

**Union Internationale  
des Magistrats**



**International  
Association of Judges**

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To the

Judges and Prosecutors,

members of the Turkish Judiciary

and the Turkish Prosecution Service

Rec: Election of the Turkish High Council of Judges and Prosecutors

Dear distinguished colleagues,

The International Association of Judges (IAJ) was informed by the European Association of Judges (EAJ), which is one of its four Regional Groups, about the observations of EAJ regarding the ongoing campaign and procedure of the election of the new members of the Turkish High Council of Judges and Prosecutors. They had been confronted with some reports on attempts to influence this event from outside the judiciary.

IAJ which is committed to defend independence of the judiciary and the rule of law everywhere on an international as well as on a national level, closely followed the developments in the justice system of Turkey. There was some remarkable progress in the past and international contacts proofed that many judges was very well trained and very engaged in the improvement of the judiciary and its legal framework. But recently this development stopped and recent legal reforms must be seen as steps backwards.

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Especially in such a situation a body like the High Council of Judges and Prosecutors has to play its role. The overall task of this body is to protect the independence of the judiciary in order to safeguard that people have the guarantee of a fair trial by an impartial and independent judge in the determination of their civil rights and obligations or of any criminal charge against them (Article 6 ECHR) This overall task is clearly expressed in several international legal documents among those

- Opinion No 10 of the Consultative Council of European Judges para 8: “The Council for the Judiciary is intended to safeguard both the independence of the judicial system and the independence of individual judges. The existence of independent and impartial courts is a structural requirement of a state governed by the rule of law.” and
- Recommendation 2010/12 of the Committee of Ministers of the Council of Europe para 26: “26. Councils for the judiciary are independent bodies, established by law or under the constitution, that seek to safeguard the independence of the judiciary and of individual judges and thereby to promote the efficient functioning of the judicial system.”

During the 60 years of its existence IAJ gained a lot of experience regarding Councils for the Judiciary, their composition, their tasks, their procedure. Several times IAJ had to raise its voice because of undue influence on such Councils or because of misuse of such Councils. Already in 2003 a Study Commission of IAJ exercised a comparative investigation and concluded with following warning: “In any case, such a body should be a means by which a buffer is placed between the judiciary and the other powers of government so that it can protect the judiciary from undue influence from those powers rather than been an instrument of it.”

A Council can only fulfil its tasks, if the members are independent and free from every influence from outside. They should act independently and transparent. Therefore also the election to find judges and prosecutor who fulfil these requirements is of outmost importance.

There is still space to improve the legal framework for the work of the Turkish Council (the recent legal amendments went in the wrong direction), but the most important requirement at the moment is that excellent, well accepted and independent judges are chosen as members of the Council, who are committed to the above mentioned overall task of the Council only, persons who are neither inclined to the government nor to another group of interests, persons who firmly foster the goal that judiciary fulfils its tasks in an independent, fair and effective way as stated by the law.

I was asked by members of the board of IAJ and by several member associations of Europe, Africa and America to express best wishes to all the Turkish judges and prosecutors in this crucial situation, that they may succeed in independently and in an unbiased way to elect their representatives for the Turkish Council of Judges and Prosecutors, that they will be able to keep party politics out of the election process.

It is not up to me to promote certain candidates or lists of candidates. I am convinced that judges, if there are no irregularities in the election process (which is observed by committees of EAJ and others) will choose the colleagues who proved that they fight not for themselves or in the interest of the government or other political groups, but for the independence of the judiciary and the rule of law. This will lead to a strong and independent Council, which will have a firm stand opposite the other powers of the state.

In this sense I wish you on behalf of IAJ and in my own name success and all the best

Yours sincerely

Gerhard Reissner  
President of IAJ