



# JUDICIAL INDEPENDENCE AND THE RULE OF LAW

*The Turkish Case*





**JUSTICE IS THE PILLAR OF**

**THE STATE**

*ADALET MÜLKÜN TEMELİDİR*

Mustafa Kemal Atatürk



This sentence is written in many courtrooms in Turkey.

However, its meaning was lost on the night of July 15 2016.





On the 16th of July, dawn rose over a different country, Democracy and the Rule of Law vanished, arbitrary arrests began and the destruction of Judicial independence was imposed.





# TIMELINE : Coup and Purge of the “ Enemies of the State “

- July 15th 2016

FETÖ or Gülen Organization is deemed responsible for the attempted Coup.

- July 16th 2016

Thousand of public servants, military personnel, police officers, judges and prosecutors were arrested or dismissed under the accusations of being members of FETÖ.

- July 20th 2016

The State of Emergency is declared.

- July 21st 2016

Turkey partially suspends its obligations resulting from the European Convention on Human Rights.



. April 16th 2017

In a Referendum legislation is approved, allowing the President to appoint the 13 members of the Council of Judges and Prosecutors and the 15 members of the Constitutional Court.

. August 3rd 2017

Transfer by Decree of 610 Judges in Courts of First Instance and Appeal Courts.



# Numbers of the Judges and Prosecutors purged after the July 16th Coup

## Dismissed :

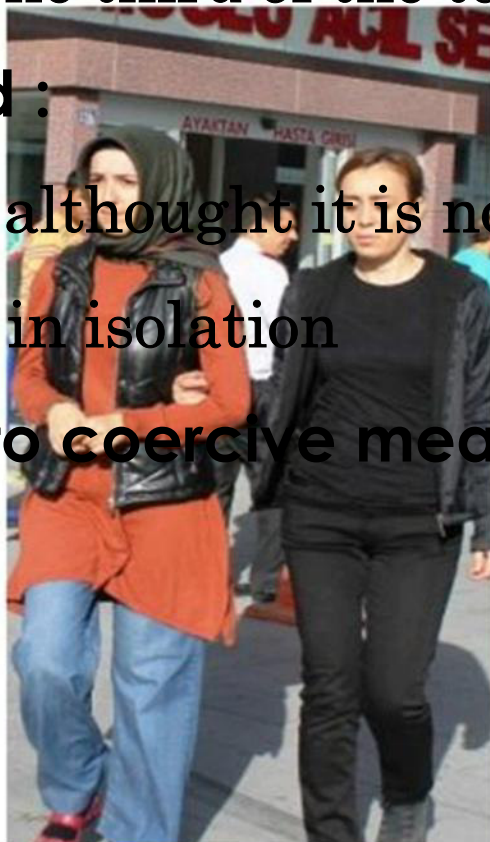
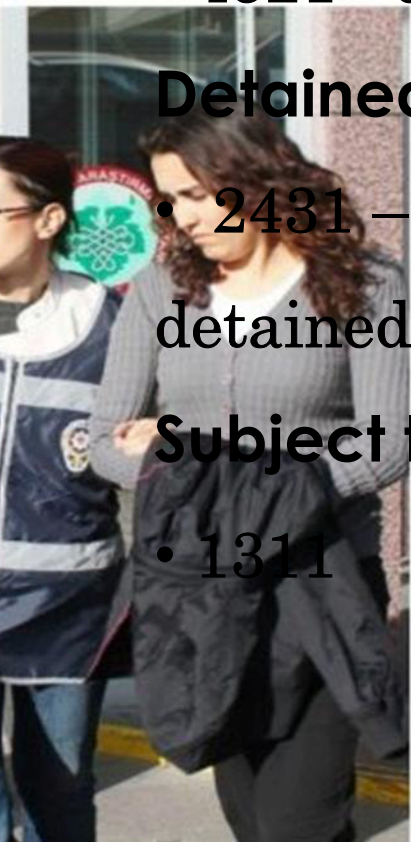
- 4521 - one third of the total number

## Detained :

- 2431 – although it is not possible to assess how many are detained in isolation

## Subject to coercive measure other than pre-trial detention :

- 1311







## Grounds :

Membership of the FETO Terrorist Organization.

## Evidence :

In numerous cases, the use of the Bylock messaging application, allegedly used by FETO members.

The generic reference of belonging to FETO, the absence of connection between facts, evidence and discernible subjects is a pattern, that can be verified in the decision of the Council of Judges and Prosecutors from 31.08.2016, that dismissed over a thousand people in a 60 pages ruling.



One of the detainees is Murat Arslan, President of the YARSAV Judges and Prosecutors association, that was dissolved in the meantime. International Association of Judges have nominated him for the Vaclav Havel Award. He win this Award!







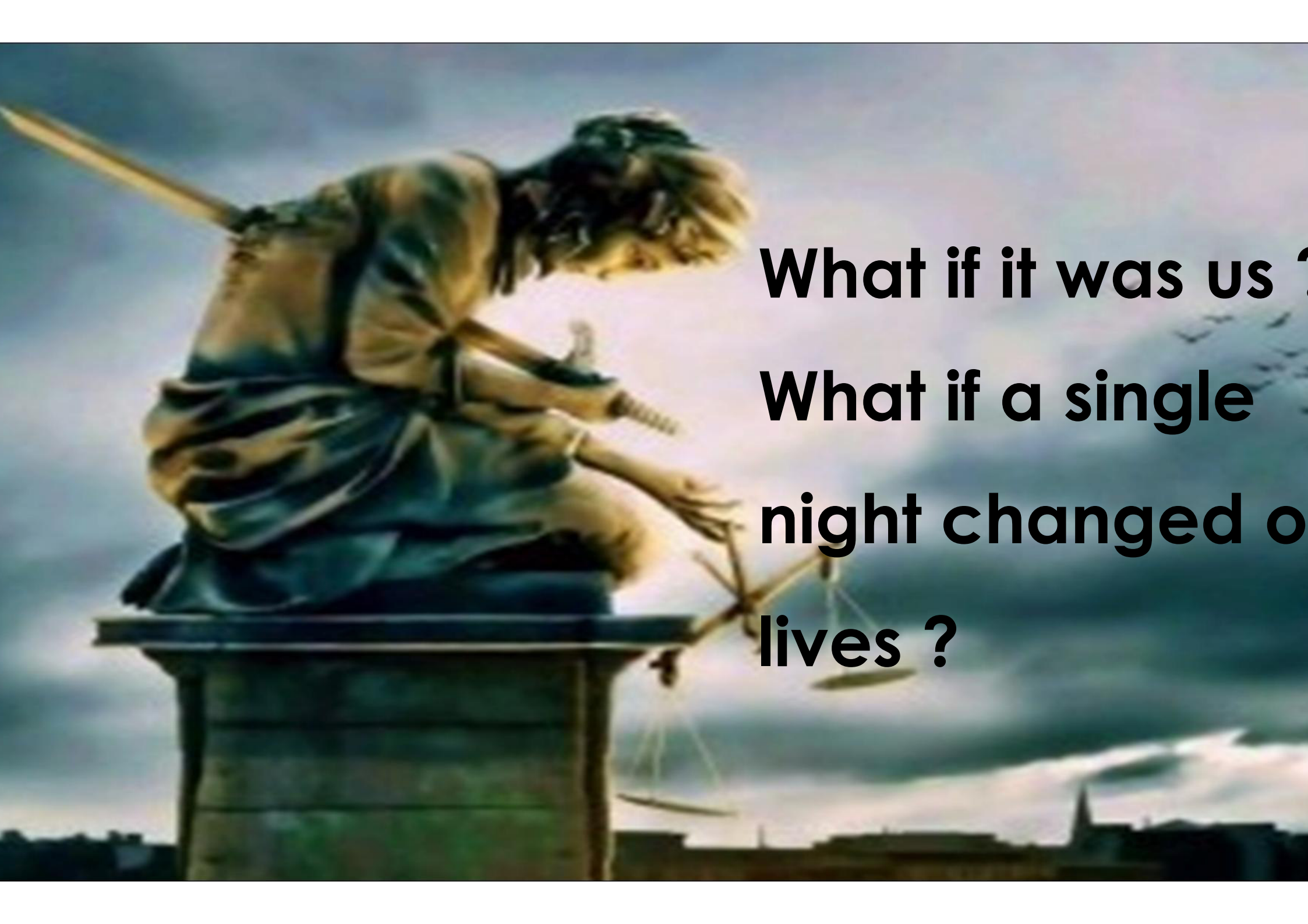
Judges Metin Özçelik and Mustafa Başer were sentenced in April 2017, to 10 years in prison for being members of FETÖ.



ong the detainees was prosecutor Seyfettin Yiğit, who was responsible for the investigation of a corruption case involving the family of President Erdoğan. In September 2016 he committed suicide in prison.







**What if it was us ?**  
**What if a single**  
**night changed o**  
**lives ?**





All non democratic or corrupt  
political power fears an  
independent Justice...

Freedom and Independence are  
not to be taken for granted, they  
must be used and conquered  
everyday.



## Excerpts from letters sent to the European Judges Association

*“ I have been working as a judge in Turkey for 5 and a half years. An armed group tried to take over the country on 15 July 2016, approximately at 22,00 pm. After two hours the coup attempt was under control. Afterwards, a list of judges’ s names allegedly involved was published on the internet and 2.700 judges were removed from duty.*

*We ( my husband and I) were detained on the suspicion of being members of the terrorist organization involved in the coup attempt, although there is not any evidence.*

*We submitted ourselves to the police. However, we were subjected to inhuman treatments.*

*I wish they would release my husband. There is not any evidence he is a terrorist.*

*I am afraid of being arrested for sending this letter to you.*

*I hope you will find a remedy for the violations of our fundamental rights and freedoms “*





*“ I have worked for twenty years as a judge. Throughout my life, I have defended "pluralist democracy", "the rule of law" and "human rights". I will continue to do so. I have opposed all forms of "terror" and "violence". I've always been away from everyday politics.*

*After the 15th of July I was suspended, then I was dismissed from my job without the possibility to defend myself. All my assets were seized. I was removed from the house where I lived. My credit cards were cancelled. I was put in a situation where I cannot withdraw money from the bank and I am unable to support my family. I am stigmatized as a “terrorist” and a “putschist” without any evidence and against the presumption of innocence.*

*If nobody speaks up for us, tomorrow this fire of lawlessness will take up everywhere.*

*There are thousands of applications waiting in front of the ECHR. We want those applications discussed as soon as possible. We want that an effort is made to ensure that the Law is respected as soon as possible.*



Those who were arrested or dismissed were labeled as terrorists, they lost their salary and many also their freedom.

Taking into consideration the appeals that reached the EAJ and Medel, a Fund was setup to support them in basic expenses and legal defense fees, to which many European colleagues have generously contributed.



At the present time about 40.000€ have already been sent by the Fund to judges, prosecutors or their spouses. About 50 families, that friends and colleagues in Turkey cannot help with fear of being labeled as terrorists, have been impacted by this support.



## Excerpts from thank you letters sent by the beneficiaries of the Fund

*“ Thank you for the 3.370,90 Turkish Liras you sent me. I bought some books for my children. This situation is tragic for me and my children feel everything. My life and theirs changed. I hid the receipt. How can I send it to you? If I restart my career as a judge, I want to pay you back. “*

*“ I got the money you sent me. Thanks so much for your help. I really appreciate it. My husband has been in jail for 8 months. I moved to Izmir where my husband's parents live. Our families helped me a little. Our assets were frozen and we don't have any health insurance.*

*After all these tragic events, your support came and move me to tears. “*



The background image shows the European Court of Human Rights building in Strasbourg, France. It is a large, modern structure with a curved, glass-and-steel facade. The building has multiple levels and a prominent central section. In the foreground, there is a paved area with some greenery and a metal railing. The sky is blue with some clouds.

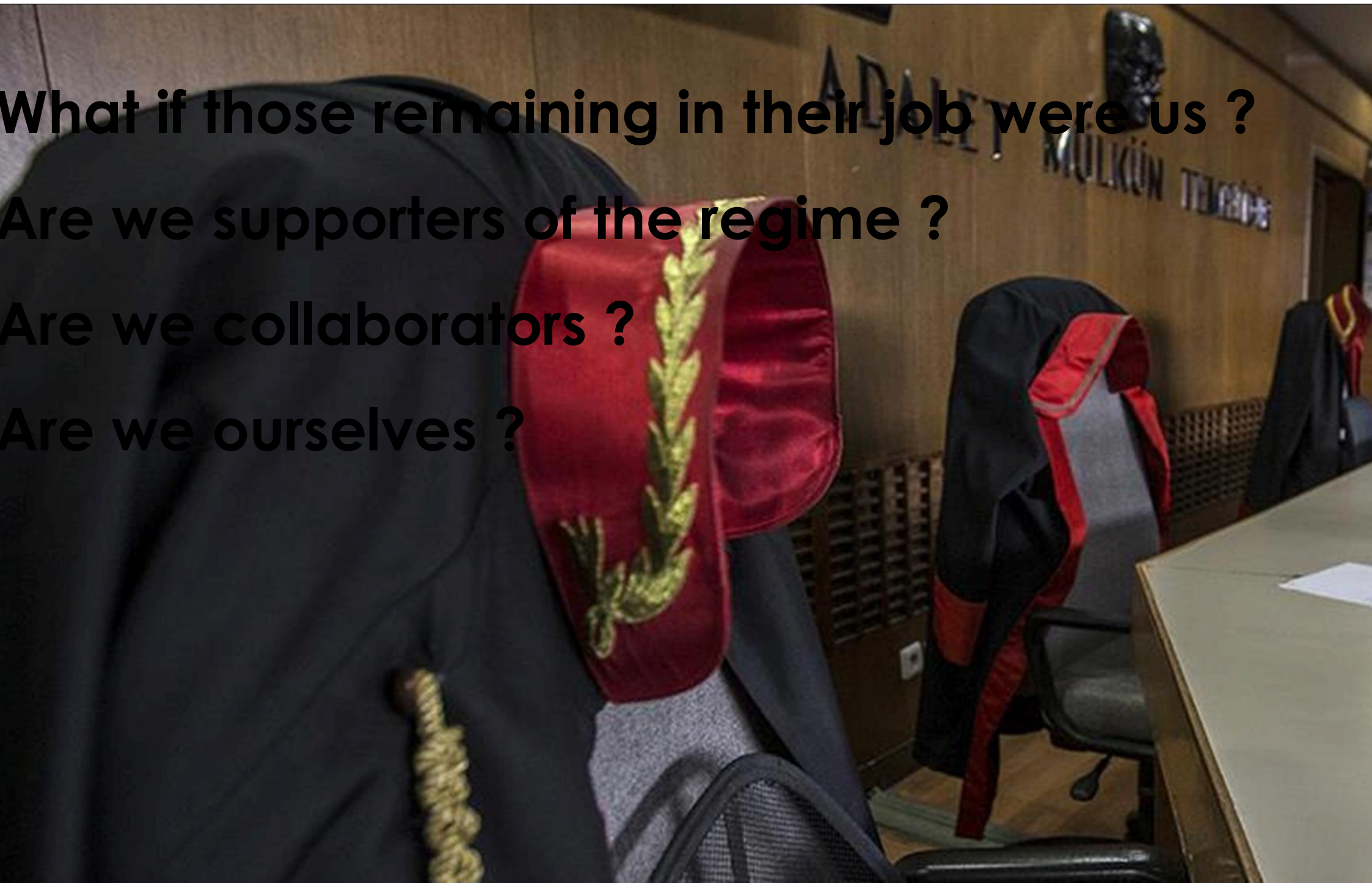
**Our voice cannot be limited to criticizing the Turkish Regime, it must be a voice of hope for all : those who are still in prison, those who were dismissed and those who carry on doing their job.**

**This voice needs to be heard by European Institutions, by Turkey, but also by Poland, Hungary and Bulgaria, where similar situations occur**

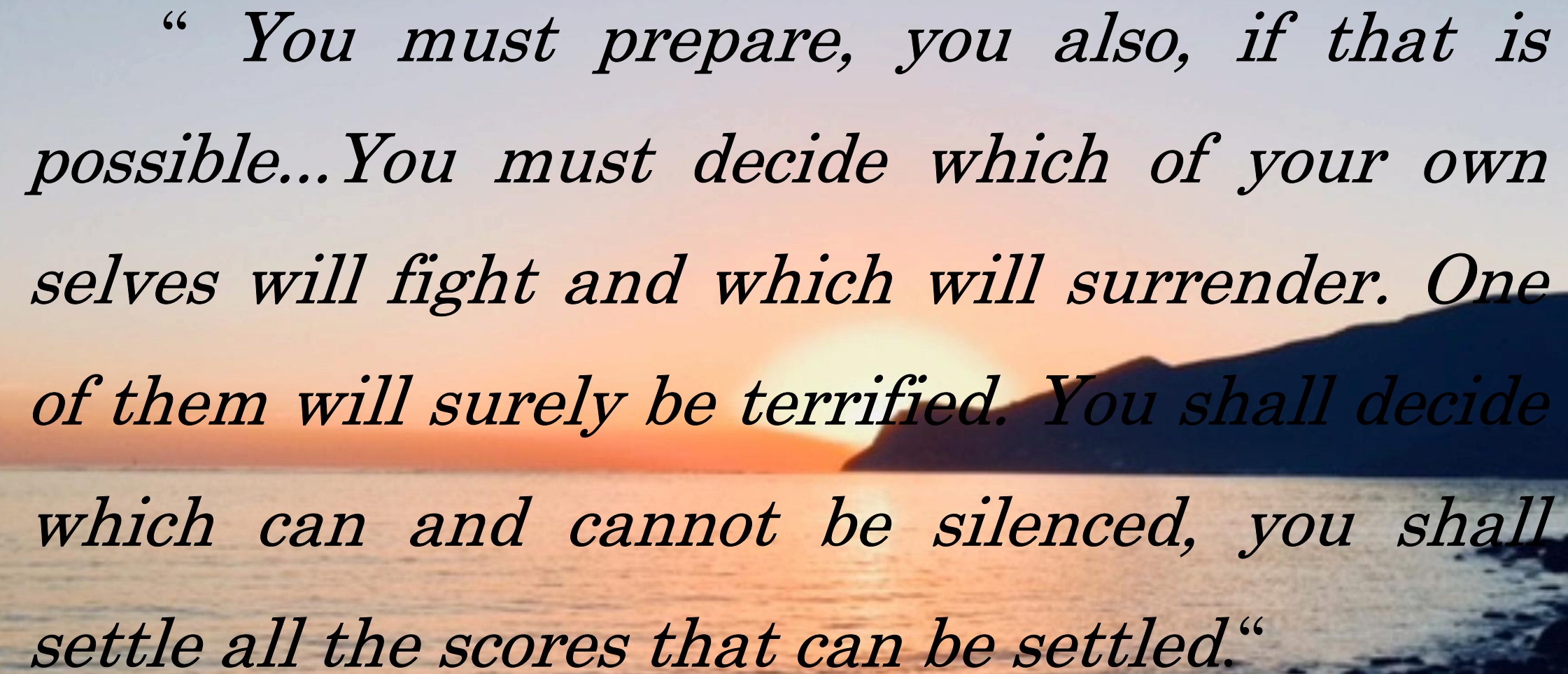
**It needs to be the an academic critique to the European Court of Human Rights decisions when they reject the appeals from the citizens of a country with no independent justice, on the grounds that internal remedies have not been exhausted.**



What if those remaining in their job were us ?  
Are we supporters of the regime ?  
Are we collaborators ?  
Are we ourselves ?





A sunset scene with a bright orange sun low on the horizon, casting a warm glow over a body of water. In the background, dark, silhouetted mountains rise against the sky. The foreground shows dark, rocky terrain. The overall mood is contemplative and dramatic.

*“ You must prepare, you also, if that is possible...You must decide which of your own selves will fight and which will surrender. One of them will surely be terrified. You shall decide which can and cannot be silenced, you shall settle all the scores that can be settled.”*

*Asli Erdogan, The Stone Building and Other Places*



The situation in Turkey has not improved, for many of our colleagues it remains a struggle for survival, dignity and defense against the power of the State.

Your generosity is critical so that EJA and MEDEL can continue to support those in Turkey that are in the very edge of hope.

To help you can donate to the account below:

Name of the receiver : Unione Internazionale dei Magistrati

Bank: Unicredit Rom

Address: Palazzo di Giustizia / 30092 Roma / Itália

IBAN: IT56 \*O\* 02008 05101 000104586019

BIC/Swift: UNCRITM1B52



## LINKS WITH FACTS AND INFORMATION ON THE SUBJECT :

- **Medel** · [http://medelnet.eu/images/platform\\_report\\_july\\_2017.pdf](http://medelnet.eu/images/platform_report_july_2017.pdf)
- **Council of Europe** · <http://www.coe.int/en/web/commissioner/-/human-rights-in-turkey-the-urgent-need-for-a-new-beginning>
- **Stockholm Center for Freedom** · <https://stockholmcf.org/>
- **Ruling from 31.08.2016, Turkish Council of Judges and Prosecutors**  
<http://www.cjp.gov.tr/Eklentiler/files/Reasoned-Decision-of-Dismissal.pdf>
- **The Economist** · <https://www.economist.com/news/europe/21722200-president-erdogans-drive-power-includes-putting-judges-under-his-thumb-turkeys-purges-are>
- **Suicide of Seyfettin Yiğit** · <http://tsjustice.info/wordpress/2016/11/09/information-prosecutor-seyfettin-yigit-found-dead-prison-16-09-2016/>
- **Numbers and decrees with the dismissals** · <http://tsjustice.info/wordpress/2017/04/04/number-dismissed-judges-prosecutors-high-council-judges-prosecutors-turkey-hcjp-15-july-2016-29-march-2017/>