

**REPUBLIC OF TURKEY  
COURT OF APPEALS  
CHIEF PUBLIC PROSECUTOR**

SP. Hz 2008/01

March 14, 2008

**INDICTMENT**

**TO THE PRESIDENCY OF CONSTITUTIONAL COURT**

**PLAINTIFF** : Court of Appeals Chief Prosecutor on behalf of the Public

**DEFENDANT** : Justice and Development Party  
Sogutozu Cad. No. 6 Cankaya /Ankara

**SUBJECT OF THE CASE** : DEMAND FOR PERMANENT CLOSURE of Justice and Development Party by basing on articles 68/4, 69/6 of the Constitution and articles 101/1-b and 103/2 of the Political Parties Law as it is understood that the Party became center of acts against the principle of secularism.

**EVIDENCE** : Acts and statements of the impleaded party's General Chairman, founders, deputies, local organization representatives, mayors of the party and members against secularism principle of the Constitution.

**DATE OF THE CASE** : March 14, 2008

**A- PREFACE** (Pages 1-2)

*(In this section the prosecutor talks about the need of the societies to get organized and their desire to exercise the political will. He noted that through out years, democracy emerged as a method of public administration and political parties became indispensable elements of democracy. He talked about history of evolution of political parties).*

Due to their impacts on state administration and their role in realization of the national will, the drafters of the Constitution treated the political parties –which are national tools of freedom, political participation and legality that are regarded as indispensables and *sina qua non* of democracy -- different than other legal entities. Starting from their establishment, it specifically determined the principles that would govern their works and the methods and rules that should be followed in their closures. Within the framework of their institutional importance and functions, international conventions also contain arrangements about political parties...

However, political parties' being indispensable elements of democratic political life, them being in intensive relationship with state organization and public services do not provide them an unlimited area of operation and opportunity of freedom. Their "freedom of establishment and functioning" are limited with the Constitution and the laws that regulate this field... In case these political parties get distanced to the thought of democracy, which is their *raison d'être* and them attempting to demolish democracy, they will face sanctions. The last method that should be resorted is closure of a political party which becomes the center of acts that do not comply with the thought of democracy.

## **B- REASONS TO CLOSE A POLITICAL PARTY**

### **1 – From the aspect of International Law (p. 2-7)**

*(In this section the prosecutor notes that political parties are protected by UN Individual and Political Rights Charter and also by European Human Rights Convention. He specifically made reference to European Human Rights Convention article 11 however, he noted that even this article did not openly made reference to political parties as institutions and added that political parties are evaluated by European Human Rights Court within the context of associations. In reference to TBKP vs Turkey decision, the European Court stated that with article 11 establishment and free functioning of the parties are protected... However the Court noted that this freedom is not unlimited)*

As it is stated above, the freedom recognized for political parties is not a freedom that cannot be limited. In accordance with the Charter that creates and protects the European public order, if acts of a political party contradicts with the European public order and if they go out of the sphere that is protected by the Charter, by basing on the reasons that are mentioned in the Charter, bans and limitations can be foreseen for those parties... As stipulated by paragraph 2 of article 11, it is possible to impose sanctions on political parties including closure.

Taking into consideration this provision, foreseeing closure sanction against a political party that has a political project that would endanger the democratic regime in the country and for political parties that aims to resort to violence for their political purposes when needed, is not against European Human Rights Charter (Toil Party vs Turkey case).

The issue of closure of political parties by basing on paragraph 2 of article 11 of the European Human Rights Charter was studied by Council of Europe Venice Commission and put into a report titled "Principles of Venice." ... According to this report, in accordance with article 11 of the European Human Rights Charter which is closely related with article 10 of the same Charter which regulates freedom of expression, if political parties encourage "racism, terrorism, xenophobia, violence, call to violence" or based on "intolerance," their closure may come up on the agenda by basing on paragraphs one and two of article 11.

Closure of a political party is the heaviest sanction that can be implemented. Since this is the heaviest measure to be taken, it ensues the condition that the acts of the party should be of a certain weight in order to implement the closure measure.

Closure of a political party is interference in freedom of organization. For this reason a closure measure against a political party should be done in compliance with European Human Rights Charter which means that for this interference to be regarded rightful, it should be approached from the light of European Human Rights Court decisions.

Within this context:

- The rightfulness of the interference, the law which contains closure sanction should be a law that can be reached by everyone and it should contain foreseeable, clear and clear cut statements (Refah Partisi vs Turkey decision)
- The sanction of closure should be in compliance with the purpose, meaning it should base on the reason or reasons stipulated in paragraph 2 of article 11 of the European Human Rights Charter. (TBKP vs Turkey, OZDEP vs Turkey, HEP vs Turkey and Refah Partisi vs Turkey decisions)
- In order to foresee political bans together with closure sanction, these bans should be “related and sufficient” (Refah Partisi vs Turkey decision)
- For rightfulness of the interference the closure sanction should be “in compliance with the requirements of democratic society.” Here what is mentioned is pluralist democracy. Political parties should not encourage violence to reach their aims but should aim to reach them within existing legal system (TBKP vs Turkey, OZDEP vs Turkey and HEP vs Turkey decisions). Political parties should be able to struggle to change legal, constitutional structure of the state but tools to be used for this struggle should be in compliance with the law and done with democratic tools. (TBKP vs Turkey decision). Within this framework, the incidents should be evaluated by national authorities in acceptable ways (OZDEP vs Turkey decision).
- Political parties whose responsible authorities encourage resorting to violence or propose “a political project” which does not comply with one or many rules of democracy, aims to demolish democracy and does not recognize rights and freedoms recognized by democracy, may be subject to closure and also this political party cannot enjoy the protection of European Human Rights Charter (Refah Partisi vs Turkey, Toil Party vs Turkey decisions)
- The intervention in the dimension of closure should be proportional, appropriate and sufficient with the legitimate aim that is pursued, it should respond to a social need. Which means, it should be necessary in a democratic society (TBKP vs Turkey, Socialist Party vs Turkey, OZDEP vs Turkey, HEP vs Turkey and Refah Partisi vs Turkey decisions).
- The closure sanction should be implemented only in very serious situations and it should not be in the nature of a radical measure. Needs stemming from historical conditions should be taken into consideration (Refah Partisi vs Turkey, OZDEP vs Turkey and TBKP vs Turkey decisions).

- The points that should be sought for social need are as follows: evidence about the existence and closeness of the threat against democracy should be convincing; speeches and acts of the leader and members of the political party should be referred as crime against the political party; the speeches and acts that are referred to the party should be in the nature of displaying a clear picture of the societal modal that is defended (*Refah Partisi vs Turkey* decision). Regarding forcing social need the countries do have the right of discretion. The right of discretion is evaluated by European Human Rights Court on concrete case basis and by taking into consideration the conditions in the related country (*Refah Partisi vs Turkey* and *Lingens vs Austria* decisions).
- As it was witnessed in the history of Modern Europe totalitarian movements that were organized in the form of political parties go stronger in democratic regimes and then wanted to get rid of democracy... When national authorities spot such a situation, ... national authorities do have the right to prevent ... before concrete steps that would contradict with the charter and standards of democracy are taken... These authorities are authorized to prevent such practices before concrete steps in a reasonable way. For example, the ruling party should not be waited until it issues laws from legislative body in order to realize its plans. An appropriate timing should be chosen at this point (*Refah Partisi vs Turkey* decision).

According to European Human Rights Court decisions, closure sanction can be based on:

- Violations in the by-laws and programs are not sufficient alone for closure, there should be acts (*Refah Partisi vs Turkey* decision)
- Content of the party program should be compared with the acts and behavior of the owner (*TBKP vs Turkey* decision)
- There should be concrete evidence that it casts real danger for Turkish society and state (*TBKP vs Turkey* decision)
- The acts should be directed towards encouraging extremists and terrorist groups (*Socialist Party vs Turkey* decision)
- Acts that are committed by using arguments of democracy with the purpose of settling sharia which does not comply with European public order (*Refah partisi vs Turkey* decision).
- Political party should try to reach its aims that do not contradict with pluralist democracy only thru legal tools. It should not aim to demolish democratic and pluralist system and violation of basic human rights should not be encouraged (*OZDEP vs Turkey* decision).
- Without any doubt, statements of a party chairman and his acts bind the political party... Unless the chairman states that his remarks are personal, the public perceives them as reflecting the party's views... Whatever is said for the party chairman is valid for party's vice chairmen,.. deputies and local administration officials as well... Such acts are more effective on voters than abstract party programs. As long as party does not distance itself from such acts and statements, they may be attributed to the party (*Refah Partisi vs Turkey* decision).

## **2 – From the Aspect of Internal Law: (p. 7- 9)**

*(The Chief prosecutor in this section studies the issue from the perspective the Constitution and other legal arrangements)*

### **a) Constitutional Arrangement:**

Article 69 of the Constitution regulates closure of political parties and states under which conditions party closures are possible. Through this way the drafters of the constitution prevented increasing of reasons closures by using laws.

According to paragraph four of article 69 of the Constitution, the dissolution of political parties shall be decided finally by the Constitutional Court after the filling of a suit by the office of the Chief Public Prosecutor of the Republic.

According to article 69 of the Constitution, closure of political party can only be possible due to three reasons. They are:

- When its by-law and program violate the provisions of the fourth paragraph of Article 68 of the Constitution
- When the party in question becomes a centre for activities that are in violation of paragraph four of article 68 of the Constitution
- When the party in question accepts financial assistance from foreign states, international institutions and persons and corporate bodies that are not Turkish citizens.

### **b) Legal Arrangements:**

*(The Chief prosecutor refers to Political Parties Law number 2820 in this section)*

The Political Parties Law, by taking into consideration articles 68 and 69 of the Constitution lists the sanctions that can be implemented against political parties as:

- depriving the political parties of state assistance partially or totally
- and closure

... Political Parties law article 101 mentions that political parties can only be closed in case of being against the Constitution and due to three reasons:

- if a political party's by-law and program is against independence of the state, its indivisible unity with its country and nation, human rights, principles of equality and being state of law, sovereignty of the nation, principles of democratic and secular republic, its defending and aiming to establish class or group dictatorship or any kind of dictatorship and encouraging committal of crime;

- when the Constitutional Court decides that the party in question becomes a centre of activities that are in violation of paragraph four of article 68 of the Constitution;
- When a political party accepts financial assistance from foreign states, international institutions and persons and corporate bodies that are not Turkish citizens.

With these reasons a political party should be closed however, in the first two cases instead of closure, depending on the weight of the acts, the political party may be partially or totally deprived of state assistance.

Article 103 of the Political Parties law regulates the case of being center of acts against paragraph four of article 68 of the Constitution....

The law also in its Fourth Chapter (from Article 78 to 89) lists the bans that political parties should comply with. (Article 78 – to protect democratic state system, Article 79 – to protect nation state characteristic, Article 80 – to protect uniqueness of the state, Article 81 – to prevent creation of minorities, Article 82 – to prevent regionalism and racism, Article 83 – to preserve principle of equality, Article 84 – to protect Atatürk’s principles and reforms, Article 85 – to respect to Atatürk, Article 86 – to protect principle of secularism, Article 87 – to prevent exploitation of things that are regarded sacred for religion, Article 88 – prohibition of performing religious demonstrations and Article 89 – to preserve position of Diyanet.

### **3 – Last paragraph of article 90 of the Constitution enables provisions of international charters be taken into consideration in political party closures. (p.9)**

*(In this section the Chief Prosecutor notes that article 90 of the Constitution states that on basic rights and freedoms, provisions of international law will superceed domestic laws and states that articles 68 and 69 of the Constitution are within the context of basic rights and freedoms. Similarly article 11 of the European Human Rights Charter considers political parties within the context of basic rights and freedoms)*

### **4 – Legal nature of closure cases against political parties (p.9-10)**

*(In this section the Chief Prosecutor makes reference to article 33 of the Law on Establishment and Prosecution Methods of the Constitutional Court. He notes that closure cases are not penal cases and that they are sui generis. Due to this reason, the methods to be implemented in such cases are explained in detail. Also Political Parties Law article 98 states under which conditions Court of Appeals Chief Public Prosecutor can open cases. )*

## **C - EXPLICATING THE REASONS OF PARTY CLOSURES IN CASE OF BEING A CENTER FOR ACTS AGAINST SECULARISM (p.10-25)**

### **1 – Explicating the reasons of closure from legal perspective:**

*(In this section the Chief Prosecutor states that before making assessments on articles 68 and 69 of the constitution, what one should understand from the principle of secularism and how the Constitution and the Constitutional Court decisions make reference to this article. After explaining historical evolution of the concept, he concluded that democratic secular state does not make any distinctions among its members due to their belief. He said that secularism is the assurance of freedom of conscience. He then explained secularism in Turkey. He said that secularism is not a philosophical concept in Turkey. It is put into life thru laws and gained legal value. It is protected by the Constitution.)*

The political parties that take political islam as their basis do not have anything common with the Christian Democrat Parties in Europe. The political Islam in Turkey does not remain limited with the area between the individual and the God but it claims to regulate the rule of state and society. The basic code of political islam is sharia.... Political islam and its constitution sharia are not democratic but totalitarian. Political islam uses democracy as a tool and sharia as its goal. For this reason, in order to evade from watching of rules and institutions of democracy to protect itself, it uses the method of “takiyye” (deceit) which finds its sources in sharia.

*(The Chief prosecutor, after telling that Republic of Turkey is based on principle of secularism and that religious rules are totally separated from the state administration. He added that thanks to democracy and secularism, Turkish people became a nation and became a citizen rather than being a vassal. He noted that the secularism principle was underlined in 1961 and 1982 Constitutions. He said the most basic characteristics of Republic of Turkey is secularism. In 1982 constitution articles 2, 4 and 6 as well as the Preamble regulates secularism and articles 10, 11, 13, 14/1, 24/1-3, 26, 34, 42, 58, 130, 174 makes references to the principle of secularism. He also made references to several different decisions of the Constitutional Court in which the Supreme Court stated that the principle of secularism is a view which is dominant over all basic principles adopted by the Constitution and added that it is the ground for the Constitutional order. The Supreme Court acted very sensitively on protection of secularism).*

The Supreme Court decisions pointed out to the fact that the concept of secularism has a different meaning than the western world... thus its requires a different way of implementation... The importance of secularism in establishment of Republic of Turkey and the role of secularism in creation of a modern state and special structure of islam religion caused difference in implementation....

The Constitutional Court explains its understanding of secularism in different decisions as follows:

- 1) Religion should not be effective and dominant in state affairs
- 2) Unlimited freedom should be granted to spiritual life of individuals without making any discrimination and religions should be put under constitutional guarantee

- 3) Limitations should be introduced so that with the purpose of protecting the public order, security and interest and ban exploitation and misuse of religion.
- 4) Recognizing the authority of controls to the state on the issues of religious rights and freedoms as the protector of public order and rights.

*(The Chief prosecutor notes that the Supreme Court regarded separation of religion and state as a requirement of secularism. He stresses that the Supreme Court adopts the concept of secularism with broader mentality that the state administration should not be inspired of principles of religion. He stresses that the Court underlined that democratic order is the opposite sharia order which aims to make religious requirements dominant. An arrangement that puts emphasis on religious requirements cannot be democratic. A democratic state can only be a secular state, the Court ruled. The Chief prosecutor then notes that the concept of "being the center of anti-secular activities" should be evaluated from the aspect of constitutional and legal arrangements. He makes reference to articles 68 and 69 of the Constitution which says that political parties are indispensable elements of democratic life but their works cannot be against principles of democracy. He notes that the Constitution and laws' making reference to Ataturk and Ataturk principles and reforms has special importance since Ataturk for the first time abolished sharia order in a muslim society and that he is a founder and symbol of Republic of Turkey based on secular order of law. The Chief prosecutor also made reference to Political Parties Law articles 3, 4, 78, from 84 to 89 on Political Parties abiding with the revolution laws including secularism as well as tem not be allowed to empty the meaning of the principle of secularism. He stresses that Political Parties Law articles 69/6 and article 101 are about a political being a center of anti-secular activities and that this is a reason for closure.)*

Due to its historical experiences the principle of secularism is of special importance for Turkey and on this issue Turkey has a broad right of discretion. This does not cast contradiction with the views of European Human Rights Court. For this reason closure of a political party is in compliance with the legal purpose stated in paragraph two of article 11 of the European Human Rights Charter. The concept of secularism is also protected within European public order. Within this context, sharia does not comply with European public order (Refah Party vs Turkey decision).

## **2- The acts that are subject to closure sanction and them be attributed to a political party:**

For a political party to be center of anti-secular acts and for it be closed for this reason, these acts in accordance with paragraph six of article 69 of the Constitution and Political Parties Law article 103, those acts should be;

- committed intensively by the members of that party and that this situation should be implicitly or openly adopted by the general convention or general chairman or central decision making or administrative bodies or its TGNA group or group general board
- or committed by the above mentioned party organs with determination.

... Non existence of any penal cases against the acts that are referred in closure case would not have an impact on the result... The commitment dates of the acts that are subject of closure case is also not important. No matter how long ago those acts were committed, the indictment may possibly cite the acts to display the situation of “being center.” For closure of a ruling party there is no need to wait for acts and rhetoric to produce concrete results. ...However, the following issues should be clarified: The ruling party undoubtedly carries its supporters to the state offices as employees. Whether the acts and statements of public employees closely working with political parties can be attributed to political parties should be explained... If the acts of the people such as undersecretaries, director general closely working with the political party members are directed to express the aims of the political party and if these views are adopted by the ... party members, ... by party organs, then they can be attributed to the party.

Within this context works and operations of the person who was the former Prime Ministry Undersecretary who is currently the deputy of Justice and Development Party bears special importance... Similarly acts of the TGNA Speaker and Vice Speakers are important since they can be attributed to the political parties that they are members of... Although article 94/6 and Political Parties law article 24/2 states that TGNA Speaker and Vice Speakers cannot participate in parliament debates and that they cannot cast votes when they chair the session, this does not mean that their acts cannot be attributed to a political party...

On the other hand acts and rhetoric of those who left the party can be attributed to the party. In this regard Abdullah Gul’s acts and statements as party founding member, Prime Minister, Deputy PM and FM can be attributed to the party.

As for the ruling party, since the implementations of the government are shaped with the rhetoric of the political party, works in this regard can be attributed to that political party as the acts of that party. In this context, if draft laws aim to facilitate the purpose that the acts of the party aim to realize, then those drafts can be attributed to that political party. As European Human Rights Court has stated, there is no need to wait for this draft be issued as law. Because as for the ruling party, issuance of these drafts... is possible anytime (Refah Party vs Turkey decision).

Within this context, the draft laws submitted by the deputies of that party, if they match with the political project of that party and with its acts than these drafts can be attributed to the political party that composes the majority of the parliament without waiting for the issuance of the law.

Article 83/1 of the constitution would not cause exclusion of the political party from being regarded as responsible of these acts that emerge as laws. The provisions that create absolute immunity about acts for individual means, do not put political parties under the protection of this article (Refah Party vs Turkey decision).

## **D – TO EXPLICATE THE DEMAND ON POLITICAL PARTY WHICH IS IN THE POSITION OF DEFENDANT: (p. 25-120)**

### **1 – Justice and Development Party (p.25-27)**

*(The Chief prosecutor said that the political party which is in the position of defendant was established in August 14, 2001 after submitting necessary documentation to the Ministry of Interior by basing on article 8 of the Political Parties Law number 2820. He stated that the party came to power alone by obtaining majority in parliament in November 3, 2002 and July 22, 2007 general elections. He then talked about the political life of Justice and Development Party Chairman Recep Tayyip Erdogan that he was in Refah Party before and that for five years he was Istanbul Metropolitan mayor of that party starting from 1994. he added that Erdogan was sentenced to ten months imprisonment due to a poem he had recited in 1997 in Siirt on charges of inciting animosity and hatred among people by making religious discrimination. He said that despite warnings and opening of closure case against the party on October 23, 2002 that Erdogan cannot be founding member or a member of a political party due to his conviction, the party amended article 76 f the constitution, articles 8, 11, 104 of Political parties law and article 11 of the Election Law to eliminate this situation for Recep Tayyip Erdogan. Although the verdict of that closure case has not yet been declared, with the legislative amendments the provision of Political Parties law article 104 on closure was converted into deprivation of state assistance. The prosecutor noted that Erdogan had served in Refah Party which was closed by the Constitutional Court in 1989 and Fazilet Party in 2001 because of being center of anti-secular acts. The prosecutor also listed the names of Abdullah Gul, Abdullatif Sener, Mehmet Ali Sahin, Abdulkadir Aksu, Ali oskun and Zeki Ergezen as serving in Refah and Fazilet. He said Cemil Cicek and Vecdi Gonul in Fazilet party. He said that Bulent Arinc who was the TGNA Speaker in 22<sup>nd</sup> legislative term had served both in Refah and Fazilet. TGNA Vice Speaker Ismail Alptekin was founding chairman of Fazilet Party. The prosecutor noted that Besir Atalay who was removed from Rectorship of Kırıkkale University due to his anti-secular activities in 1997, served as State Minister in the 58<sup>th</sup> and 59<sup>th</sup> governments and Interior Minister in the 60<sup>th</sup> government. He stated that Transportation Minister Binali Yildirim, Energy Minister Hilmi Guler, Ariculture Minister Mehdi Eker and TGNA Vice Speaker Nevzat Pakdil were serving at Istanbul metropolitan municipality when Erdogan was mayor. He added that when one looks into affiliations of deputies, organization, local administrations and members Refah-Fazilet Parties come up on the forefront).*

When by-law and program of the Justice and Development Party are studied, one would see that there are no provisions aiming to reach anti-secular model as mentioned in abstract texts. However, the party which is in the position of being defendant went beyond its by-law and program with its anti-secular acts and rhetoric.

### **2 – Acts of Justice and Development Party that are subject to the case**

a – Acts and statements of Justice and Development Party Chairman and Prime Minister Recep Tayyip Erdogan (p.27-54):

- 1) May 2003 remarks in Malaysia saying “as a modern Islamic state, Turkey can be an example for harmony of civilizations.”
- 2) In response to Court of Appeals Honorary President Eraslan Ozkaya in the opening of 2003 Judicial Year that those who want unlimited freedom of religion and conscience have the same aims with those who want to establish an islamist state, Justice and development Party Chairman and Prime Minister Erdogan said “this is an ugly and negative approach... In the world there is an inclination for creation of structures that are respectful to religions as well as thought and organization... We are in the effort of such a thing.”
- 3) Following TGS Deputy Chief GEN Basbug’s expressing the uneasiness of the military about the imam hatip schools, Erdogan met with Inter-university board members and also with the TGS Chief and then he instructed Education Minister to withdraw the draft law which eliminates the coefficient issue that makes imam hatip graduates more difficult to enter universities by saying “we are not in a hurry.”
- 4) In his speech at Oxford University on May 29, 2004, in reaction to the then President Ahmet Necdet Sezer who had vetoed the YOK law, said education in imam hatip schools is not against secularism. Regarding moderate islam, Erdogan said “there is only one islam. No adjectives can be put in front of it. This is a thesis aiming to hurt islam. Secularism is a totally different issue. Us being secular is mentioned in the constitution. People can display the requirements of their religion. It would be wrong to bring together islam and secularism in definition. Individuals cannot be secular.
- 5) When Kanal D TV broadcasts his 1994 remarks in Umraniye when he was RP Istanbul provincial chairman, in his statement published in “Aksam” in 2001, he said that he made those remarks under the conditions of that day and inline with the rhetoric and discipline of the party that he is a member of. He said “some people perceive secularism as a religion. If secularism is a religion, you cannot be muslim at the same time. A person cannot be a member of two religions at the same time. Secularism is a system and state is secular, not individuals. Being a member of a religion is an individual judgment.”
- 6) In the town of Christchurch at a conference organized by Center of National European Studies, Erdogan said “there are Turks, Kurds, Laz, Circassian, Georgian and Abkhaz in Turkey. He tie that connects ethnic elements in our country is the tie of religion. Because 99 percent of Turkey is muslim.”
- 7) While visiting Sydney Erdogan said “everyone should be proud of his/her identity. This is their most natural right. Kurd can be proud of being Kurd, Turk can be proud of being Turk and Laz can be proud of being Laz. I am saying this from the perspective of ethnic identity. However, the supra identity that attaches us to each other is the citizenship to Turkish Republic. This is common denominator... The absolute creator is the God. Why there is a need for discrimination.”
- 8) On his arrival from New Zealand and Australia, at the airport on December 11, 2005, when asked whether he had said “the main element that connects ethnicities

- in Turkey is religion,” Erdogan responded “I know what I said... There are around 30 ethnic groups... 99 % of the country is muslim. Religion is a cement in Turkey.” He said that he did not refer religion as “supra identity.” He said “I used citizenship to Republic of Turkey as supra-identity.” He continued “I repeat, religion is a cement and it is the most important connecting element. It has been so throughout the history.”
- 9) On his arrival from Kazakhstan in may 2005, he said at Ataturk airport in response to questions about Koran courses that were opened without permission “This is a very ugly reference. Koran courses cannot be illegal. This is wrong... Koran is learned. No one can be attributed with a crime just for learning Koran. This nation is muslim and this muslim nation can learn its own book Koran comfortably. There are no law provisions saying “illegal Koran courses.”
  - 10) On the plane while going to the US in June 2005, in an interview with Tercuman’s Nazli Ilicak, Erdogan said “we have no problem with secularism... As an individual I am not secular. The state is secular. But I have the duty of protecting the secular system.”
  - 11) On his way back from Beirut to Istanbul in June 2005, Erdogan told journalists on the plane that he is against imposing age limit to Koran courses and added that he went to Koran course when he was seven years old. On turban issue, he said that he has been thinking about submitting turban issue to referendum but added “of course timing of it is important.”
  - 12) a) In his old statements to the press he had said:
    - We are working to bring a certain system to the administration of this country. This system, mentality will come to power sooner or later. We will not be a servant of individuals.. We will live the pleasure of being a servant of the God only.
    - In Turkey now sharia of some people is calid for now. But this sharia has exhausted.
    - I am imam of Istanbul
    - Thank God I am pro-sharia
    - I am against new year.
    - There is no need to stand still like a plant while paying respect to Ataturk
    - The age of atrocity will be over with the permission of God and an age of enlightenment will start.
    - Imams should make wedding registration as well.
    - Minarets are our bayonets, the domes are our helmets, mosques are our barracks and believers are our soldiers
    - You cannot be secular and muslim at the same time. You will either be muslim or secular. Both existing together will have a negative magnet effect. It is impossible to have both... Because the God has absolute dominance. The motto saying sovereignty rests with the nation without any conditions is a total, big lie.
  - b) After Justice and Development Party comes to power Erdogan said they have changed by evolving and noted that he has taken off the shirt of Milli Gorus. However, in his interview on TRT 1 on June 21, 2006 he said “am I going to pursue a different life while entering politics and after entering

politics? Am I going to deceive people? I am what I was yesterday, I cannot change, I did not change.”

- 13) In a Kanal D program on July 9, 2004 Erdogan while evaluating the turban crisis at NATO summit, said “the concept of public sphere only exists in our country... we have to let free use of turban in private universities... They may not be employed in the state, they can work in private sector.”.. “When we were in the US to attend the funeral ceremony of former US President Ronald Reagan, we were in a Cathedral. Books were distributed to the people to recite religious songs, they all read the book. They did not lose any values... Why are we worried about it in our country?”... While explaining they want girls to be sent to schools but some girls want to attend schools with headscarf, Erdogan said “you do not allow headscarf to enter state schools, then let her educate in private school. Let us pave the path for such development... we need to overcome this situation.”
- 14) In an interview with German Welt am Sonntag in February 2005, when asked why his daughters wear turban, he said Sumeyye and Esra abide with the rules of Koran and added “we are pious muslims... Koran writes that women should wear turban in society.” “I regard turban ban in high schools as a mistake. A democratic country should provide freedom of religion. This includes citizens expressing their religion thru symbols.” “Banning is a French method, Turks regard Anglo-Saxon interpretation of secularism more suitable.”
- 15) In his speech at Foreign Relations Council in January 2004 in New York, when asked Erdogan said “headscarf is the common problem of the nation and the institutions in a country in which 98 % of the society is muslim. We want to solve it thru consensus. But I should note that this problem exists in Turkey. I wonder how a different approach would be in compliance with Copenhagen criteria?
- 16) At a panel organized by Justice and Development Party Women auxiliary in march 2004, Erdogan drew attention to the turban problem and said “we have been observing thousands of tragedies at the doors of universities... Discrimination against women is worse than racism. We have to fight against all kinds of discrimination.”
- 17) When he was visiting Ukraine in 2004 April, he met with two girl students wearing turban and the students had asked about equivalency of their schools. He said “this questions is asked everywhere. My kid, although he won Bogazici University, his coefficient was dropped because he was imam hatip graduate. My daughters since they cover their heads, they could not educate in Turkey. As a family we are the victims of this issue. We are against such separations. But solution to your issue does not depend us, it requires compromise of all parties. I do not want to introduce it by myself because if I do so, tension emerges.”
- 18) In a live interview with NTV on may 2007, when asked ‘can turban be modernized?’ Erdogan said “I do not find such a terminology correct. The essence of the issue is headscarf. Turban is a wrong word. The issue became politicized with turban. Headscarf comes from faith. The person who wears it,

does it because of her faith.” “When institutional agreement is reached, the issue will be resolved.”

- 19) In his speech at World Affairs Council of Northern California and Commonwealth Club California, in July 2005, Erdogan said “there is no definition of public sphere yet,” “the problem in our country is that in universities there is no place for girls with headscarf... My only problem is there exists social agreement but there is no institutional agreement. We are in the effort to solve this problem.”
- 20) On his way back from Germany in November 2005, Erdogan linked the violence acts in ghettos of France with the turban ban. He said “banning of headscarf had an impact. With such attitudes isolating migrant societies, (French officials) ignited acts of violence...”
- 21) While meeting with administrators of Zaman daily in April 2005, when asked when imam hatip and headscarf problems would be resolved, Erdogan said “the problem of headscarf cannot be talked about it is experienced in life. There is an agreement among people. We need an agreement within parliament. The parliament does not reflect the will of the people.”
- 22) In response to the warnings of the then Constitutional Court President Mustafa Bumin on turban, Erdogan said “It seems that the agreement among the people does not match with the agreement of the institutions. If we do not see universal rights, it would be sad for our country.”
- 23) While opening the university dorms in Bolu in May 2005, Erdogan said “the youngsters are going abroad for education. We spend 1 billion 250 million USD. You understand to which groups I am giving message from here. If we solve this problem, they will not go.
- 24) On his way back from Lebanon in 2005 June, in response to questions of journalists Erdogan said “headscarf is a reality of the country, since we have the obligation to relieve the tension, we have to solve this problem. There are studies on the issue... There are positive developments... It is impossible to understand the disharmony among institutions since there is an agreement among the public... Referendum is a constitutional process. If necessary it can be considered as well. Of course timing is important.”
- 25) AKP Tokat deputy Resul Tosun, in his remarks at the TGNA General Assembly claimed that the GOT had pursued a wrong tactic at the European Human Rights Court session on turban case and added that there does not exist any ban on turban in the constitution and the laws and that the GOT could have remained passive and not present any defense. He then turned to the PM and asked “our party is strong and we have the sufficient majority why don’t we realize necessary arrangements? We have to solve these issues, we do not have much time left.” In response to Tosun, Erdogan said that the GOT had made the defense with conscience and that it had presented the EU criteria and left it to the discretion of the Court. He added “we take decisions, but it is reversed by the President. Y the Constitutional Court... These are not simple issues to resolve. You are acting very hastily... be patient.”
- 26) While making statements to Yeni Safak daily’s writers in June 2005, when asked how turban issue will be solved, Erdogan said “we do not have a calendar. This is

- a matter of atmosphere and circumstances. They require constitutional amendment... When circumstances and atmosphere prevail, we will take steps.”
- 27) Speaking at AKP’s organizational meeting at Haldun Alagas Sports Hall in May 2005, Erdogan said “there are pains in my heart... but we have to be patient... 99 % of our country is muslim. And this country is the country of muslims. We should not forget in our country which has 99 % of its population muslim that being an Islamic state is different and being an Islamic country is different. We have to understand this well and look in the future with this mentality.”
- 28) When he was in Washington in June 2005, in an interview with CNN International Erdogan said that there are no bans in use of turban in university but there exists the perception of a ban. He added ‘we act with patience in order to avoid tension in our country and we are saying that we have to have social consensus. See my daughters educate in the US. Here exists the mentality of freedom. But not in my country. I endure this pain only for the sake of not having any societal tension in my country... The consensus among the people does not exist among institutions... We need to act with patience. We will suffer some more time but I believe this or that way the rightfulness will prevail.”
- 29) At a luncheon that he had hosted iho EU Ambassadors in June 2005, in response to a question about religious minorities and status of Fener Greek Patriarchate and State Minister Aydin’s criticism on missionary activities, Erdogan said “this problem is not only faced by non-muslims in minority but muslims in majority as well. This issue is difficult for us too.” On turban he said “I personally live this problem. My wife has headscarf, she can wear it in the Prime Ministry residence but not there (by pointing the Presidency). A societal consensus could not be achieved on these issues yet.”
- 30) On his plane to the US in July 2005 he said “why are we dealing with turban issue. Let the women decide about it. See low cut is very fashionable in Turkey. They go to universities with trousers showing their bellies. Are we making any legislative arrangements on them?.. We want to create a distinction between state universities and private and foundation universities. Any girls wanting should be able to go to foundation or private universities with turban and get education... There is a social pressure not to send girls to school for this reason... The opposition resist allocating employment slots to mosques. Go to Anatolia many mosques do not have imams. Who will lead the people to do their namaz prayer?... If the gates of the universities were open, my daughters would have educated in Turkey... My son got stuck coefficient problem. The score he made was enough to enter Bogazici University but since he was a graduate of imam hatip school he could not get enrolled to university... Imam hatip’s history goes back to Ataturk. Imam is the person who meets the religious needs of the society, hatips are good speakers. Why do they object these schools I do not understand.”
- 31) In response to questions of participants of a conference at London School of Economics in September 2005, Erdogan said “England, although it is mainly a Christian country, employees with headscarf do work in public offices. However, in Turkey, where majority of people are Muslim people with headscarf cannot be employed at the public offices. Headscarf is an undisputable human rights... The moment we find consensus in parliament, we will solve it in parliament.”

- 32) In a joint press conference with PM of Thailand in November 2005, Erdogan evaluated the European Human Rights Court decision on turban ban and said “I want to ask the following question to those who made that decision, have you evaluated the laws in your country from the perspective of faith?.. What is the cover? Have they received an answer on this issue from those who are authorized on this subject?... Generalizing this issue is done with bad intentions.”
- 33) Prior to his departure for Qatar in November 2005, in his press conference at Esenboga airport, in response to a question on European Human Rights Court decision on turban, Erdogan said “My views are known... The decision should not be generalized, it is about a specific file... In which EU country can you find a practice that is in effect in Turkey which has 99 % muslim population.”
- 34) On the plane to Qatar, answering questions of journalists, Erdogan said “there is no such ban in the constitution. Only there is an interpretation of the constitutional court. If the legislative body issues a new law, the constitutional court will review it and its interpretation is not lasting. We can issue a law. But our desire is to solve the issue without causing social tension, within the perspective of freedoms.”
- 35) While meeting with representatives of Turks living in Australia in December 2005, when asked “when will turban problem end?” Erdogan said “there exists 80 % consensus among people but there is a need for institutional consensus and consensus in parliament. The moment we reach such consensus, we will solve this issue.... Otherwise there will be tension in the society.”
- 36) Meeting with AKP Izmir, Buca organization in December 2005 Erdogan said “the adjectives that are allocated for Izmir from time to time are not correct. Izmir does not deserve this. With the permission of God, Izmir will throw away those adjectives... We have never believed in those remarks.” He urged the party organization to be patient on turban and other issues. He said “do not forget a healthy birth can only happen after 9 months 10 days. Do not fall in the provocations of some people.. Everything will proceed in a road map. No one can make the AKP act with emotions. We do not have that intention.”
- 37) Attending a meeting organized by European Movement in Denmark on alliance of civilizations, Erdogan said “this headscarf issue is an 8 year long process. Our girls cannot enter universities with their headscarves. This is limitation of freedom of religion and conscience and freedom of education... The European Human Rights Court has a decision on this issue. I am really surprised about this decision... I abide with the decisions of the European Human Rights Court but I do not find them right from the aspect of rights and freedoms... My daughter covers her head due to her faith, she should be respected for that... The court does not have the right to say anything on this issue. The right to say something is with the “ulema” (religious scholars). You will ask them... if there exists an instruction in religion. If there is, then you have to respect it.”
- 38) In Denizli Erdogan elaborated on “ulema” discussions and said ‘they are talking like ignorant people. They should open the dictionary and read what “ulema” means.
- 39) On the third anniversary of establishment of AKP women auxiliary, at a ceremony at Bilkent university, regarding Council of State (Danistay) decision

Erdogan said “it is impossible to approve these injustices... Mentalities that lock women in private sphere and exclude them from public sphere and oppressionist mentalities cannot be civilized. We have some mishaps... there are some injustices..

- 40) In his opening remarks at the 6<sup>th</sup> AKP Consultative Meeting in March 2006, Erdogan said that since they come to power there has been improvements in the field of freedoms. He added “we are determined to eliminate all victimizations in the field of freedoms. No one should have doubt about it.”
- 41) While meeting with Turks in Berlin in May 2006, when a citizen said that her picture with headscarf was not accepted for passport, Erdogan said “my citizen enters the Embassy of Republic of Turkey with this clothing. I do not think that there exists a circular but I will look into it and with the permission of God, I will send an instruction here. If there exists such a circular it will be annulled.” He made the Ambassador of Republic of Turkey booed by the people.
- 42) At Mersin sub-provincial convention while evaluating the Danistay decision he said “these people will soon interfere inside of our houses... I am sorry... Everyone should know their place... We do not want tension. We are acting with patience but those who occupy the judicial positions should not exert efforts to prepare such grounds.”
- 43) At a breakfast with Yeni Safak writers in June 2005, Erdogan said “if we bury our cries inside us, it is because of a reason. We do not want tension, the price of a tension will be very high.”
- 44) While having breakfast with girl students at a dorm in September 2007, in response to a question of a student about turban, Erdogan said “my biggest wish is to have universities and a country where girls with and without turban walk hand in hand. We are working for that. It is my biggest affection.. Both of my sons could not enter universities they want due to the coefficient problem. Is this fair to me? My children are victims of coefficient. We have means so that they are educated abroad.”
- 45) PM Erdogan telephoned homes of two students who were said to be obstructed from taking their awards at essay contests In Adana’s Kozan town and in Rize because of their headscarves. The PM reportedly conveyed his regrets. He also gave instruction to open investigation about the public employees who did not allow these students. Right after this incident, Minister of Education Celik gave an award to a junior high school freshmen with turban and AKP Adiyaman deputy Husrev Kutlu had a picture taken with that student.
- 46) On his way to Lisbon to attend “2<sup>nd</sup> EU-Africa summit” on December 2007 he said “the difficulty of our girls to have education should be ended. Because of turban our girls cannot exercise their right of education.”
- 47) In Spain where he attended Forum of Alliance of Civilizations, at a breakfast hosted by Europa Press, he said in response to a question “you said symbols. In my party there exists women with turban, this is so in other parties as well. This is their political preference. They are told that they put on turban as a political symbol. Let us assume that she wears turban as a political symbol. Can you regard wearing it as a political symbol a crime? Can you introduce ban to

- symbols? Where exists such a ban in the world if you approach it from the perspective of freedoms?”
- 48) Upon arrival from Spain, at Esenboga airport Erdogan said “there is no need to wait for the new constitution, the solution is so simple. It can be solved with a sentence that we agree on. Our minds are so clear... If Turkey cannot solve this problem, then it means that it has problems regarding freedoms.”
  - 49) At a meeting in January 2008 in Istanbul Umraniye by his party’s women auxiliary, reacting to institutions saying that freeing turban in universities would not comply with the principle of secularism, Erdogan said “they should not put in front of us the constitution constantly. We know the constitution as good as they do. No one can see himself above the legislative and executive body. The judiciary is not an office created with votes. Everyone should know their place.”
  - 50) On February 9, 2008 in Germany when journalists asked “how he combines islam with EU process,” he said “no one has the right to ask muslims why they live their religion so well. No one has the right to implement such a defense against muslims.”
  - 51) At a ceremony organized by Education Ministry, Erdogan said they attach great importance to vocational and technical education and said ‘as of next year the practice of coefficient that works for the disadvantage of vocational schools, will be lifted.”
  - 52) Diyanet issued a regulation on November 24, 2003 allowing opening of Koran courses in summer and in the evening. Upon reactions Diyanet made changes in the regulation on December 23, 2003. PM Erdogan then gave the message that he was in favor of November arrangement
  - 53) At a meeting organized by Unity Foundation in Istanbul Cevahir Hotel, regarding President’s vetoing the YOK law Erdogan said “we can issue this law again. However this has a cost. Are you ready to pay this cost? We are not. Because we had already paid some prices earlier... When the society is ready, necessary steps shall be taken.”
  - 54) While addressing people in Nizip on January 23, Erdogan said that it is not acceptable to have different coefficient practice for regular junior high schools and imam hatips. On turban he said “they say that this is a political symbol. What does this mean, it has no relevance. “
  - 55) At MUSIAD General Convention in April 2006 on “reactionary” movements, Erdogan said that first definition of “reactionary” should be made. He said “if reactionary means using religion for politics, then it is clear who uses religion as a tool in Turkey. However, if you talk about it in order to keep pious people out of politics, then this nation will not pardon you... In this country pious people do have right to do politics.”
  - 56) At AKP’s parliamentary group on February 12, 2008 in reaction to Dogan media group that criticize the GOT, he said “their problem is not secularism, they make interest calculations. These are methods of cornering. You cannot get anything from us through threats. They do not want democracy but dictatorship.” In reaction to CHP leader Baykal, Erdogan said “he is showing the way to gallows. We are repeating the remarks of people who had faith in democracy. We have hit

- this road with that white sheet. We are ready to pay the price on this issue. We are comfortable.”
- 57) At his party’s provincial chairmen meeting on February 13, 2008 Erdogan said “we are the servants of the whole people of this country, not one certain sector... There is a group which has confidence in us and who trust us. Those people have waited as silent masses for years. They sent us here as interpreters of their language... They say that I am fierce, being fierce is an art of public speech.”
  - 58) In an interview with ATV on February 17, 2008 Erdogan said “I am the representative of silent masses. See some people gather at squares. They are my citizens as well. There are some scenarios going on there. I watch them with patience. As a requirement of the office I am occupying. But if I position myself as a party of the tension, we can collect ten times bigger crowds in those squares... For five years we did not say anything about headscarf, we always said patience... The Religious Affairs Supreme Board in 1980 declared that muslim women should cover their heads in the way covering their hair, ears, neck and chest.”
  - 59) After receiving members of Foundation Universities Union on February 28, 2008, while talking to some university administrators, Erdogan said “your Rectors are also members of Inter-university Board. There were some who undersigned the declaration. We expect more principled attitude. Why don’t you oppose the declaration?”
  - 60) At a meeting organized in Usak by his party on March 7, 2008 when a citizen asked ‘are you going to issue amnesty?’ Erdogan said “there is no amnesty. Those who commit crime shall be punished. The state does not have the right to pardon the murderer. The inheritors of the victim have the right to pardon the murderer. It should be like that.”
  - 61) In a live program with NTV about the Constitutional Court decision on Presidential election Erdogan said “this is unfortunate for judiciary, stain on its face.. Everything is done with bad intentions.”

b – Acts and statements of TGNA Speaker Bulent Arinc against secular state principle (p.54-65) :

- 1) He assigned Kemal Ozturk as his “communication advisor” in 2003. Ozturk wrote articles ridiculing secularism and Ataturk in a periodical named “Girisim.” His documentary on “First Parliament” was banned since it was against official ideology.
- 2) On the issue of “public sphere” Arinc said the concept was not defined in laws and that since it does not exist in law, no one can impose their own rules.
- 3) On April 2005 on a TV program on CNN Turk, Arinc said “can I abolish the Constitutional Court with a constitutional amendment, yes I can. In none of the European countries there exists an institution similar to the Constitutional Court... I can change their number of members and area of work. I can remove its authority of being the Supreme Court. I can do anything, I am the parliament.”.. “The European Human Rights Court banned turban, hurrah, decided for re-trial of Abdullah Ocalan, boo. Is such a thing possible?”

- 4) Following an award ceremony, in reaction to the remarks of Constitutional Court President Mustafa Bumin, Arinc said that TGNA exercises the sovereignty on behalf of the nation and that its legislative duty is absolute. He noted that there is no mechanism that would cast shadow or limit its legislative power.
- 5) Papers write that he allowed opening of a Koran course in the TGNA prayer place.
- 6) On the occasion of 86<sup>th</sup> anniversary of the opening of the TGNA Arinc questioned why there is the need to seek compromise of institutions to enlarge freedoms in Turkey. He argued that nowhere else in the world such a requirement is sought. He stated that if there is a need for compromise it should be reached only under the roof of the parliament. He added that regime of the country is not weak. He said “there is no regime problem in the country. The problem is the ownership of the regime.”.. “The other issue of disagreement is the principle of secularism... Another difference is over the definition of public sphere.... It should be the area where citizens equally and freely discuss the common problems... The public benefit should be expanded in favor of people, not the state... The state does not own the public sphere but it is the protector of it... The state, instead of assuring living of religious faith, on the contrary it limits right of living some faith in the public sphere and it limits freedom of expression. It does this under the name of secularism and this is a major contradiction from the aspect of political science... Intellectuals, politicians and academicians should solve this contradiction which stems from difference of interpretation.”
- 7) On April 23, 2006 Arinc said “we need to cooperate on some certain issues. This is interpretation of secularism... You need to display what you understand from secularism. With rigid implementation of secularism, social life can be converted into a prison and this is harmful. Recognizing secularism as peace and liberty and freedom of religion and conscience and not interfering belief of people will serve to social peace.
- 8) On a TV program broadcast by ATV on May 2006, Arinc said nowhere in the constitution there is a clause saying that secularism means this or that. He added secularism is a characteristic of the state and republic and that there is no such characteristic of individuals.
- 9) In a press conference on July 7, 2007 Arinc said “at the center of the discussions there lies headscarf, secularism, YOK, imam hatips, Koran courses and similar issues. However, we do not think that the real main center of the discussion are not these issues. The main center of the discussion is freedom.”
- 10) On a live program on CNN Turk on June 1, 2006 Arinc said no one objects the characteristics of the Republic of Turkey as stipulated by article 2 of the constitution. Article 3 prohibits amendment or abolishment of this principle. This is the correct thing to do. We are saying yes to the principle of secularism but how will it be interpreted? The constitution does not define secularism.”
- 11) In an interview with Mustafa Karaali of Yeni Safak writer in May 2006 Arinc said “we have no objection to real secularism. Secularism came to Turkey from the west. There are major differences between the feeling of secularism that the western culture lives within itself and the one that is wanted to be imposed in Turkey.”... “Here we can understand secularism as freedom of religion and conscience.”...”Since the past a tyrant mentality regards the nation as untrustworthy and unpredictable. They do not

believe that the nation should be given opportunities. The discussion stems from this.”... “You cannot limit the public sphere as the areas where the state provides services. Here people are important. You should understand that this is an area where people benefit freedoms equally. State is its protector, not the limiter.”

- 12) At a meeting organized by Turkey Democracy Foundation in September 2003 Arinc said “if you are not the real owners of freedom of expression, you are obliged to make ‘takiyye’ (deceit) in order not to face obstacles and fall on your path to government and you are bound to tell lies and act insincere.”
- 13) In April 2007 at the “Democracy award” ceremony organized by Turgut Ozal Thought Association, Arinc said “within the last 50 years the struggle between the supporters of civilian, religious and democrat President and the definitions totally contrary to them has never ended. Today the name of the discussion is this still. They are opposing our parliament to elect a civilian, religious and democrat President.
- 14) At a meeting in November 13, 2005 with the press Arinc said about Leyla Sahin decision of European Human Rights Court that the decision is not binding. He said “I do not think that due to this decision in Europe and in the US headscarf would be banned in universities... Secularism discussions continue for a long time on. In time secularism also develops. However, today as far as we can see in the whole world, in case of adoption of freedom of religion and conscious in general sense, it would be impossible to say that secularism is violated in Turkey.”.. “ The European Court made a major mistake.”
- 15) Prior to his departure of Romania, in a press conference at Esenboga airport Arinc said about the European Human Rights Court’s turban decision that turban is not a traditional head covering in Turkey. He added that there are some people who define turban as a political symbol. He said this should not be interfered, anyone wanting should be able to tie the headscarf in the way they want.
- 16) When AKP and MHP carried the amendment of articles 10 and 42 on the agenda of the parliament in order to make use of turban free in universities, Arinc said “people started hitting drums in the streets. A political party which got 47 % of the votes remain embarrassed against those who make noise by hitting drums... (meaning turban wearing students) while they cannot enter universities with such attire, all of you know with what kind of clothing their friends enter the schools.”

c – Acts and statements of FM Abdullah Gul against secular state principle (p.65-70):

1. Gul asked our Embassies to contact and cooperate with the schools of a tarikat leader named Fethullah Gulen abroad.
2. When asked about Pm Erdogan’s remarks on European Human Rights Court’s turban decision to the effect that views of religious ‘ulema’ should be asked, Gul said “we see the trap here very well. So we will continue acting very carefully on these issues. I believe when the day comes Turkey will be able to solve its own problems.”
3. On his way to Rome to attend EU troika meeting in November 2003, he criticized the European Union Progress Report for not mentioning the turban ban among the problems list in the field of democracy and human rights.

4. Answering questions on Sky Turk TV in October 2004 Gul said “I have no doubt that turban ban will be lifted in Turkey when the day comes.”.. “such prohibitions should not exist in Turkey, especially if it is a part of our culture.”
5. At a meeting of TGNA Human Rights Commission, Gul said “we are determined on freedom of expression and belief. Everyone should be able to live what they believe... Necessary legal arrangements for this will be realized with determination.”
6. In the Leyla Sahin case at the European Human Rights Court, Turkey first submitted the view that the ban on turban exists in the constitution and that turban encourages reactionary and that it contradicts with secular education. However, one month after the supplemental defense that the state had sent to the Court, early 2003 December Gul found out about the defense and wanted the state to withdraw the defense since it would have put the GOT and his party into a difficult position. Turkey withdrew the defense on December 2003 and did not present any other defense.
7. In an interview with Aksam daily in December 2005, Gul said “we regard turban issue within the context of freedom of thought and expression as the party. Anyone wanting should cover their heads and they should decide how they would cover it.”
8. While talking about Leyla Sahin case in November 2005, Gul said “while we are talking about religious rights and freedoms of minorities, if there exists limitations over the rights and laws of majority, this would be an unacceptable situation.” ..” a day will come and all of these will be cleaned with our initiative.”.. “the government is determined to lift the bans.”
9. In November 2005, Gul said “while 70% of women use headscarf in Turkey, there are still problems in universities and some other places unfortunately.” .. Our education ministry will eliminate the unfair treatments such as coefficient. I believe these will be put into effect this year.”...”It is unacceptable to think that YOK is untouchable.”
10. Regarding Council of State (Danistay) decision on Aytac Kilinc, Gul said “there lies the understanding of negative freedoms under this approach. Such an understanding is the philosophy of authoritarian, dictatorship regimes.” ... “with such an understanding tomorrow a teacher who is fasting would be accused by saying that he is casting a wrong example to students.”

d- Acts and statements of Education Minister Huseyin Celik against secular state principle (p.70-75):

*(In this section the Chief prosecutor made reference to statements of Minister Celik on co-efficient, turban, compulsory religion education in secondary schools, Leyla Sahin decision of European Human Rights Court. He said in 2002 that Ataturk principles are made an ideology in Turkey and added that Ataturk was a soldier and statesman, he was not a philosopher and the principles he introduced were not his discovery. The chief public prosecutor said that in the recent controversy between the YOK President and the rectors on turban issue, regarding the applications of crime against YOK president that he had misused his authority by sending circulars*

*to the Rectors instructing them to let turban in universities, Celik said “I have the authority to open an investigation but I do not believe that the statements of YOK president cast a crime. I will not give permission for investigation.”)*

e - Acts and statements of other deputies against secularism (p. 75-103):

*(In this section the chief prosecutor carried remarks of Prime Ministry U/S and AKP deputy Omer Dincer, Eskisehir deputy Fahri Keskin, Istanbul deputy and TGNA Constitution Committee Chairman Burhan Kuzu, Deputy Group Chairman and AKP Ordu deputy Eyup Fatsa, Mardin Deputy Nihat Eri, Ankara deputy Eyup Sanay, former Education Committee Chairman Tayyar Altikulac, Erzurum deputy Omer Ozyilmaz, Deputy Group Chairman Sadullah Ergin, Diyarbakir Deputy Cavit Torun, Trabzon deputy Asim Aykan, Yozagt deputy Mehmet Cicek, AKP Secretary General Idris Naim Sahin, AKP Vice Chairman Akif Gulle, Deputy Group Chairman Irfan Gunduz, AKP deputy Husrev Kutlu, AKP Samsun deputy Musa Uzunkaya, State Minister Mehmet Aydın, State Minister Guldal Aksit, Anara deputy Ersonmez Yarbay, Adiyaman deputy Ahmet Faruk Unsal, Nevsehir deputy Mehmet Elkatmis, Ankara deputy Eyup Sanay, Adana deputy Abdullah caliskan, AKP Vice Chairman Nihat Ergun, AKP Vice Chairman Bulent Gedikli, AKP Istanbul deputy Egemen Bagis, AKP Vice Chairman Hayati Yazici, Kayseri deputy Sadik Yakut, Diyarbakir deputy Abdurrahman Kurt, Corum deputy Muzaffer Kulcu, Sivas deputy Selami Uzun, Kilis deputy Hasan kara, AKP Vice Chairman Nukhet Hotar Goksel, AKP Central executive board member Ayse Bohurler, AKP Vice Chairman Dengir Mir Firat, AKP deputy Zafer Uskul, Kutahya deputy Huseyin Tugcu, Balikesir deputy Mehmet Cemal Oztaylan, Konya dputy Husnu Tuna, AKP Central Executive Board member Cuneyt Zapsu, AKP Women Auxiliary President Fatma Sahin, Erzurum deputies Muzaffer Gulyurt and Muhyettin Aksak, Trabzon deputy Cevdet Erdol, Manisa deputy Huseyin Tanriverdi, Deputy Group Chairman Bekir Bozdog and Health Minister Recep Akdag.)*

f – Acts and statements of AKP’s local administrators as well as party’s provincial, sub-provincial and county organization administrators against the principle of secularism (p103-106):

*(In this section the Chief Prosecutor carried statements of AKP Nigde Ulukisla sub-provincial organization general assembly candidates Ali Ugurlu, Kamil Unal, Mustafa Burna, mayorship candidate Ali Tekin, Samsun’s Gazi district mayor Suleyman Kaldirim, Afyon’s Dinar town mayor Mustafa Tarlaci, AKP Izmir Executive board member Ayse Yurekliturk, Istanbul’s Eyup mayor Ahmet Genc, AKP Tuzla mayor Mehmet Demirci, Beyoglu mayor Ahmet Misbah Demircan, Silivri mayor Huseyin Turan, Kocaeli mayor Ibrahim Karaosmanoglu, Bolu mayor Alaaddin Yilmaz, Seydisehir mayor Ibrahim Halici, Isparta mayor Hasan Balaman)*

g – Other acts of Justice and Development Party governments against the principle of secularism (p.106-113):

- An amendment was made in National Education Ministry Primary Schools Inspectors Regulation. The amendment takes away the authority of inspectors to inspect Koran courses attached to Diyanet and dorms attached to foundations.
- An amendment was made in the Distant Education Junior High Schools Regulation so that Imam Hatip students can enroll to these schools at their senior year in order to evade the coefficient problem.
- An amendment was made in the National Education Ministry Board of Instructions Regulation and article 15 was annulled. The article was saying that the board has the authority to take measures that would enable youth be provided with education in accordance with the principles of the Republic and enhancing national characteristics.
- A regulation was issued about education of poor students by the state in private schools. The President vetoed the regulation saying that such a practice may lead to developments against the characteristics of the state
- The clause saying that candidates that take exams from the centralized test system should enter the exams without any headcovers was deleted from the related regulation.
- Legal arrangements were made to expand the ban on serving of alcohol in some certain places
- Health Ministry issued a regulation instructing allocation of space at health institutions for patients to be able to perform their religious requirements
- A draft report prepared by State Planning Organization foresees establishment of “chain stores” converting the religious charity system “zekat” into a formal institution.
- Paragraph 5 of article 2 of the Institutions Tax Law which talks about economic institutions run by associations and foundations, it is said “religious communities” (cemaat) are regarded as foundations. Thru this way the concept of “cemaat” is inserted in the laws.
- A draft law was presented to the parliament lifting the age condition to attend the Koran courses.
- Despite the regulations some candidates attended the distant education junior high school exams with turban on June 24, 2007.
- In January 2008 during which the discussions on freeing use of turban in universities were at peak, many students in Ankara, Erzurum, Edirne, Denizli, Konya and Izmir attended distant education junior high school exams with turban. In Denizli some students attended Distant education Primary School exam with turban. In Sincan town of Ankara a student with chador was allowed to take the exam for distant education primary school exam.
- A constitutional amendment was presented to parliament in order to enable free use of turban in universities.
- The National Education Ministry Plans and Programs DG Irfan Erdogan resigned from his position as Minister Celik assigned incompetent people to the board that determines the content of the text books and that the books are filled with non scientific information. The books also contain elements that are incompatible with Ataturk’s principles.

3 – Evaluation of these acts by taking into consideration the criteria used in party closure cases taken up by the domestic law and European Human Rights Court (p.113-120):

*(In this section the Chief Prosecutor stated that secularism is unchangeable basic principle of Republic of Turkey and that this is confirmed by the Constitutional Court and European Human Rights Court. He noted that secularism is different and of vital importance when compared with the west and that this principle should be protected more. He gave example from practices in the west to protect secularism. He said France had banned turban in schools and public sphere. The prosecutor reiterated his view to the effect that political islam does not remain limited between the individual and the God but aims to contain the state and social system and that it is totalitarian. He said that from this aspect there is no similarity with the Christian Democrat Parties in the west. He noted that the “moderate islam” model that is attempted to be implemented in Turkey may convert into a sharia state and it is not a distant probability that it may use Islamic terrorism. The prosecutor stressed that political parties are indispensable elements of political life but they are bound to be loyal to the constitution. Within this context for anti-secular political parties, sanction of closure is foreseen. He added that such a ban is legal and in compliance with law as the ban on Nazi party in Austria and Germany and Fascist party in Italy. He stated that remarks of AKP officials including PM Erdogan and some practices as well as regulations and laws that were issued indicate that the main purpose is to create unlimited sphere of freedom for political islam under the disguise of freedom of religion and conscience. He interpreted amendment of articles 10 and 42 of the constitution within this context and noted “the articles were amended in order to touch the essence of the principle of secularism. The fundamentalists carried their demands beyond the issue of freeing turban in the public sphere and on TV programs they could dare to say that those who defend turban ban would be punished like Mussolini.” The Chief Prosecutor on page 117 of his indictment said “the mentality which regards democracy as a tool to reach its sharia aims’ hide behind the ‘moderate islam’ ideology which is produced by the central powers of globalization for our country and for the region and by using democracy, religion and freedom of conscience, freedom to have education rhetoric as the co-chairman of the “Greater Middle East Project” which is the political target behind the “moderate islam” concept.” The Chief Prosecutor noted that AKP made more aggressive initiatives with the encouragement of the vote percentage it got in 2007 general elections.)*