

GERBRANDYDEBAT, 16 NOVEMBER 2016, THE HAGUE

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I WOULD LIKE TO EXTEND MY THANKS TO THE NETHERLANDS BAR FOR INVITING ME TO SPEAK AT THIS MEETING WHICH HAS A PLACE IN THE WORLD'S INTELLECTUAL ARENA.

I COMMEMORATE HIS EXCELLENCY GERBRANDY, THE LATE PRIME MINISTER, THE JUSTICE MINISTER, MEMBER OF THE PARLIAMENT AND LAST BUT NOT THE LEAST, THE LAWYER, WITH RESPECT.

AS YOU KNOW, IN REACTION TO THE FAILED COUP ATTEMPT, WHICH IS WIDELY BELIEVED TO HAVE BEEN UNDERTAKEN BY THE SO CALLED TERRORIST ORGANISATION FETO, A STATE OF EMERGENCY HAS BEEN DECLARED IN TURKEY. UNDER THE STATE OF EMERGENCY THE COUNCIL OF MINISTERS PRESIDED BY THE PRESIDENT HAS THE AUTHORITY TO ISSUE STATUTORY DECREES.

IN THE EVENT OF AN EMERGENCY THREATENING THE NATION, THIS IS A CONSTITUTIONAL WAY TO GOVERN. HOWEVER, OUR CONSTITUTION AND THE EUROPEAN CONVENTION OF HUMAN RIGHTS LIMIT THE POWERS OF THE STATE EVEN IN A STATE OF EMERGENCY. FOR EXAMPLE, THE PRESUMPTION OF INNOCENCE, THE PROHIBITION OF RETROSPECTIVE PENALTIES, THE RIGHT AGAINST SELF-INCRIMINATION, THE RIGHT TO A FAIR TRIAL SHOULD BE PROTECTED AT ALL TIMES.

MOREOVER, THE LIMITATION OF RIGHTS AND FREEDOMS SHOULD BE CONSISTENT WITH THE REASON FOR THE DECLARATION OF THE STATE OF EMERGENCY AND PROPORTIONATE.

ACCORDING TO THE AVAILABLE EVIDENCE THE MAIN BODY OF PLOTTERS WHO ORGANIZED THE COUP ATTEMPT BELONGED TO A RELIGIOUS AND CLANDESTINE SECT THAT HAD INFLITRATED THE STATE MACHINERY OVER 20 YEARS. IT IS CLEAR THAT THEY WERE ABLE TO ACT MUCH MORE FREELY FOR THE LAST 10 YEARS. THEREFORE THE STATE MUST BE CLEANED FROM THE MEMBERS OF THIS ORGANISATION. NEVERTHELESS, THIS SHOULD BE DONE WITH FULL RESPECT TO DUE PROCESS. BECAUSE DUE PROCESS IS THE ONLY WAY TO DIFFERENTIATE BETWEEN THE GUILTY AND NOT GUILTY.

UNFORTUNATELY, THE STATE OF EMERGENCY HAS BEEN DISTORTED OF ITS AIM TO FIGHT THE FAILED COUP. IT HAS ALREADY BEEN TRANSFORMED INTO A GOVERNING REGIME. THE INDEPENDENCE AND IMPARTIALITY OF THE JUDICIARY, WHICH WERE ALREADY PROBLEMATIC, HAVE BEEN ALMOST COMPLETELY DEMOLISHED.

THE REINSTATEMENT OF THE DEATH PENALTY HAS BEEN PUT ON PUBLIC DEBATE BY THE PRESIDENT ALTHOUGH THIS WOULD LEAD TO TURKEY BEING EXCLUDED? FROM THE COUNCIL OF EUROPE. IN SPITE OF BEING AWARE OF THIS, THE POLITICAL POWER HAS STARTED THE CAMPAIGN FOR REINSTATING THE DEATH PENALTY AND HAS BEEN ESCALATING IT WITH THE AIM TO GET A RESULT.

THE EXCLUSION OF TURKEY FROM THE COUNCIL OF EUROPE MEANS A RADICAL SHIFT IN OUR PATH OF MODERNIZATION THAT WE HAVE BEEN FOLLOWING SINCE THE 19TH CENTURY. TO BE MORE SPECIFIC THIS IMPLIES THAT WE WILL NO LONGER BE A PARTY TO THE EUROPEAN CONVENTION ON HUMAN RIGHTS. AND TO QUIT THE EUROPEAN CONVENTION ON HUMAN RIGHTS MEANS THAT THE FUNDAMENTAL RIGHTS AND FREEDOMS OF THE CITIZENS OF THE REPUBLIC OF TURKEY WILL BECOME COMPLETELY UNSECURED AND THAT WE WILL BE ROBBED OF OUR RIGHT TO APPLY INDIVIDUALLY TO THE EUROPEAN COURT OF HUMAN RIGHTS.

THE FREEDOM OF PRESS HAS BEEN RESTRICTED TO AN EXTENT THAT CANNOT BE ACCEPTED IN A DEMOCRATIC SOCIETY UNDER ANY CIRCUMSTANCES. MEDIA THAT ARE NOT SIDING WITH THE POLITICAL POWER ARE BEING FORCED TO SELF-CENSOR, WHICH IS THE MOST DANGEROUS TYPE OF CENSORSHIP. THE ARBITRARY INTERRUPTIONS ON THE INTERNET AND THE SOCIAL MEDIA ARE CARRYING THIS UNLAWFULNESS TO THE HIGHEST DIMENSION. STATE POWER IS BEING USED IN ORDER TO PREVENT THE PEOPLE FROM ACCESSING THE NEWS THAT THE POLITICAL POWER DOES NOT WANT THEM TO HEAR. ALL THE RESOURCES OF THE STATE ARE BEING MOBILIZED FOR POLITICAL PROPAGANDA.

THE GOVERNMENTAL DECREES OF THE STATE OF EMERGENCY ARE DIRECTLY TARGETING THE RIGHT TO DEFENCE AND THE LEGAL PROFESSION. THE ACTUAL TARGETS ARE THE FUNDAMENTAL RIGHTS AND FREEDOMS OF THE CITIZENS WHICH ARE BEING DEFENDED BY LAWYERS.

ALMOST EVERY RIGHT WITHIN THE SCOPE OF THE RIGHT TO A FAIR TRIAL IS BEING NEGLECTED.

JUDICIAL PROCEEDINGS HAVE BEEN DISTORTED OF THEIR AIM TO DISTINGUISH BETWEEN GUILTY AND INNOCENT AND HAVE BEEN TRANSFORMED INTO A MEANS OF LABELLING PEOPLE WITH PREJUDICE AND OF ELIMINATION. THE SOCIETY AND OUR INNOCENT CITIZENS WILL BE HARMED THE MOST AND THE TERRORIST ORGANIZATIONS RUINING AND DEMOLISHING OUR COUNTRY WILL BENEFIT THE MOST FROM THIS SITUATION. OUR CITIZENS NO LONGER TRUST THE JUDICIARY. THE JUDICIARY IS NO LONGER THE GUARANTEE OF THE RIGHTS AND FREEDOMS OF THE INDIVIDUALS.

EACH INVESTIGATION AND PROSECUTION CONCERNING THE PUBLIC HAS BECOME A REASON FOR THE SOCIETY TO BE MORE POLARIZED AND FOR OUR PEOPLE TO TURN AGAINST EACH OTHER. BECAUSE THE PERCEPTION OF ACTING PARTIALLY, DEPENDENTLY AND POLITICALLY HAS STUCK ON THE JUDICIARY.

THE ARREST OF PARLIAMENTARIANS, MAYORS, JUDICIAL ACTORS, JOURNALISTS, ACADEMICS AND LAWYERS BY COURTS OPEN TO THE INTERVENTION OF THE POLITICAL POWER ARE CAUSING THE TERRORIST ORGANIZATIONS TO GAIN GROUNDS AND WIDEN THEIR AREA OF PROPAGANDA.

HOWEVER; THE ONLY COMMON DENOMINATOR TO MAKE OUR 79 MILLION CITIZENS EMBRACE EACH OTHER AND BIND THEM TO THE TURKISH REPUBLIC IS JUSTICE. THE ONLY WAY TO BE CONFIDENT ABOUT THE FUTURE AND TO ENSURE PLURALIST-PARTICIPATORY DEMOCRACY IS THE RULE OF LAW.

AS THE UNION OF TURKISH BAR ASSOCIATIONS, WE CONTINUE TO WARN ALL OUR CITIZENS ABOUT THE CLEAR AND OPEN DANGER CREATED BY THE CONDITIONS WE ARE BEING DRAGGED INTO. WE URGE THE PRESIDENT AND THE POLITICAL POWER TO ABIDE BY THE UNIVERSAL RULES OF LAW AND TO END THE TENSION WITHIN THE SOCIETY.

AS THE FOUNDER OF OUR REPUBLIC MUSTAFA KEMAL ATATÜRK SAID; **“THERE ARE NO HOPELESS SITUATIONS. THERE ARE HOPELESS PEOPLE”.** LAWYERS WILL CONTINUE TO STAND FIRM AND KEEP THE HOPES ALIVE IN TURKEY.