice Commission regarding challenges for elections and democracy would have a weak foundation.

George Papandreou, General Rapporteur of the Committee on Political Affairs and Democracy of PACE and former Prime Minister of Greece, asked if our Association would be interested in contributing to a report he is currently in the process of writing and suggested that the books "Turkish Judicial Reform A to Z" and "Turkey's Middle Democracy Problems and How to Solve Them" be translated into Greek and published in Greece as well. He also extended an invitation to our Association to the democracy and rule of law conferences to be held in Samos, Kuşadası and İzmir within the year. It was agreed that Türkiye and Greece together hold the key that will allow the Mediterranean Basin to become one of the few power centres in the world. Mr. Papandreou stated that it is of great significance that we have designed our proposal for the Supreme Authority of Justice to represent all segments of society, and that inclusivity is important not only for political institutions but also for judicial institutions. He also stated that he found it very impressive that we carry this line in our recommendations and stated that he believes this perspective should be vocalized more often in the international arena.

Jeremy Corbyn, the former Chairman of the British Labour Party, was attentive during our presentation of innovative recommendations developed by the Better Justice Association as solution for challenges related to the Turkish judiciary, rule of law and middle democracy problems, and asked many questions by considering our recommendations to establish an independent professional body for the Supreme Authority of Justice and judges and

prosecutors, as well as to establish a Supreme Court of Justice for the judicial supervision of all decisions taken in the administration of the judiciary.

During the meeting with the Liberals and Democrats Group of the Parliamentary Assembly of the Council of Europe (ALDE Group), our delegation was asked questions about parliamentary immunities, anti-corruption and bribery prevention. Our delegation suggested that the president, ministers and members of parliament should be stripped of default immunity, and that investigations against members of parliament should be decided by a new court that is competent and specialized, with the Constitutional Court as the appellate court, and that the institution that will fulfil this function is the recommended Supreme Court of Justice. The ALDE Group stated their desire to continue such meetings and exchange in order to benefit from our opinions concerning their studies on Türkiye.

On 18 April 2024, our delegation met with Ambassador Sandy Moss, Permanent Representative of the UK to the Council of Europe, where the activities of the Better Justice Association was shared, and background information was provided about the rule of law in the Turkish-Islamic state tradition.

The last of the Strasbourg meetings was with the Tuğrul Türkeş, Head of the Turkish Delegation of the Council of Europe Parliamentary Assembly (PACE). The Turkish Delegation was briefed about our meetings and exchanged views on the Turkish administration system and the challenges it faces. It has been decided that an information note will be prepared about the judicial boards and their historical development, which is our field of expertise, and be shared with Mr. Türkeş for him to refer to during his international activities.

On 23 April 2024, a meeting was held in Brussels with Alvaro de Elera, member of the cabinet of the Vice-President of the European Commission Vera Jourova, responsible for the rule of law, transparency and anti-corruption. In addition to explaining the recommendations, it was also stated that chapters 23 and 24 of the accession negotiation chapters should be unconditionally opened and finalized and that the judiciary, the rule of law and fundamental rights should no longer be maintained as a barrier. Mr. de Elera stated that this opinion would be considered in his studies.

The main goal of our Strasbourg and Brussels visits were to gain international recognition and reputation as a politically neutral civil society organisation (CSO), to exchange ideas with experts working on judicial policies, to express that we are a point of reference where our experience in the field of the judiciary can be called upon and in order for studies concerning Türkiye by both parliamentarians and bureaucrats to be more accurate in the Council of Europe, of which Türkiye is a founding member, to explain that we are ready to contribute to these studies as a politically neutral think tank, to discuss our recommendations among equals, to review and critique other systems, to benefit from critique and by these means to strengthen the hand of our diplomatic representations. In addition, to assess possible opportunities for cooperation was also a goal, within the framework of the integrated judicial

model included in our recommendations for establishing and improving the judicial systems of EU accession countries, among others.

In doing so, we aimed to inform European institutions monitoring Türkiye that there are politically impartial experts in the field of justice in Türkiye, and that we welcome being a focal point to be consulted by the European institutions in the discussions on judicial independence, rule of law, human rights violations and judicial processes related to Türkiye. The positive reactions we received during our meetings in Strasbourg have shown that we too can contribute to the work of European institutions in our areas of expertise. Thus, the main objectives of our meetings were achieved.

Overall, “Turkey’s Middle Democracy Problems and How to Solve Them” and “Turkish Judicial Reform A to Z”, in which we included 9 innovative recommendations, attracted considerable interest and was well-received. Our opinion that judicial independence becomes a political issue in cases where the judiciary fails to provide quality service, and that quality provision of services is a technical matter and should thus be handled, our design of the judicial system with the ultimate goal of provision of quality services were seen to impress and the nine basic reform proposals, especially our proposals for the Supreme Council of Justice and the Supreme Court of Justice, was found to be of interest.

General Information Regarding the Better Justice Association and Innovative Recommendations for Solutions

“Turkish Judicial Reform A to Z” is the product our Association, developed based on over 10 years of experience and is an original ideal product comprising of innovative solutions to recommendations developed within the framework of universal principles to reflect national needs, based on the realities of Türkiye. This document was developed by a team of 9 young, knowledgeable and unbiased professionals as a result of year-long intensive work. Particular caution was shown to ensure that the study is original and based on the realities of Türkiye, and care was taken to avoid and adapt the systems developed by other countries, which are assumed to have been developed to meet their own needs within the framework of their own experiences. However, after the study was completed and innovative recommendations for solutions were revealed, a comparison was made with the most advanced judicial systems in the world, and it was seen that the system we proposed was equal to or more advanced than the existing systems. From this point on, the recommendations and proposals were opened for discussion at the national and international level.

Within the scope of our proposals for reform, the judicial system has been designed so as to provide quality services, and judicial independence is upheld as the most important quality element. Thus, the judiciary has been removed from being a subject of political debate and organised to be a quality service-oriented institution. At the heart of our proposals is the Supreme Court of Justice, an innovation designed to set a global example as the body

responsible for regulating and ensuring the provision of quality judicial services. The member composition of the institution, which includes all segments of the society, parliament, execution and professional members and prevents the institution to be influence; and on the other hand, it shall ensure that the entire judicial system becomes fully accountable without compromising its independence and thus prevents the members of the judiciary from becoming an untouchable, privileged group.

This institutional design will prevent the judiciary from becoming cumbersome, as in the case of Italy, and will prevent excesses and arbitrariness that could become a justification for restricting the independence of the judiciary, as the public of Israel are concerned about. Within the scope of our proposals, the Permanent Legal Council, which is built upon our tradition of “National Council”, is more effective than the Judicial Council of the USA. Allowing all decisions regarding the administration of the judicial system to be subject to effective judicial supervision and the Supreme Court of Justice to be established for this purpose are revolutionary for Türkiye. The discipline, complaint and appeal mechanism, which provides effective supervision of members of the judiciary and is ultimately dependant on effective judicial supervision, will improve judicial ethics and professions on the one hand, while increasing the performance of the judiciary on the other hand. This process shall have better and effective results in comparison to the professional service courts of Germany, where members of the judiciary can brought to action.

Bottlenecks exist in judicial systems of many countries, as it is also the case in Türkiye, due to the current understanding of dispute resolution. In order to overcome these bottlenecks, methods such as forcing the public to resort to alternative dispute resolution methods such as mediation, spending large budgets, employing a large number of judges and prosecutors are implemented, leading to a disruption of social welfare, peace and solidarity. The studies carried out by the Better Justice Association resulted in proposals to abandon the current praxis and adopt an approach of “Managing Dispute”. This approach includes anonymization to unite and develop of the currently separate databases related to disputes, predicting the judicial workload with artificial intelligence, preparing in advance and encouraging conciliation by ensuring responsible and honest communication between relevant parties. This approach shall ensure the judiciary creates an example for reconciliation and strengthen social reconciliation and solidarity, prevents abuse of the right to access to justice, and provides an opportunity for disputes before the judiciary to be resolved in a single session in 3-5 months, and requires less financial resources. This proposal in particular has gained much interest.

Main Messages to the Representatives of the Council of Europe, Members of the Parliamentary Assembly of the Council of Europe and Officials of the European Commission

1. Global power centres forming. The Mediterranean Basin must become one of the global power centres or it shall coming under the influence of others. The roots of modern civilization are in interaction with civilisations and cultures that have existed in this Basin since ancient times: Sumerian, Egyptian, Hellenic, Roman, Seljuk, Ottoman. What they all have in common is that they have thrived in the Mediterranean Basin and have influenced each other.
2. The cooperation between the EU and Türkiye shall provide the opportunity to make the Mediterranean Basin into a global power centre and ensure the Mediterranean is a basin of peace and serenity.
3. The current short-term, interest-based and transaction-based relationship between the EU and Türkiye suffers from a lack of long-term vision and common purpose. Bullet point 2 above can make the EU and Türkiye an inseparable duo who come together to achieve a common goal. When there is agreement on common purpose and aims, we believe that Türkiye will fulfil its obligations quickly and will be able to benefit from such a union.
4. The most significant challenge to achieving common goals are in the field of rule of law and judicial independence. This also negatively affects the development of beneficial and sound cooperation between countries. Although differing in form and degree, both Türkiye and EU member states alike face challenges concerning the rule of law. In France, the hands of judicial and executive powers are in each other's pockets; in Italy, Mario Draghi wanted to initiate reforms with the idea that the judiciary slowed down the develop of Italy. The judicial budget of Germany is more than double that of the UK, and the number of judges is 8 times more than the UK. The Balkan states complain about the judicial structure the EU imposes upon them and the challenges that this brings. The EU should also look at the problems of judicial independence with Poland and Hungary from another perspective, such as taking into account the impact of the non-accountable judiciary and it lack of provision of quality services. The challenges of Türkiye are also unique, but it has the capacity to produce its own solutions. Methods which are encouraging instead of those which are coercive and punitive should be developed. The EU should not only focus on economic issues and chapters; it should open and conclude chapters 23 and 24, even if there is no progress in these issues; to start, the issues of the judiciary, the rule of law and fundamental rights should be removed from being a barrier to mutual relations.
5. The Better Justice Association has designed a judicial system that all countries can safely adapt and use to improve their own systems. On the one hand, this design ensures that the system provides quality services, and on the other hand, it ensures full independence in a transparent and accountable manner which it deserves and should sustain.

Areas of Agreement Regarding Joint Activity

It has been agreed with the representatives of the Council of Europe, the members of the Parliamentary Assembly of the Council of Europe and the officials of the European Commission to continue to maintain contact, to organise joint international events and to develop cooperation on the following issues:

- a) Improving the accountability of the judiciary without compromising independence, establishing measures that prevent political interference in the judiciary,
- b) Defining quality and quality elements in judicial services, developing assessment criteria and tools, and establishing and managing quality, service-oriented performance management in the judiciary,
- c) Improving the structure and framework of judicial systems, and strengthening their independence.

Conclusion:

Our objectives in meeting official representatives in Strasbourg and Brussels was to gain recognition and credibility as a politically neutral CSO based in Türkiye, to promote our innovative recommendations and proposals, to exchange among equals regarding international matters related to judicial systems and the rule of law, and to agree on conducting joint activities. All of these objectives have been achieved. Furthermore, to be respected at this level as an independent and impartial CSO and seeing that our efforts and work was beneficial in improving the reputation of Türkiye gave pride to the members of the Better Justice Association.