



Marija Pejčinović Burić
Secretary General
Council of Europe

10.08.2020

Dear Marija Pejčinović Burić,

I am writing as the Founder and Chairman of the Better Justice Association, in light of the fact that the Venice Commission is scheduled to assess the changes to the Legal Profession Act (law on the Bar Association) in October 2020, in answer to the request for an opinion made by the Monitoring Committee of Parliamentary Assembly of the Council of Europe.

I would like to share our Associations' two comprehensive reports that we published on 3rd July 2020 and 20th May 2020 on the recent amendments in question, in which we engage with the question of its constitutionality. I would also like to take this opportunity to briefly discuss the amended Law in the hope we can contribute to the Venice Commission's upcoming work on this matter in the name of our Association.

The Better Justice Association is a politically neutral non-governmental think tank founded to identify the problems of the Turkish judicial system - to design solutions grounded in certain core principles including the rule of law, independent judiciary, transparency and accountability of legal institutions - and to raise informed social debate with the aim of reaching social consensus on the proposed solutions, which is necessary for their sustainable implementation.

Within this framework, we aim to take the necessary steps to bring all judicial stakeholders to a place of common understanding, to develop social agreement on the developed ideas and suggestions to implement them.

The recommendations of our Association regarding the amendments to the law on Bar Associations were well-received by our stakeholders and the general public.

To briefly summarise our concerns, we believe that the amendments that have been enacted will have the following affects, among others:

- Widen the existing representation gap which already exists in the delegation system in Turkey;
- Increase the power of the executive to play a decisive role in the elections of bar associations, and bar associations may become dependent on the executive power;
- Undermine the spread of democracy through the management of organisations more widely in Turkey; and
- Damage the Bar Associations' ability to ensure the rule of law is upheld, seriously threatening Turkey's whole democracy.

Aware that a key point of focus for the Venice Commission is whether this law is constitutional, we are firm in expressing that it is our opinion as a group of legal professionals that these changes are in conflict with Turkey's constitution. Professional organizations with the characteristics of public institutions are established under Article 135 of the Constitution, and this act threatens to undermine them. Furthermore, the Turkish Constitution decrees that the role of independent Bar Associations is to uphold the rule of law, a function which these amendments clearly threaten.

In our reports, we also make a number of suggestions regarding the democratic management of all professional organisations, which include recommendations on the equitable division of membership in different provinces; suggesting democratic processes for the election of Association Presidents and removing the delegate system.

Furthermore, with contributions by our Association members, I authored "Turkey's Middle Democracy Issues and How to Solve Them: Judiciary, Accountability and Fair Representation" which attempts to comprehensively addresses the various structural problems of the Turkish judiciary, along with analysis of their root causes and suggestions for comprehensive reform including the evolution and transformation of



organisations, as well as reforms to the existing procedures and processes. You may reach our publications from our website [here](#).

I and other members of the Better Justice Association stand ready to assist the Venice Commission in their review by providing our expertise in Turkish law of and its impact on the wider society of Turkey. We would be glad to discuss our analysis of these changes and our recommendations in further detail. It would be our privilege to co-operate with this work, for the ultimate good of Turkish democracy and the Turkish people.

Yours sincerely,

Att. Mehmet Gün
Founder and Chairman
Better Justice Association