

RULE OF LAW IN TURKEY

2017

WITCH HUNT'S JUDICIAL CLUB: PLATFORM FOR UNITY IN JUDICIARY (YBP)



This report is written by a group of lawyers and academics for the persecuted members of the Turkish judiciary. Although they had nothing to do with the controlled coup of July 15, 2016 they were dismissed from their jobs, sentenced to civil death, detained and/or arrested, and tortured. The report is predicated on concrete evidence that Turkey's Council of Judges and Prosecutors (HSK) -formerly known as HSYK- is nothing but the judicial enabler of the government's witch hunt. This has been realized through a platform called **The Platform for Unity in Judiciary (YBP)** which later on turned into **The Association of Unity in Judiciary (YBD)**.

WITCH HUNT'S JUDICIAL CLUB: PLATFORM FOR UNITY IN JUDICIARY

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INTRODUCTION

1. As a reaction to the investigations that had been conducted in December 2013 -which had also extended to some cabinet members, son of the-then-PM Erdoğan and sons of some ministers- the Government straightaway intervened into the judiciary and made some adjustments¹. They first discharged the police officers and the prosecutors who conducted the investigations from their profession and changed the Istanbul Chief Public Prosecutor. Meanwhile, Birol Erdem, the Undersecretary of the Ministry of Justice and member of the 1st Chamber of HSYK (The High Council of Judges and Prosecutors) was dismissed from his position and Kenan İpek was appointed in his place. Later, some members of the 1st Chamber of HSYK were replaced by other members of the High Council. A short while after these interventions, the Law No. 6524, which completely changed the structure of HSYK was issued. Pursuant to this new law, the Secretary General and all his Deputies, all of the Rapporteur Judges and Inspectors of the Council were dismissed from their offices.
2. While the Government was carrying out all these to cover up the above-mentioned investigations and to draw the judiciary under the control of the Government, a group of pro-government members from the judiciary led by the new undersecretary Kenan İpek established an association called *Yargıda Birlik Platformu* (YBP – *Platform for Unity in Judiciary*) under the tutelage of the Ministry

¹ For more information about the 17-25 Corruption probes see Muller, Hendrik (2014). Turkey's December 17 Process: A Timeline of Graft Investigations the Government's Response. Silk Road Papers. Available at <http://isdpr.eu/content/uploads/publications/2014-muller-turkeys-december-17-process-a-timeline.pdf>

of Justice in order to create a Judicial Council controlled by the Government.

3. Although the Platform asserted that they set out for this path to fight against the Gulen Movement and thus make the judiciary an independent power,² it has been understood in the later years that this was not the case and their main aim was to eliminate opponents of the government³.
4. Being backed up by the open support of the Government, *YBP* joined the *HSYK* elections with a block-list prepared by the ruling power and not surprisingly won the elections held on 12 October 2014 by means of intimidation, extortion and high promises. Thus, a new Government-approved *HSYK* –four members of which are directly appointed by the President and others specially picked up- was created⁴.
5. After its success in the 2014 elections, *YBP* is entitled to become an association in May and changed its name to *Yargıda Birlik Derneği* (*YBD* - The Association of Unity in the Judiciary).

² <http://t24.com.tr/haber/yarsav-YBP-cemaat-bagimsizlar-HSYK-secimleri-oncesi-adaylar-ne-diyor,272177> ;

<http://www.medyamit.com/mobil/haber/1022/hedefimiz-yargiya-guven>

³ <https://bipartisanpolicy.org/blog/hsyk-elections-and-the-future-of-judicial-independence-in-turkey/>

⁴ “A comprehensive report on the abolition of rule of law in Turkey. Non-independence and non-impartiality of Turkish Judiciary” 2017. Platform for Peace and Justice. Available at <http://www.platformpi.org/report-non-independence-non-impartiality-turkish-judiciary/>

HSYK CANDIDATES OF YBP WERE DETERMINED BY THE GOVERNMENT

6. When candidates of HSYK started to appear in public, the press broadcast news such as the following ones on the process that YBP followed to determine its candidates. According to daily Yeni Safak, *“In order to select their candidates for HSYK membership, the Platform for Unity in Judiciary constituted a 7-person elective council headed by Kenan İpek, the Ministry of Justice Undersecretary.”*⁵; and according to daily Sozcu *“Allegations on the High Council of Judges and Prosecutors elections expected to be held in October do not end. It is claimed that members of the Platform for Unity in Judiciary –which is formed by religious unionist (Hak-Yol), nationalist, and social democrat judges, prosecutors and bureaucrats who are known as AKP (the ruling party) supporters– reached a deal with the bargain they made with the Ministry for the HSYK elections. They have agreed that 3 of the 11 members-7 permanent, 4 substitute- will be from Hak-Yol union, 3 from nationalists, 3 from social democrats and 2 will be appointed by the Ministry.”*⁶

7. As can be clearly understood from these news and many other events, candidates of YBP for HSYK were determined collaboratively together with the Minister of Justice and therefore the Government under the organisation of the Ministry of Justice Undersecretary Kenan İpek.

⁵ <http://m.yenisafak.com/gundem/YBPadaylari-aciklandi-680115>

⁶ <http://www.sozcu.com.tr/2014/gundem/HSYK-secimlerinde-fisleme-iddiasi-566158/>

8. For the *HSYK* elections, *YBP* nominated from the criminal judiciary Ahmet Çiçekli (Erzurum Chief Public Prosecutor), Bilgin Başaran (Secretary General of *HSYK*), Mehmet Durgun (İstanbul Judge), Mehmet Yılmaz (Chief Inspector at *HSYK*), Metin Yandırmaz (Balıkesir Chief Public Prosecutor), İsa Çelik (Chief Inspector at *HSYK*), Ömür Topaç (Istanbul Anatolian Side Deputy Chief Public Prosecutor), Ramazan Kaya (Ankara Deputy Chief Public Prosecutor), Selahattin Menteş (Deputy Undersecretary of the Ministry of Justice), Turgay Ateş (Head of Denizli Criminal Court) and Zeynep Şahin (Rapporteur Judge at the Court of Cassation); and from the administrative judiciary, Cafer Ergen (Deputy Undersecretary of the Ministry of Justice), Halil Koç (*HSYK* member), Hasan Odabaşı (Member of Ankara Regional Administrative Court), Gönül Sayın (Member of Ankara Regional Administrative Court) and Mehmet Gökpinar (Head of Edirne Regional Administrative Court).
9. What attracts attention is that most of the *YBP* candidates are from the Government appointees. For example, two deputy Ministry of Justice undersecretaries and the General Secretary of the *HSYK* are among those candidates.
10. The role that Undersecretary Kenan Ipek played during the nomination process of the *YBP* is most intriguing. In the beginning, Kenan Ipek undertook the duty of establishing *YBP* and was active in determining the candidates who would be running for the *HSYK* elections. He then coordinated all of the election works and controlled the whole election process on behalf of the political power.

11. Kenan İpek's role in politicising the judiciary has more intensely continued after YBP became an association (YBD). İpek's relation with YBD is best depicted when YBD announced the following press release on 26 February 2017 to defend Kenan İpek, who was subjected to a verbal abuse by folksong singer Nihat Dođan: "As the family of YBD, we take the offensive words directed over the media personally and regard responding to these offences as part of our responsibility..." Kenan İpek himself is not a member of YBD. Undersecretary Kenan İpek could easily defend himself and file a law case about the offensive words used against him. Here we are of course not fending for the defamation he has been subjected to, but we want to point out that it is clearly not normal for a judiciary association to speak in defence of a political agent -the Undersecretary of the Ministry of Justice.

YBP CARRIED OUT THEIR ELECTION CAMPAIGN USING PUBLIC FACILITIES

12. YBP brought out their HSYK candidates at the meeting they held on 31 August 2014 at Ankara Nazım Hikmet Culture Centre. To this meeting, the Ministry of Justice Undersecretary Kenan İpek, his deputies, Chief Public Prosecutors of Ankara and Istanbul, and thousands of judges and prosecutors attended.⁷ Free busses from public prosecutor offices also carried the attendees and these busses were escorted by the state's police force.⁸ At this meeting, the platform displayed a show-off just like a political party.

⁷ <http://www.haberler.com/adalet-bakani-mustesari-ipek-YBP-nin-HSYK-adaylari-6434958-haberi/>

⁸

http://www.cumhuriyet.com.tr/koseyazisi/114051/AKP_nin_HSYK_Korkusu_nun_Perde_Arkasi.html



“From the endorsement meeting held for the YBP candidates. Congratulations.”

13. To facilitate the victory of YBP candidates, all state bodies, especially the Government and the Ministry of Justice, used every means available. While the Government was giving public the message saying, “We support YBD,” the rivals of the YBD candidates were being intimidated and deterred. Near the elections on 4 September 2014, YBP paid a visit to the then-PM Ahmet Davutoğlu.



“We paid a congratulatory visit to our Prime Minister. We conveyed him the problems of the judiciary.”

14. YBP candidates performed their electoral campaign with limitless access to public facilities. It was made compulsory for all judges and prosecutors to attend the regional meetings of YBP which were organised as part of their election campaign. Judges and prosecutors were invited by personal telephone calls made by the respective chief public prosecutors and hinted that names of those who did not attend the meetings will be noted. This made the judges and prosecutors feel themselves obliged to attend these meetings. Meanwhile, all necessities of YBP candidates were met from public resources and they were given meals by provincial governors.⁹

9

http://www.cumhuriyet.com.tr/koseyazisi/114051/AKP_nin_HSYK_Korkusunun_Perde_Arkasi.html



“We are having meal together with Bursa Chief Public Prosecutor, President of Regional Administrative Court, Chief Public Prosecutor of the Regional Court of Appeal and Head of the Commission, judges and prosecutors.”



“As YBP candidates, we came together with our colleagues in İzmir. We witnessed a longing for a HSYK that will act in justice.”

15. During their campaign visits, YBP candidates were hosted and taken to tours by the top representatives of local judicial institutions; dinner parties

and meetings were organised for their honour by Chief Public Prosecuting offices and presidents of Regional Administrative Courts, while all judges and prosecutors were forced to attend these meetings.



Cafer Ergen, 19 yeni fotoğraf ekledi.

23 Eylül 2014, 20:27 · 🌐

Samsun Bölge İdare Mahkemesi ziyaretimiz tamamlandı. Samsun Cumhuriyet Başsavcısı, Samsun Adalet Komisyon Başkanı, Ağır Ceza Reisleri, Başsavcısı Vekili, Samsun Bölge İdare Mahkemesi Başkanı, Samsun İdare ve Vergi Mahkemesi Başkanları, Samsun Bölge İdare, İdare ve Vergi Mahkemelerinde görev yapan çok değerli meslektaşlarımıza ayrı ayrı en içten teşekkür eder selam ve saygılarımızı sunarız.

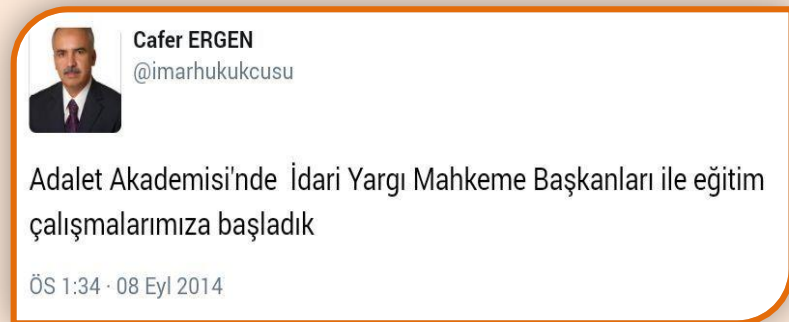
Our visit to Samsun Regional Administrative Court is accomplished. We offer our most sincere thanks to Samsun Chief Public Prosecutor, Head of the Justice Commission, Heads of Criminal Courts, Deputy Chief Public Prosecutor, President of Samsun Regional Administrative Court and many of our colleagues working in the courts of Samsun.”

16. The Ministry of Justice was very bold in providing all the support that YBP needed to win the elections. Their main electoral strategy was defined by the Ministry. For this, different working groups were formed from the bureaucrats and rapporteur judges to scrutinise the strategy and coordinate campaign activities. One of the most prominent of these groups was the one that was given the duty of processing the profiling lists that came from local representatives of YBP, then serving them to the pro-government press and social media, thus creating a pressure on other candidates and all judges and prosecutors.

17. Meanwhile, the Ministry arranged subsidised duty assignments for the presiding judges and ministerial bureaucrats under the title of “Strategic

Planning Work” so that they can visit the court houses on behalf of YBP for the judicial election campaign.

18. Moreover, whilst presiding judges and chief public prosecutors were summoned to Ankara for reasons of compulsory attendance to seminars, meetings, etc. and were preached to work for the YBP candidates in their cities, the teams of the Ministry of Justice travelled to cities and organised the electoral campaigns for the YBP candidates under the disguise of “seminars”. In addition to all the benefits and allowances mentioned above, the Government arranged for the YBP free meeting halls and transportation. In south-eastern cities, which are under threat of terrorism, the YBP candidates were transported to courthouses by helicopters, while other candidates had to reach their constituency by means of transportation they arranged with their own money.



“At the Justice Academy, we started our training activities with the presiding judges of administrative courts.”

19. Although the Ministry denied other candidates the information technologies it has got, candidates of YBP were allowed access to these resources (for example, they were supplied e-mail addresses and telephone numbers of all the judges). By using UYAP (National Judicial Network Portal), YBP sent an empty survey to official mail addresses (with extension

“adalet.gov.tr”) of all the judges and prosecutors all around the country and demanded them to write down the names of their candidates. YAR-SAV (Turkish Association of Judges- an independent NGO serving for judges and prosecutors) reacted negatively to the usage of official mail addresses given by the Ministry, which are supposed to be private. “By both using the UYAP and the institutional e-mail addresses, the survey will make it possible to reveal who prefers who,” stated YAR-SAV. “This vague and unsecured survey makes one to ask the question whether this was a profiling activity conducted under the cover of defining the general tendency of the members of the judiciary.”¹⁰

20. At the same time, the pro-Government newspapers and TV channels known as “the pool media” gave open support for the YBP candidates, and they published the statements of YBP spoke-persons as front page coverage with huge shouting fonts. While promoting the YBP candidates, these media channels slandered and defamed other candidates and falsely accused them for being “crypto-drug addicts, parallel state members”.¹¹



¹⁰ <http://www.sozcu.com.tr/2014/gundem/HSYK-secimlerinde-fisleme-iddiasi-566158/>

¹¹ <http://www.hurriyet.com.tr/yazarlar/taha-akyol/HSYK-secimleri-27263676>



Pro-government media's headlines smeared independent candidates.

21. Through the twitter accounts known to be controlled by officials working at the Ministry of Justice, such as "@kuscuesref @kuzcubasiesref!?", the rival candidates and opposing members of the judiciary were defamed and smeared with all sorts of false accusations.



Every move of the candidates other than those of YBP had been ridiculed; and names, surnames and titles of the judges and prosecutors who had attended the meetings of the rival candidates were publicised by these accounts to pressurise and discourage these candidates and their potential supporters.



These Twitter accounts were solely opened to manipulate the HSYK elections to the advantage of YBP to smear the rival candidates and frustrate these candidates by exerting pressure on them.



 **Kuşcubaşı Eşref** @kuscuesref 24 Ağu 2014
Erdoğan-Davutoğlu ve Fidan

Bu üç yiğide sahip çıkacağız sonunda şahadet dahi olsa..

↩ 432 ❤ 246 ✉

 **Kuşcubaşı Eşref** @kuscuesref 24 Ağu 2014
Yeni Türkiye'nin kuruluşunda üç büyük kahraman vardır:

Recep Tayyip Erdoğan,
Ahmet Davutoğlu,
ve Hakan Fidan.

Bü yiğide sahip çıkacaz+

 **Kuşcubaşı Eşref** @kuscuesref 

YARSAV listesinde yer alan Murat Aydın.

Özel biri.

Paralel İhanet Çetesi'nin bu isme büyük yatırım yaptığını artık herkes biliyor.

ÖÖ 9:54 · 02 Eyl 2014

 **Kuşcubaşı Eşref** @kuscuesref 

HSYK tetkik hâkimi ve paralel ihanet çetesinin HSYK adayı İdris Berber bugün Kastamonu adliyesindeydi az önce ayrıldı. Biz de yanındaydık.

ÖS 12:56 · 02 Eyl 2014

 **Kuşcubaşı Eşref** @kuscuesref 

Yargıtay 3. Hukuk Dairesi tetkik hakimi Hasan Ünal da kripto haşhaşi olarak bağımsız aday oldu.

ve Van Adliyesini ziyarete gitti.

ÖÖ 5:44 · 27 Ağu 2014



Every single one of their tweets was based on this issue and nothing else. The Government provided endless support for the YBP candidates and by way of these social media accounts and the “pool media”, it threatened other competing candidates and their supporters.

22. Even the advertising agencies of the ruling party's election campaign gave free counselling to the HSYK candidates of YBP during their campaign activities.

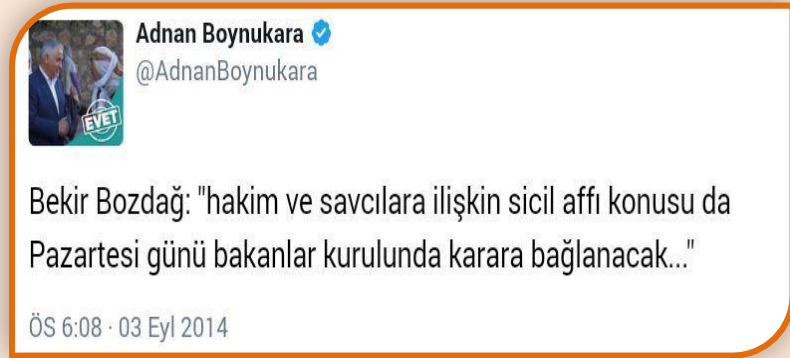


GOVERNMENT FACILITATED THE VICTORY OF *YBP* BY GIVING PROMISES

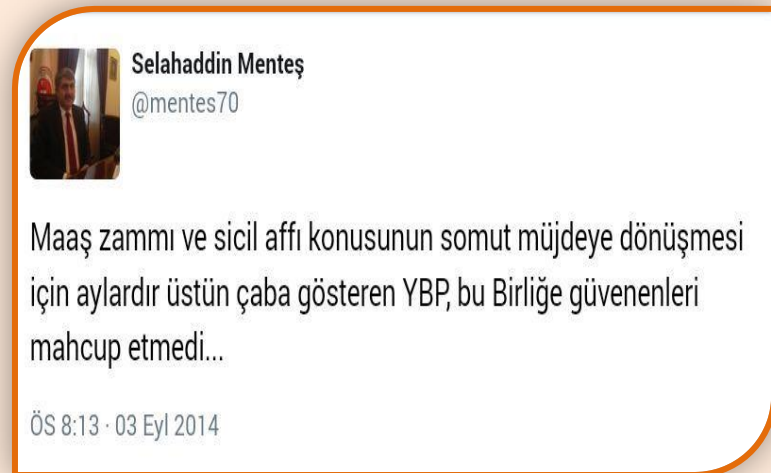
23. In order to pave the way for *YBP* to win the judiciary elections, besides openly supporting the *YBP* candidates and intimidating their rivals, the Government also promised to clear all the low performance records of the judges and prosecutors and increase their wages.¹² Indeed, after *YBP* came out of the elections as the winner, these promises were fulfilled by the Law with No. 6572 promulgated on 2 December 2014 and performance

¹² <http://www.hurriyet.com.tr/HSYK-oncesi-yargiya-zam-ve-disiplin-affi-mujdesi-26634415>

records were cleared and the wages of judges and prosecutors were increased by 1,155 TL. Clearance of performance records was a reward for especially the judges and prosecutors who received various penalties in the past. Even a YBD-member judge who had been caught courtering illegal drugs was exonerated.



Min. of Justice Bekir Bozdağ: "The issue of clearing the performance records of judges and prosecutors will be settled at the Cabinet Meeting on Monday".



Having spending a great effort for months to materialise the wage increase and performance record clearance, YBP did not disappoint those who put their trust in this union.

24. YBP candidates' conduct of electoral campaign by using public facilities caused a great dispute. Izmir judge and YAR-SAV administrator Murat

Aydın expressed his reaction as follows: “Invitations for promotion meetings for *YBP* candidates are made by chief public prosecutors. Is an “independent” (!) judiciary constituted like this? Electoral campaign for the *HSYK* candidates of *YAR-SAV* (Turkish Association of Judges) is run by members of the judiciary not by the Ministry of Justice. Because of this, if we are elected, we will be the representatives of our colleagues not the Ministry. Can those who are elected as a result of a campaign run with the facilities of the Ministry safeguard their colleagues against the demands of the Ministry?” While Nuh Hüseyin Köse, the Istanbul Anatolian Judge and Administrator of the Judges Union, said: “The Chief Public Prosecutors started openly to exert influence over the *HSYK* elections. Now I would like to ask: Is *YBP* (Platform for Unity in Judiciary) a governmental organisation? Are Istanbul and Istanbul Anatolia Chief Public Prosecutors secretaries of *YBP*? Who is going to pay the bill for their bulk telephone messages and the transportation of the judges and prosecutors who are taken from Istanbul to Ankara? Is this *HSYK* election fair and impartial?”¹³

25. Ömer Faruk Eminağaoğlu, the Head of the Judges Union, criticised the Government’s promises given to manipulate the election results: “*HSYK* was established so that the judiciary will be independent. It will be enough if all the powers will keep their hands off of the elections. They are offering performance record clearance as a favour. The judiciary does not want any favour. The political rulers accept that they are acting unlawfully. They are doing this to cover up their own illegal acts. The wage increase is openly for manipulating the elections and this is clearly visible because the increase is given on the election date and only those who are going to vote will benefit from this pay rise.”¹⁴

¹³ <http://www.haberler.com/HSYK-secimlerine-1-ay-kala-kavga-basladi-6433283-haberi/>

¹⁴ <https://www.aydinlik.com.tr/arsiv/avrupali-yargiclar-HSYK-secimleri-adil-degil>

26. Christophe Regnard, the President of the International Association of Judges, visited Turkey in September 2014. He stated that the *HSYK* elections had not been held under fair conditions.¹⁵ “Considering the economic conditions in the world and in Europe, it is very rare to consider a 30 per cent pay rise,” he pointed out. “In principle, an increase in judges’ wages is good news. But it is a bit odd that they postpone its implementation after the elections, because it will be perceived as a promise-to-be-fulfilled if voted for pro-Government candidates. If the Turkish Government genuinely wants to give rise to judges’ wages, there is a fix solution for this: give this rise now or do not bring it within the election calendar.”¹⁶

THE ELECTION RESULT WAS COMMENTED IN FAVOUR OF THE GOVERNMENT

27. After the elections held on 12 October 2014, the *YBP* candidates Mehmet Durgun, Mehmet Yılmaz, Metin Yandırmaz, İsa Çelik, Ömür Topaç, Ramazan Kaya, Turgay Ateş and Halil Koç were elected as *HSYK* members, and this result was presented as the victory of the Government. Many newspapers and television channels pumped the news that the Government-supported *YBP* won the elections, thus the Government heaved a sigh of relief.¹⁷

¹⁵ <http://anadoluturkhaber.net/TR/Detail/European-Judges-Supreme-Court-Elections-Are-Not-Fair/4483>

¹⁶ <http://www.haberler.com/avrupa-yargiclar-birligi-bagimsiz-HSYK-olmadan-6469732-haberi/>

¹⁷ <http://www.milliyet.com.tr/HSYK-da-8-asil-uye-yargida-gundem-1953614/> ;
<http://www.internethaber.com/HSYK-secim-sonuclari-aciklandi-729488h.htm>;
<http://www.diken.com.tr/HSYKda-son-raundu-hukumete-yakin-yargida-birlik-platformu-kazandi/>



Media interpreted the YBD's victory as the government's victory

FOUNDERS OF YBD ARE THE GOVERNMENT APPOINTEES

28. After being successful at the HSYK elections as expected, YBP (Platform of Unity in Judiciary) became an association and adopted the title of YBD, the Association of Unity in Judiciary. The Founding Committee of YBD is composed of Basri Bağcı, Selahattin Menteş and Musa Heybet, the

Ministry of Justice Deputy Undersecretaries; Cafer Ergen, the former Deputy Undersecretary (currently member of the Council of State); Aytekin Sakarya, General Director of Criminal Affairs of the Ministry of Justice; Turan Kulođlu, Deputy General Director of Legal Affairs of the Ministry of Justice (currently Deputy Secretary General of *HSYK*); Alpaslan Azapađası, General Director of Strategy Development Directorate of the Ministry of Justice; Metin Kıratlı, Deputy Secretary General of the Turkish Presidency; Turgay Ateş, İsa Çelik, Mehmet Durgun, Ramazan Kaya, Ömer Kerkez, Halil Koç, Muharrem Özkaya, Ömür Topaç, Metin Yandırmaz and Mehmet Yılmaz, *HSYK* members; Bilgin Başaran, Secretary General of *HSYK*; Musa Kanıcı, Deputy Secretary General of *HSYK*; Kemal Açıkgöz and Şaban Kazdal, Deputy Presidents of Inspection Board of *HSYK*; Harun Kodalak, Ankara Chief Public Prosecutor (currently prosecutor at the Court of Cassation); and Ahmet Çiçekli, Erzurum Chief Public Prosecutor.

29. It can be easily seen that a vast majority of the founders are from the judicial bureaucracy who are appointed by the Government and who enjoy prominent public authority through the high positions they occupy. Meanwhile, although the Deputy Secretary General of the Turkish Presidency, Metin Kıratlı has not got an occupation related to the judiciary, he has been among the founders of *YBD*, a judicial association. Moreover, from the founders, Muharrem Özkaya had been appointed as a member of *HSYK* by the President Recep Tayyip Erdoğan while he was serving as an attorney of the President Erdoğan. Further, his brother Ali Özkaya is one of the attorneys of Erdoğan and also a member of parliament from the AKP.

DIRECTORS OF THE ASSOCIATION ARE FROM THE BUREAUCRATS OF THE MINISTRY OF JUSTICE

30. The Chairmanship Council is constituted by Musa Heybet, Cumali Karakütük and Birol Kırmaz. Pursuant to its regulation, the Chairmanship is exercised by these people in turns. Musa Heybet is also one of the Deputy Undersecretaries of the Ministry of Justice.

YBD SEEMS LIKE A POLITICAL PARTY

31. From the first day it appeared as a platform, YBD has established very close ties with the ruling power. We can even say that it has emerged directly out of the political power. As we mentioned earlier, the Platform was founded by the Undersecretary of the Ministry of Justice, Kenan İpek. All the works related to the establishment of the Platform had been carried out within the Ministry. The Minister of Justice and hence the Government has given open support to this platform.
32. The Platform (later the Association) held many meetings, public or private, with the officials of the Government and the President. President Erdoğan accepted the YBD directors on 18 January 2017 and stated that YBD is established against FETÖ, the so-called organisation he claims captured the judicial system, and he alleged that the damage caused by this organisation has been repaired by YBD. "Maybe it will be too hard," he said, "But, the dog barks, but the caravan moves on... We will continue on our way. Let them try as much as they can to try to block our way... The Association of Unity in Judiciary is established to fight this organisation. **You must be the rulers of the wrestling field.** First HSYK has been rescued, then the cleansing process has started."¹⁸
33. With these words, the President admitted that YBP was established with the order of the political power during the December 17, 2013 period.

¹⁸ www.sabah.com.tr/gundem/2017/01/18/yargi-birlikleri-kulliyede-canli

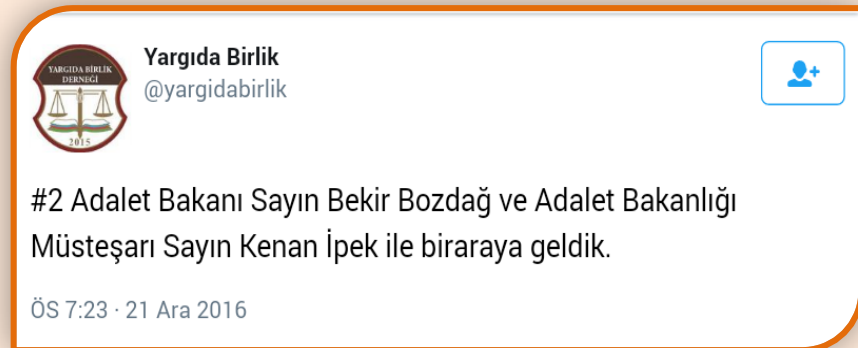
The President issued a message to the judiciary over the YBD directors he hosted at the presidential palace. Even this reception only is the clear evidence of the ruling power's intervention in and controlling over the judiciary by way of YBD.



34. On the other hand, the Minister of Justice and his Undersecretary have taken part in all the activities of the association and spared nothing to give governmental support. They are engaged in such an intense relationship with each other that it is nearly impossible to tell whether an activity is conducted by the Ministry or the Association. When looked from outside,

the association is perceived like a sub-unit of the Ministry. However, the Ministry has always remained aloof toward the judicial associations like YARSAV, the Union of Judges, and Democratic Judiciary and even confronted them, tried to close them down and even stopped their activities. The sympathy that the Ministry of Justice and the Government show to YBD has never been shown to any of the NGOs. This clearly indicates that YBD is founded under the order of the Government and the Government is keeping the judiciary under control by means of this association.





YBD PUT THE JUDICIARY UNDER THE DICTATE OF THE RULING POWER

35. Looking at the activities of YBP after it has become an association, we see that they fulfilled nothing to solve the problems of the judiciary or of its members. Instead, they tried to push the judges and prosecutors under the order of the political power with their statist rhetoric based on the hostility against the so-called *FETÖ*. For this purpose, they always tried to show themselves side-by-side with the members of the ruling party and organised dinner meetings with judges and prosecutors by exploiting the authority of the chief public prosecutors in rural provinces and held meetings with the heads and members of the high judicial bodies in the centre.



Yargıtay Üyelerimizle BİRLİK Olduk

📅 27 Ocak 2016

Yargıda Birlik Derneği Yönetim Kurulu olarak, 18 Ocak 2016 Pazartesi günü akşam yemeğinde Yargıtay üyelerimizle BİRLİK olduk....

BD Danıştay Daire Başkanları ve Üyeleriyle Akşam Yemeğinde Bir Araya Geldi



📅 14 Ocak 2016

Yargıda Birlik Derneği Başkanlık Divanı olarak 14 Ocak 2016 Perşembe günü Danıştay Daire Başkanları ve üyelerimizle akşam yemeğinde bir araya geldik.

Hâkimler ve Savcılar Yüksek Kurulu Başkan Vekilimiz, 1. Daire Başkanımız ve Üyelerimizle de iştirak ettiği programda birlik ve beraberlik vurgusu yapıldı.

36. At these meetings, they intensely used the rhetoric claiming that, “the organisation called *FETÖ* has captured the whole of the state, is trying to destruct it, because of this the state must be reclaimed back from it, and they must save the state,” and preached the members of the judiciary to stand on the side of the “state”. At this point, while they wanted the members of the judiciary to take the side of the state, they actually wanted them to take a stand on the side of the ruling power.

Having based their *raison d'être* and all their activities on the “hatred against *FETÖ*”, YBD actually holds only one objection: To create a perception as if there is a fight between the Government and the *Cemaat* (followers of *Hizmet* Movement) and with this take the judiciary under the control of the Government.



Büyük İstanbul Buluşması Gerçekleşti

📅 3 Eylül 2016

Yargıda Birlik Derneği'nin Haliç Kongre Merkezinde düzenlediği Büyük İstanbul Buluşmasında meslektaşlarımız ve aileleri ile bir araya geldik....



İstanbul'dayız...

📅 16 Nisan 2015

Yargıda Birlik Derneği Yönetim Kurulu olarak bugün İstanbul'dayız.....

37. HSYK members attend such meetings too and give all judges and prosecutors this message: “I am backed by the Government and I have the power!” And indeed, the judges and prosecutors who see that YBD is supported by the ruling power, they feel they are obliged to attend this type of meetings.



ESKİŞEHİR'DE BİRLİK OLDUK

📅 9 Aralık 2016

Yargıda Birlik Derneği olarak 03 Aralık'ta Eskişehir, Afyon, Kütahya ve Bilecik'te görev yapan adli ve idari yargı mensubu meslektaşlarımızla Eskişehir bölgesel toplantısında kahvaltıda bir araya geldik....



Yargıda Birlik Ailesi İzmir'de Bir Araya Geldi

📅 10 Şubat 2016

38. Meanwhile, YBD organised many meetings addressing directly to the candidate judges and prosecutors in both rural provinces and major city centres. It is a known fact that candidate judges/prosecutors fulfil their internships at court-houses which are administratively dependent to the Ministry of Justice. With the privilege they are given by the Ministry, YBD also organised various meetings with candidate judges and prosecutors by way of the orders coming from the chief public prosecutors. Until today, none of the judicial associations has held any meeting with the candidate judges and prosecutors. They have not even thought about doing such a thing. YBD, however, whenever they want, organises meetings with the candidate judges and prosecutors at court houses or with those studying

at the Turkish Academy of Justice. The main objective of these meetings is to bring the future judges under their influence and make them dependent to the political power.



İstanbul Anadolu Adliyesi'nde Staj Gören Hâkim ve Savcı Adaylarımızla Bir Araya Geldik

📅 31 Mayıs 2016



Kırıkkale Adliyesi'nde Birlik Olduk

📅 26 Ekim 2016

Bugün Kırıkkale Adliyesinde staj yapan 19. ve 20. Dönem hâkim ve savcı adaylarımızla BİRLİK olduk....

YBD OFFICIALS USE A LANGUAGE SIMILAR TO THAT OF THE GOVERNMENT

39. The current ruling political power in Turkey has been ripping power by constantly creating an enemy and then polarising the society. In each ruling term, one different part of the society has been made “enemy”. Since December 2013, “the Cemaat/the Gulen Movement/the Parallel Structure/*FETÖ*” has started to be presented by the ruling power as “the greatest enemy”, “the biggest threat to the state and the nation”.
40. Whenever they label a part of the society as enemy, they surge attacks on them from all sides and engage in everything to annihilate them as a whole without differentiating the innocent from the guilty or the righteous from the wrongful. The press and the social media are used for this purpose as relentless propaganda tools.
41. Because the political power may not, and is not supposed to, intervene in the judiciary by officially approved means, they aimed to interlope in the judicial affairs by means of *YBD* (a seemingly legal and official tool) and they managed to do this. Founded for this purpose, *YBP* (*YBD*) also exploits methods and devices similar to those used by the Government and pulled members of the judiciary to the government side by using the rhetoric of the “*Cemaat* enmity”.
42. Looking at the statements and social media postings of the *YBP* candidates, who have later become members of *HSYK* and the *YBD* officials, we see that they use a polarising political language, openly support political parties, give orders and opinions that may exert influence over the members of the judiciary who are hearing court cases and

conducting prosecutions against the so-called *FETÖ* and announce some judges and prosecutors as members of a terrorist organisation even before they are fairly tried.

43. Although some may say that *HSYK* has no jurisdictional duties, so *HSYK* members can express such statements, this claim does not reflect the reality. For, in the Constitution, the duty of providing and protecting the independence and impartiality of the judiciary is vested in *HSYK*. Hence, the *HSYK* members too carry the responsibility for providing and protecting the judicial independence and impartiality.
44. *YBP* member and Deputy President of *HSYK*, Mehmet Yılmaz, has constantly made political statements, made reckless comments and explanations on the investigation files, which are supposed to be kept confidential and served the content of these files to the press.
45. When President Recep Tayyip Erdoğan said that, “The meeting initiated by *HSYK* is a belated meeting,” on the investigation that *HSYK* started against Metin Özçelik and Mustafa Başer, the two judges who had issued releases in April 2015 for Hidayet Karaca the Director of STV Broadcasting Company and a group of police officers, Mehmet Yılmaz replied, “I offer my apologies to the public. Our decision has been delayed, because the weekend cut in.” By apologising, instead of standing upright against the comment made by the President, which openly posed an intervention into the judiciary, he manifested that they have submitted the judiciary to the executive.
46. After the coup attempt, Mehmet Yılmaz pre-judged the members of the judiciary, who had been dismissed from their profession but not convicted for any kind of crime and declared them as members of an “armed terrorist organisation”.

47. This manner displayed by Yılmaz is no different than the manner displayed and the rough language used by the Government. This type of statements can never be uttered by a lawyer, let alone someone who is presiding a council that is supposed to be protecting the impartiality and independence of the judiciary against the executive.
48. Can we then say that the judges who are going to hear the cases of the individuals, who have been dismissed from their profession and accused of being members of a terrorist organisation, will not be influenced by these words of Mehmet Yılmaz?



Mehmet Yılmaz
@mehmetyilmaz073

11/Hain darbe teşebbüsü sonrası, silahlı terör örgütü üyesi oldukları hususu kesin kanıtlanan yargı mensupları hızla görevden uzaklaştırıldı

ÖÖ 11:03 · 13 Ağu 2016



Mehmet Yılmaz
@mehmetyilmaz073

HSYK genel kurulu Fetö örgütü üyesi olduğu kanaatine varılan 2847 hakim ve savcı hakkında 667 S. KHK nin 3.Mad.gereği ihraç kararı verdi

ÖS 3:33 · 24 Ağu 2016

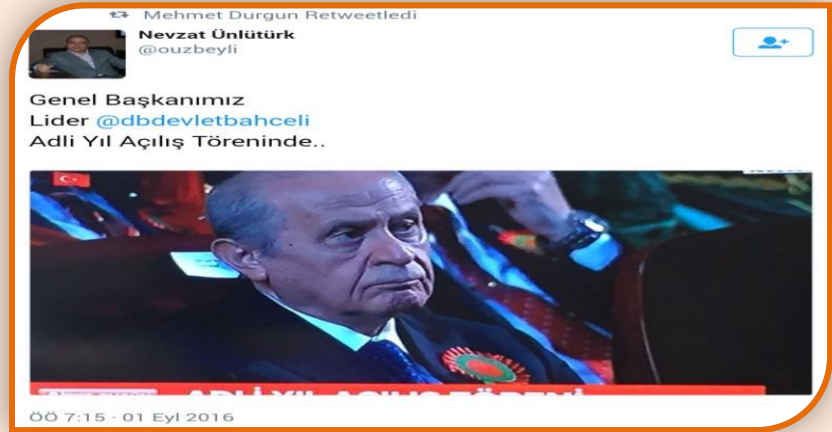
49. Another YBD member and Head of the 3rd Chamber of HSYK Metin Yandırmaz has been sharing the ByLock-related tweets of a pro-government troll Twitter account titled *Üst Akıl Oyunları*. No one can say that the judges will not be influenced by the social media messages of a Chamber Head of HSYK about ByLock with the words reflecting the

mouth of the political power, which is the most controversial evidence of the investigations carried out with the so-called claim of *FETÖ*.



"Oh the children of this homeland who are subjected to interventions of some people while fighting against the ByLock people, do not be intimidated, our President is at your back."

50. While other two YBD-member lawyers of HSYK Mehmet Durgun and Ramazan Kaya tweets messages as if they are not jurists but political members of the Nationalist Movement Party.





51. İsa Çelik, another HSYK member from YBD has once tweeted saying, “Defending the country and fighting against the parallel organisation is a religiously compulsory duty.” At first sight, one can say that this is quite a normal message shared by a HSYK member who loves his country like all other good citizens. However, it must be recalled that it is nothing other than exerting influence over the judiciary for a HSYK member to target some defendants with a political rhetoric which is completely contrary to the law at a time when many investigations and cases are being conducted in relation to the mentioned social structure.

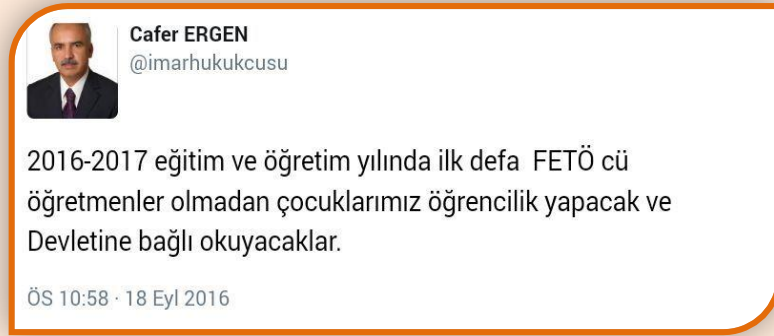


“Defense of the Homeland and fight against the “Parallel Organization” are religiously obligatory.”

52. For it is not independent against the executive and to the contrary it exhibits great effort to fulfil the orders and instructions of the political power and as part of this attitude, exert great pressure upon the judges and prosecutors, the predominantly-YBD-membered *HSYK* has been harshly criticised in the EU Progress Reports and in the reports of the Venice Commission. Consequently on 8 December 2016, the European Judicial Network (EJN) has revoked *HSYK*'s observer status for the reason that it has lost its independence before the executive.
53. Meanwhile, we see a similar picture when we look at the YBD members who were nominated to *HSYK* but not elected. Ministry of Justice Deputy Undersecretary Selahattin Menteş, for example, has been posting social media messages that openly glorify the ruling political party, AKP.



54. Again, another YBD member who could not be elected to HSYK is Cafer Ergen, who is currently a member of the Council of State. He has been sharing polarising, targetting, hateful social media messages that announce the people who have not even been tried as terrorists. Cafer Ergen pre-judges and declares all the teachers, who have been dismissed from their profession with KHKs (Governmental Decrees) as terrorists. Is it at all possible for such a person to act in impartiality when given the duty to try the case of one of these teachers?



"First time in the 2016-2017 academic year, our children will be schooled in the absence of FETÖ teachers and they will study as loyals to their state."

55. We also see that YBD member Turan Kuloğlu, who currently works as the Deputy Secretary General of HSYK, shares political activities of the ruling party, while Yakup Dokgöz has shared tweets that promote Recep Tayyip Erdoğan during the presidency elections and he praised Erdoğan, while defaming Bülent Ecevit, the late leader of the Democratic Leftist Party.



YBD member Turan Kuloğlu propagating the ruling party's activities.



Yakup Dokgoz praising Erdoğan's success in politics.

YBP HAS PROFILED THE JUDGES AND PROSECUTORS

56. As soon as it is established, YBP started campaigning for the HSYK elections to be held in October 2014. For this purpose, they first profiled all the judges and prosecutors one-by-one according to their proximity/opposition to the Government and thereby to YBP. This profiling has been done under the directives of the ruling power and organised by the rapporteur judges working at the Ministry of Justice. As part of this work, the court houses in all around the country and the judicial institutions in city centres were divided into regions; one Ministry Rapporteur Judge has been appointed to each of these regions, while at rural provinces regional judicial representatives were appointed. The profiling data which came from these representatives were processed and combined at the centre. By the time the October 2014 elections were held, nearly all of the judges and prosecutors had been profiled like this.
57. After the HSYK elections, the profiling was deepened by examining the distribution of the votes cast in each ballot box and the prepared lists have been used for the assignments and promotions at the new HSYK. When looked at the recent assignments and promotions conducted by the new HSYK, it can easily be seen that closeness to YBP was taken as the main criterion.
58. The profiling lists were also used when admitting members to YBD during the process of transforming YBP into an association. According to its regulation, YBD does not accept applications for its memberships. They only register the members to whom they send invitation. Within this system, the association sent personal messages to the individuals they had determined from the list of judges and prosecutors given by the Ministry of Justice.

59. An interesting point catches the attention. Among the thousands of people to whom they sent invitation, there is not a single person from the 4,000 judges and prosecutors who have been dismissed with the claim of FETÖ straight after the coup attempt. They also left all the members of other judicial associations (e.g. YAR-SAV, Judges Union, and Democratic Judiciary) out of the invitation list. This is not coincidence, for everyone who had been sent membership invitation have been admitted. This shows us that YBD has sent its membership invitations based on the profiling lists.
60. Most importantly, all the dismissals and detentions of members of the judiciary after the July 15 coup attempt have been carried out according to these profiling lists. The names of nearly 4,000 judges and prosecutors who are dismissed from their profession, had been determined based on the data present in those lists. On what ground did they determine the nearly 3,000 judiciary members who are dismissed from their positions just within hours after the coup attempt? Considering that there was no investigation whatsoever filed against these members of the judiciary before, names of these people can only be determined based on the profiling lists that had been prepared much earlier than the coup attempt. Indeed, Prosecutor Seyfettin Yiğit, who committed suicide after being dismissed and detained, was labelled as “YBP opponent” by the YBP.¹⁹

¹⁹ <http://tsjustice.info/wordpress/2016/09/18/turkish-judges-prosecutors-blacklisted-pro-Government-association-YBD-2014>

CONCLUSION

61. All these facts show that the Government has made *YBP* to be established to cover up the corruption interrogations filed against them and not to face with such risks again. By means of *YBP*, the Government has taken *HSYK* under its control, then facilitated the Platform to turn into an association through which it exercises its power on the judiciary.
62. Considering that *YBP-YBD* has been established under the order of, and supported by, the Government who is currently controlling the judiciary by means of this association, it can be quite clearly seen that it is impossible for a *YBD* member judge to be independent and impartial.
63. As it is known that *YBP* has especially emphasised that its foundation purpose is “to fight against Gulenists” and that the founders, members and administrators of this Association declared this social movement as a terrorist organisation without any hard evidence or a credible court decree, it is out of question for a *YBD* member judge to interpret and apply the laws independently and impartially while hearing a so-called *FETÖ* case.

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PLATFORM FOR PEACE & JUSTICE

Platform for Peace and Justice (PPJ) is a platform that monitors and reports the developments in the fields of peace, justice, democracy, the rule of law and human rights, with a special focus on Turkey.

PPJ is currently an online intellectual medium undertaking its work by generating and disseminating news, articles, op-eds, and reports as well as by organizing activities and initiating campaigns.

PPJ is an initiative of a group of dedicated scholars, lawyers, journalists and civil society activists.

PPJ's work is primarily based on democratic and human rights principles enshrined in the international human rights instruments and understood through the prism of the European best practices.

PPJ strongly believes that a worldwide peace and justice can only be achieved through the advancement of these values and principles across the borders.

Mission

PPJ aims to promote peace, justice, democracy, the rule of law and human rights in the world, particularly in Turkey, through;

- raising awareness and sensibility for upholding these values and principles,
- monitoring and reporting human rights violations,
- generating and diffusing knowledge on conducive policies and practices,
- defending basic human rights and democratic principles against infringements,
- campaigning against human rights violations affecting individuals and groups,
- serving as a common and open platform for advocating human rights and democratic principles,
- strengthening respect for human dignity and civil right consciousness,
- encouraging good policies and practices for building peace among people and nations.

Vision

PPJ's vision is to become a prominent civil society organization for defending and fostering universal democratic and human rights principles in Europe striving for peace and justice for all.