

*The President of the Better Judiciary Association, Atty. Mehmet
Gün:*

**“ A Once-in-a-Century Opportunity to Create an Independent and High-
Quality Judiciary”**

- *Attorney Mehmet Gün stated that ensuring the rule of law is essential in order for Turkey to get out of the middle-income and middle-democracy trap it is in.*
- *The debates on legislative and executive issues between political factions, none of which alone have the power to change the Constitution, necessitate a national reconciliation. Atty. Mehmet Gün concluded his speech by emphasizing that this opens a historic window of opportunity to ensure a fully independent judiciary.*

The founding president of the Better Justice Association, Atty. Mehmet Gün, outlined a detailed roadmap for a fully independent, accountable, effective and productive judiciary during the conference “Turkish Judicial Reform from A to Z,” held by Eskişehir City Council and Eskişehir Bar Association. Ensuring the rule of law is essential in order for Turkey to get out of the middle-income and middle-democracy trap it is in.

Gün highlighted the chronic and structural problems that have afflicted Turkey since the 1980 coup, and said that **comprehensive judicial reform was essential for the resolution of these problems. Better Justice Association has developed proposals for this purpose that would ensure the full independence of the judiciary. Gün explained in detail that the proposals, published under the title *Turkish Judicial Reform from A to Z*, would make the judiciary work effectively and efficiently to increase Turkey’s national income from the current level of 8,500 dollars to 25,000 dollars.**

Mehmet Gün explained in detail the five key points of Better Justice Association's proposed solutions. They would:

- Make the judiciary work effectively and efficiently;
- Make the judiciary accountable under the law and fully independent;
- Provide a competent and sufficient structure, with the human resources required to carry out judicial duties;
- Resolve cases in three to four months;
- Encourage peace and reconciliation.

Stating that the debates on legislative and executive issues between political factions, none of which alone have the power to change the Constitution, necessitate a national reconciliation, Atty. Mehmet Gün concluded his speech by emphasizing that this opens a historic window of opportunity to ensure a fully independent judiciary and that it should be evaluated well.

“Turkey, by strengthening the belief in the rule of law and justice with a high-quality judiciary, can rapidly increase its share in the developing world economy and increase its per capita national income to five to six times the current level in a short space of time.

“The independence of the judiciary depends on establishing a delicate balance between state powers. Fair representation of different views in the legislature is also a guarantee of judicial independence. The independence of the judiciary should be guaranteed in the Constitution and a high quorum should be introduced in the laws concerning the judiciary.”

Mehmet Gün drew attention to the importance and necessity of fair representation of political views in the parliament, adopting a pluralist, polyphonic and inclusive understanding in the executive power, and ensuring the separation of powers by the state. Arguing that the existence and fair representation of different opinions in the parliament is also the guarantee of the independence of the judiciary, he expressed the necessity of securing the independence of the judiciary in the Constitution and introducing a high quorum in the laws concerning the judiciary.

In his presentation, Atty. Mehmet Gün, President of the Better Judiciary Association, said that in order for the judiciary to fulfill its duties and to protect it by giving it the full independence it deserves, first of all, measures should be taken such as improving constitutional protection, establishing a high quorum for decisions taken while making laws regarding the judiciary, and having laws reviewed by the Constitutional Court before they come into force. Gün stated that the protection of the Constitution is weak and insufficient, that therefore measures could be taken to prevent threats that may be directed from the executive and the legislature towards the judiciary, and that methods such as ensuring that different political parties that do not dominate the legislative majority and the executive should be included in the process. Gün emphasized that the enactment of unconstitutional laws, the non-retroactivity of the Constitutional Court's annulment decisions and the fact that even the enforcement of annulment decisions can be postponed renders the constitutional review meaningless, and that even though there is a clear provision in the Constitution, the independence of the judiciary can be damaged through legislation. The proposed solutions for judicial reform aim to prevent this contradictory situation. Stating that the judiciary would attain full independence only with effective constitutional review, political pluralism in the legislature, and the separation and balance of powers, Mehmet Gün said, "If these reform proposals are realized, the judiciary will no longer be an institution dominated by political calculations, but will become an institution that provides an effective and efficient public service where all segments of society benefit equally."

Gün explained that in 2017 the Better Judiciary Association had developed a proposal to establish a "**Supreme Authority of Justice**" in order to carry out realistic, comprehensive and universally accepted judicial reform, and that the proposal shared with the public was widely accepted in different circles. He stated that the solution proposals compiled in *Turkish Judicial Reform from A to Z* had been written by working intensively for a year with a team of nine people, and that in this study, they had devised and published the provisions that should be included in the Constitution.

The solution proposals published by the Better Justice Association under the title *Turkish Judicial Reform A to Z* are as follows:

The judiciary will work effectively and efficiently and will be accountable to the law and be made fully independent; will have a competent and sufficient structure, and human resources to carry out its duty; and while peace and reconciliation are encouraged, cases will be concluded in three to four months.

1. The Supreme Council for the Judiciary will be service-oriented, fully independent, able to maintain its independence, and fully competent and sufficient to carry out its duties.

- The Council of Judges and Prosecutors will be transformed into the Supreme Authority of Justice, and the duties and powers given to the President and the Ministry of Justice regarding judicial services will be transferred to this institution.
- This institution will have a composition and number of members in which no individual, group or coalition can exert influence.
- Politicization in the judiciary will be prevented; the judiciary will focus on providing quality services.
- A permanent legal council will be established and will meet twice a year to make proposals.

2. All administrative decisions in the judiciary will be brought to judicial review by the specialized Supreme Court of Justice, and the judiciary itself will be made fully accountable under the law.

- Anyone who wishes will be able to file a lawsuit against assignment, appointment, promotion, and other administrative actions and decisions in the judiciary and participate in the proceedings without paying any fees or expenses.
- A specialized Supreme Court of Justice will be established and will hear these cases.
- Judgments will be made in a simple manner and rulings given within a short time period.

3. Judges and prosecutors will also establish their own independent, democratic professional organizations.

- Professional organizations of judges and prosecutors and their bar associations will be regulated as Judicial Professional Organizations in the judiciary section of the Constitution and will be separated from other chambers and commodity exchanges.
- The administrations of Judicial Professional Organizations will consist only of their own members and will be elected by democratic methods; they will be managed in such a way as to ensure the representation of different views.

- Professional organizations will have the duty and authority to defend the independence of the judiciary and the rule of law.

4. Peace and reconciliation will be increased, a high-quality service will be provided, with competent legal experts, and cases will be finalized in three to four months.

- With the uniform career plan, competent legal experts will be trained and human resources will be used effectively.
- The appointment of judges and prosecutors to the courts will be made on the basis of open competition among the authorities, by emphasizing their merits, and the public will be included in the appointment process of the members of the supreme court.
- Its courts will be optimally distributed on the basis of 26 development regions. The number of courts will be reduced from more than 7,000 to around 3,000.
- The expertise in the judiciary will be concentrated in the regional centers and the service will be brought to the public.
- Advanced dispute management will be introduced while promoting peace and reconciliation; this period will be used for the effective preparation of the files.
- A friendly, fast and safe service will be provided within hours, with judicial preparatory courts, which will distribute the workload in the proceedings fairly among the legal professions, give more responsibility to lawyers in case preparation and preliminary measures, and prevent arbitrariness and abuses.

5. High standards of legal security will be provided to the bureaucracy; the rule of law and equality of all before the law will be ensured unconditionally in relation to all public officials and politicians, including those with immunity.

- Honest public servants will be protected by law against their superiors and politicians; these people will be prevented from getting involved in corruption and being dragged into crime just because of obedience to their superior.
- The Office of the Chief Public Prosecutor will investigate charges against high-ranking public officials, not their administrative superiors, and litigation will be subject to the permission of the Supreme Court of Justice.
- The most competent heavy penal courts and prosecutors will investigate other public servants.

- In cases involving crimes committed by public officials, the prerequisite for investigation permission will be removed.
- Any public official may be prosecuted for suspected offences, without needing the permission of that person's superior as is currently the case.
- Public servants who committed crimes will definitely be brought to justice.

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 solution recommendations aimed at such problems, reach social consensus on the recommendations and apply the solutions.

Within this framework, 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.