The President of the Better Justice Association Atty. Mehmet Gün:
“Not Only the Legal Year but Also the Era of Viruses and Artificial Intelligence Commences!”

**Call for Self-Criticism for Better Justice**

Only a few days away from the opening of the 2020 legal year, the Better Justice Association has drawn attention to the fact that the era of viruses and artificial intelligence has commenced globally, and has stated that serious duties and responsibilities are incumbent on the judiciary power in Turkey in order to turn difficulties into opportunities in the current situation. To achieve this, according to a statement made by the Association, the Turkish judiciary and all its stakeholders must engage in self-criticism: “In order to catch up with the era and its conditions, what is required is that all parties determine the problems, grasp the relevant opportunities and engage in self-criticism in a sincere manner.”

The President of the Better Justice Association, Atty. Mehmet Gün, stated that “This era constitutes the era of technology, artificial intelligence, welfare and the fight against viruses. In this dual era, both the viruses and the developers of artificial intelligence will dominate the world. A non-performing judiciary is similar to a hazardous virus; it corrupts countries by poisoning their legal order, and it can cause their sudden collapse. On the other hand, a well-respected, transparent and functioning judiciary, and the advanced legal order which it will ensure, constitutes the foundation of democracy and the source of the social, political and economic powers of countries in terms of global competition. In order for Turkey to make a breakthrough in the fields of the judiciary and the rule of law, it is essential to eliminate old habits and for the law to catch up with this era of artificial intelligence. For this purpose, the relevant work should commence with self-criticism by all relevant persons and sectors.”

## **The judiciary should undertake sincere self-criticism, develop solutions to the problems and lead the way with regard to turning difficulties into opportunities**

Atty. Gün emphasized that the start of the legal year constituted a good opportunity to present the problems, share recommended solutions and create a vision for the future. However, he also described the legal year ceremonies and discourse as “hollow,” saying that “The foremost duties of the judiciary are the rule of law and especially the right to legal remedies, the functionality of the constitutional order, enhanced compliance with the Constitution, the protection and development of fundamental rights and freedom of thought and expression, the legal compliance of the executive branch, and the accountability of public officials. It is a fact that the belief in justice has diminished as a result of the disruptions experienced in these matters which are of vital importance for our society. The judiciary community should criticize itself, develop solutions to the problems and lead the way with regard to turning difficulties into opportunities.”

The highlights of the Better Justice Association’s call for judicial self-criticism are as follows:

* The Constitutional Court should engage in self-criticism, accept its mistakes and compensate for the damages it has caused. By learning lessons from the fact that innocent people have regained their freedom only after years in prison due to lawsuits such as the Ergenekon and Balyoz cases, the Constitutional Court should permit the use of the effective right to individual application against all judicial decisions which restrict freedoms. It should be realistic and consistent in its compensation decisions. It should correct its mistake of abstaining from scrutinizing the nature of the State of Emergency decrees by being conscious of the harm caused by these decrees to the public’s belief in legal security.
* The Constitutional Court should accept that the composition, structuring and number of members of the Board of Judges and Prosecutors do not comply with the independence criteria determined by UN decisions, and that the fact that the decisions of this Board have been outside the scope of judicial review since 1981 contravenes the accountability principle. It should evaluate the Supreme Board of Justice recommendation which has been presented to the public by the Better Justice Association, or develop a better recommendation itself.
* The bars, the Union of Turkish Bar Associations and individual attorneys should more vigorously defend the fact that they are equal in status to judges and prosecutors. The professional organizations of these groups should be equalized. An independent board with high representative power which will reflect the policies and preferences of the nation with regard to law and justice should be authorized instead of the minister of justice, and this board should also develop recommendations for solutions instead of merely complaining – or it should adopt the Better Justice Association’s Supreme Board of Justice recommendation or a further enhanced version of it.
* The Council of State and the administrative judiciary should sincerely evaluate their level of success in ensuring the legal compliance of the executive branch and eliminating cases of non-compliance by the executive branch, and their provision of the services which are required by citizens pursuant to these requirements. In the Council of State and administrative judiciary courts, petition pre-examination, suspension of execution and similar matters should be decided within a few hours, or within a few days at most; the fulfillment of simple formalities should not take months. Lawsuits should be resolved within six months at most. The Council of State and the administrative courts should function on weekends, public holidays and off-hours, and courts and on-duty judgeships should be created and assigned for this purpose.
* The Court of Appeals should go beyond giving statistical information about the cases that come to it every year and whether they are decided in that year or transferred to the upcoming years. It should reveal full, truthful information to the public about its duties, without hiding anything. It should explain in detail how many members, rapporteur judges and judiciary personnel it employs, and what kind of activities each of its members are engaged in for what amount of their working days. It should clarify the selection method for rapporteur judges, why the reports of rapporteur judges are not disclosed even to the parties but are kept confidential (in contrast to practice in the Council of State), and the legal reason for this.
* The Supreme Electoral Council whose members are elected from among the members of the Court of Appeals and the Council of State should compile the criticisms made by the public during election periods and should engage in sincere self-criticism.
* The Chief Public Prosecutor’s Office should share details with the public, engage in self-criticism, and give information and account to the public about situations that are already within or are likely to be included within the scope of its duty, as well as about what preparations, examinations and actions have been undertaken or are left out of the scope. Thus, the Chief Public Prosecutor’s Office should contribute to the empowerment of the state agencies, increasing the public’s level of confidence in these institutions and in its own institution.
* Major changes have been made in the judiciary in Turkey in the last 20 years, as they have in many other areas. During this period, three judicial reform strategy documents were published, in 2009, 2015 and 2019. The relevant drafts were passed into law swiftly, but they did not contain the reform expected by the public. Notwithstanding these changes, Turkey has retrogressed in the international indexes in fields such as judicial independence and the level of democracy. Even the fact that the president of Turkey makes an assessment regarding the judiciary at the opening of the legal year does not comply with the principle of judicial independence, because in a democratic state the power of the executive and the judicial power must be separate from and independent of each other. The minister of justice of Turkey should explain to the public why our country has retrogressed in international indexes with respect to the rule of law, judicial independence, freedom of thought and expression, and democracy, and why the confidence of society in the judiciary has deteriorated despite three judicial reform strategies being implemented.

**Regarding the Better Justice Association**

The Better Justice Association is a politically neutral non-governmental organization which was established to identify the problems of the Turkish judiciary, develop recommended solutions to such problems, reach social consensus on the recommendations and apply the solutions.

The Association was first established under the name “Better Justice Movement” by attorneys, academicians and opinion leaders who had willingness, sensitivity and determination with respect to the development of Turkey and the improvement of social standards and who gathered under the leadership of Atty. Mehmet Gün in order to offer applicable solutions to the problems of the Turkish judiciary and to implement the principle of “full and frank disclosure.”

The Better Justice Movement then acquired the status of “Association” in November 2014 under the name “Better Justice Association,” with the objective of expanding the scope of the work planned and becoming institutionalized in line with this objective.

Members of the Better Justice Association believe that an advanced legal order and a judicial system better developed than its contemporaries are the cornerstones required for the culture of reconciliation to be dominant in Turkey and for society to be peaceful, productive, competitive and prosperous in the international arena. The Association carries out studies to help our country achieve these goals and to ensure the supremacy of law in all economic, social and administrative areas by means of the further improvement and development of the judiciary.

Within this framework, in order for the Turkish judiciary to continuously develop, compete with its contemporaries and take the lead in this competition, the Association aims to bring all persons, institutions and organizations related to the judiciary together with society on common ground, ensure agreement and reconciliation by developing ideas and recommendations, and make the necessary efforts to apply the recommendations agreed upon.