

Reply from the High Council of Judges and Prosecutors of Turkey to the MEDEL report, 3 December 2013

Subject: Situation report about the status and situation of judges in the member States

Dear President,
Dear Secretary General,

Thank you very much for giving us the opportunity of presenting our arguments against the report of representative of MEDEL about Situation on the judiciary and judges in the Council of Europe member States. After the observation report – which was allegedly prepared by Christoph Strecker, a member of the Plenary of MEDEL and Vito Monetti, former president of Association after their visit to Turkish Republic on June 3-9, 2012 – appeared on media, the aforementioned report was downloaded from the YARSAV website and examined. As a result of the examination, serious doubts were raised concerning whether such a report was prepared by the experts authorized by MEDEL not only due to the style and but also because it contained subjective information contrary to the facts. Because of that we have responded all topics on this report and send to the Organization. You may also can see the full version of respond on attachment. However I am sorry to say that our respond and concrete data haven't been taken to consideration and it was published as its first version. The most important and sorrowful of this situation is that, this report was taken to consideration by CCJE and we are worry about to not to be able to correct these subjective and incorrect information.

Reporters of MEDEL have prepared this report by interviewing only a small group of opponent which does not represent the majority of Turkish Judiciary. This kind of complaints are totally subjective and baseless. Within that period representatives of Council and Association have discussed the report by correspondence and exchange of letters. Representative of MEDEL (Vito Monetti) met with Mr. Engin Durnagol (Deputy Secretary General of HCJP) in Istanbul and this report has been discussed thoroughly. In the mean time representatives of MEDEL indicated that this report was reflecting the personal opinion of reporters and officially was not the judgment of MEDEL and will not be used officially in any platform. Unfortunately we are now realizing it will be basement for CCJE report.

We are fully ensured that the representatives of CCJE will take consideration our responds and will revise the Situation Report on the Judiciary and Judges in the Council of Europe member states.

First of all; in the report, the appointments of judges and prosecutors is claimed to be arbitrary. Yet, the appointments of judges and prosecutors is carried out according to the Regulations on Appointment and Transference based on 2802 Law on judges and Prosecutors and according to the resolutions concerning decrees made by First Chamber of HCJP.

High Council is aware of the inability of the current regulation of transfer but as it is know he should implement the laws and regulations which are in force. Besides, this topic is an aim under the objective of “ To strengthen the security of tenure of judges and prosecutors” the Strategic Plan of HCJP for 2012- 2016 years. Depending on the strategic plan HCJP has started to run a project to amend this regulation.

Secondly; in the report, it is claimed that government has a great influence on the judiciary.

This assertion is completely depending on rumors and subjective opinions. As it is clearly known High Council has 22 members and Minister of Justice and his undersecretary has only two votes in the General Assembly. So it is clear that their power is one of ten percent in all members of Council.

Summing up we would like to kindly indicate that Turkish High Council never accept the Report of MEDEL and kindly anticipate from CCJE will take consideration the data and concrete information.


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Reporter Judge
High Council of Judges and Prosecutors

[Attachment](#)