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CSO Submission to the Directorate-General for Enlargement and the Eastern Neighbourhood of the European Commission:

"State of Rule of Law and Fundamental Human Rights in Türkiye"

TLSP

TURKEY LITIGATION SUPPORT PROJECT

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Executive summary

This submission by the Turkey Human Rights Litigation Support Project (TLSP) to the Directorate-General for Enlargement and the Eastern Neighbourhood of the European Commission (DG ENEST) sets out findings, analysis and recommendations on key issues related to the rule of law and fundamental freedoms in Türkiye, ahead of the preparation of the **Türkiye 2026 Country Report.** It addresses six priority areas, drawing on TLSP's collaborative work with local and international civil society organisations.

The submission documents entrenched and systemic violations that have not only persisted but intensified.

I. Capture and Instrumentalisation of the Judiciary

The independence and impartiality of the judiciary have been gradually degraded, leading to the "capture" of the judiciary by the ruling AKP/MHP coalition. The Council of Judges and Prosecutors (CJP) lacks structural independence; the Venice Commission confirmed in December 2024 that its composition and functioning have enabled its effective politicisation.

Judicial recruitment is likewise compromised. The oral examination process is controlled by the Ministry of Justice, with outcomes widely reported to be predetermined on the basis of political affiliation. Decisions on promotion, transfer, and discipline have been systematically used to reward compliance with government interests and punish judges who deliver rulings contrary to those interests.

The Turkish Constitutional Court (TCC) faces parallel structural problems. Twelve of its fifteen members are appointed directly or indirectly by the President. The TCC has repeatedly failed to provide effective protection in politically sensitive cases, and a growing number of lower courts openly refuse to implement its judgments. The TCC is also subject to growing political pressure.

Members of the executive and governing coalition have repeatedly sought to influence ongoing proceedings, particularly those involving human rights defenders (HRDs) and opposition politicians. The environment for HRDs in Türkiye has deteriorated further since the Council of Europe Commissioner for Human Rights noted an alarming surge in criminal prosecutions against HRDs, reaching "unprecedented levels" in 2024.

Key recommendations: restructuring the CJP in line with Venice Commission standards; reforming judicial recruitment; ensuring effective judicial review of decisions affecting judges and prosecutors; and strengthening the TCC's independence and individual application mechanism. Additional priorities include adopting protective legislation for HRDs, ending punitive prosecutions, and fully implementing the European Court of Human Rights (ECtHR) case law under Articles 5, 10, 11, and 18 of the European Convention on Human Rights (ECHR or Convention). Proceedings based on the arbitrary lifting of parliamentary immunity should be annulled, TCC jurisprudence on inviolability implemented, elected local representatives allowed to exercise their March 2024 mandates, HDP closure proceedings discontinued, and political interference in judicial processes ceased.

II. Anti-Terror Laws and Their Arbitrary Application.

Türkiye's application of anti-terrorism law stands in fundamental contradiction with the rule of law and international human rights standards. Inherently vague provisions — including Articles 220(6) and (7),

309, 312, and 314(1) of the Criminal Code — are applied in a broad, selective, and unforeseeable manner to criminalise the legitimate exercise of freedom of expression, assembly, and association.

Despite repeated calls from the Committee of Ministers and the Venice Commission for legislative reform, the authorities have presented only cosmetic amendments and maintain that no further action is required.

Key recommendations: immediate release of Selahattin Demirtaş, Figen Yüksekdağ Şenoğlu, and Osman Kavala; amendment of overbroad criminal and anti-terrorism provisions; and effective implementation of ECtHR jurisprudence by prosecutorial and judicial authorities.

III. Continuing Crackdown on Freedom of Peaceful Assembly

Severe violations persist through blanket and specific bans, police interventions with excessive use of force, and the criminalisation of peaceful protestors. These measures disproportionately affect the predominantly Kurdish south-east, women's rights organisations, LGBTI+ groups and workers. Systematic bans have been imposed on LGBTI+ assemblies, May Day demonstrations, the Saturday Mothers'/People vigil and the Feminist Night March, notwithstanding TCC rulings finding violations. Despite documented cases of police brutality, criminal prosecutions against officers are rare due to a requirement of prior authorisation by governors under Law No. 4483, generating a pervasive climate of impunity.

Key recommendations: amendment of Laws No. 2911 and 5442; review of the 2016 Directive on crowd-control weapons; establishment of an effective ex post facto review mechanism; and an end to the criminalisation of peaceful protest.

IV. Violations of the Rights of Prisoners

Prisoners face a wide range of violations, including the detention of seriously ill prisoners, torture and ill-treatment, prolonged solitary confinement and arbitrary disciplinary sanctions. The submission focuses on two issues: the continuing denial of the "right to hope" of aggravated life-sentenced prisoners under Article 107(16) of Law No. 5275 and Article 17(4) of Anti-Terror Law No. 3713, in breach of the ECtHR's *Gurban* group of judgments and affecting over 4,000 individuals; and the arbitrary denial of conditional release rights of political prisoners, illustrated by the cases of Selçuk Kozağaçlı and Murat Arslan.

Key recommendations: legislative reform to ensure the full implementation of the Gurban group of judgments, to ensure all life sentences are de jure and de facto reducible and to establish a judicially reviewable mechanism with an initial review no later than 25 years and robust procedural safeguards; revision of Article 89 of Law No. 5275 to provide objective and foreseeable conditional release criteria and to ensure that conditional release decisions are taken by independent and impartial authorities; and publication of comprehensive data on affected prisoners, as repeatedly requested by the Committee of Ministers.

V. Lack of an Effective Remedy for Public Sector Workers Dismissed Under the State of Emergency.

During the 2016–2018 state of emergency, approximately 130,000 public sector workers were dismissed on vague grounds of alleged "membership", "affiliation" or "link" to "terrorist organisations". Neither the Inquiry Commission nor the subsequent judicial review provides an effective domestic remedy, as documented in two successive TLSP reports (2019 and 2023).

In *Pişkin v. Turkey* (December 2020), the ECtHR found violations of Articles 6 and 8 ECHR. Implementation remains under Committee of Ministers supervision, with additional repetitive cases decided in 2025–2026. The TCC has consistently declared complaints regarding the dismissals inadmissible.

Key recommendations: ensuring effective remedies and reinstatement for arbitrarily dismissed workers; compliance with *Pişkin v. Turkey*; publication of comprehensive statistics on dismissals, legal challenges, and outcomes; and adoption of binding time limits for the determination of pending cases.

VI. Evasion of ECHR Obligations and Circumvention of the Implementation of ECtHR Judgments

Türkiye has the highest number of pending ECtHR cases among Council of Europe (CoE) member States, with 144 leading judgments and 296 repetitive cases under supervision, representing 31.5% of all leading cases. Patterns of non-compliance include judicial circumvention through the reclassification of substantially identical facts as new offences — as expressly recognised by the ECtHR in *Demirtaş (no. 4)* — superficial "judicial reforms", and overt non-compliance, emblematically illustrated by the *Kavala* judgments, the continued detention of Demirtaş and Yüksekdağ Şenoğlu, the conviction of Yüksel Yalçınkaya, and the new wave of mass arrests based on ByLock evidence.

Key recommendations include: genuine engagement with the Committee of Ministers' enhanced supervision procedure; substantive legislative amendments as repeatedly called for; immediate release of Osman Kavala, Selahattin Demirtaş, and Figen Yüksekdağ Şenoğlu; and a cessation of public statements attacking the authority of the ECtHR.

CSO Submission to the Directorate-General for Enlargement and the Eastern Neighbourhood of the European Commission: "State of Rule of Law and Fundamental Human Rights in Türkiye"

The Turkey Human Rights Litigation Support Project (TLSP) is presenting this submission to the Directorate-General for Enlargement and the Eastern Neighbourhood of the European Commission (DG ENEST) ahead of the preparation of its Türkiye 2026 country report within the context of EU Enlargement policy.

The submission is focused on several core issues related to the area of Rule of Law and Fundamental Freedoms. It provides the DG ENEST with the findings, analysis and recommendations derived from the TLSP's collaborative work with local and international civil society organisations (CSOs) on these priority issues which are discussed in detail under the following sections.

I. Capture and Instrumentalisation of the Judiciary in Türkiye

The degradation of the independence and impartiality of the judiciary in Türkiye has occurred over a long period, and gradually led to what has been widely identified as the "capture" of the judiciary by the ruling political coalition parties (AKP and MHP) as part of a broader assumption of effective control over State institutions over the past decade and a half.[1] This capture has been facilitated by the erosion or outright removal of key legal and constitutional safeguards underpinning the independence and impartiality of the judiciary in Türkiye. Political interference in and instrumentalisation of the judiciary against human rights defenders (HRDs) and others perceived as obstacles to the coalition parties has become rampant and systematic.[2]

A. Erosion of Judicial Independence and Impartiality

1. Lack of structural independence of the Council of Judges and Prosecutors

Among the most fundamental and pressing concerns identified in this submission is the structural composition and functioning of the Council of Judges and Prosecutors (CJP), the main self-governing body of the judiciary, which raises substantial questions regarding the institution's independence from the executive branch. These concerns are particularly acute with respect to the exercise of the Council's core competencies, namely the appointment, dismissal, transfer, and sanctioning of judges and prosecutors. The European Commission's previous reports on Türkiye have already noted serious

[1] Turkey Human Rights Litigation Support Project (TLSP), Human Rights Watch (HRW) and the International Commission of Jurists (ICJ), 'Third Party Intervention in *Osman Kavala (no. 2) v Türkiye* (App no. 2170/24)' before the Grand Chamber of the ECtHR (10 February 2026), para. 4, https://www.turkeylitigationsupport.com/_files/ugd/9265a1_209ab72f30e74e18bb7f207b980344b9.pdf .

[2] Ibid. Communication to the Committee of Ministers under Rule 9.2 by TLSP, HRW and the ICJ concerning the case of Kavala v. Türkiye (Application No. 28749/18), 26 May 2025, paras. 18-26, https://hudoc.exec.coe.int/?i=DH-DD(2025)646E ; European Parliament resolution of 7 May 2025 on the 2023 and 2024 Commission reports on Türkiye (2025/2023(INI)), para. 8, https://www.europarl.europa.eu/doceo/document/TA-10-2025-0092_EN.html .

shortcomings related to the CJP's composition and functioning and the lack of progress in addressing the lack of independence of the CJP.[3] However, the analysis set out below not only incorporates the latest developments, but also provides a more granular account of the situation and underscores the gravity of the concerns identified.

In Türkiye, not a single member of the CJP has been elected by the judiciary following the constitutional amendment in 2017. In line with that amendment, the number of CJP members was drastically reduced from 22 to 13. Almost half of the CJP members had previously been elected by the judiciary (10/22), in line with European standards prescribing that at least a significant portion of judicial council members should be judges elected by their peers.[4] Under the new system, appointments are made only by the President (4/13), filled by ex officio government officials (2/13), or through election by Parliament (7/13). International human rights bodies, including the European Commission for Democracy through Law ("Venice Commission") expressed serious concerns regarding these changes and their impact on the CJP's independence.[5] In an Opinion of December 2024, the Venice Commission confirmed that the composition and functioning of the CJP deprive that body of independence from the Government and have enabled its effective politicisation.[6]

The CJP's composition and the election of its members in practice since 2017 provide clear indicia validating concerns of lack of independence.[7] Firstly, key roles have been attributed to judges and prosecutors close to the Government and/or with a track record of misuse of anti-terrorism and national security laws against perceived government critics and opposition figures as well as non-implementation of Turkish Constitutional Court (TCC) and ECtHR judgments.[8]

Secondly, the direct appointments made by President Erdoğan to the CJP have been utilised as an instrument in furtherance of his political agenda, a practice rendered possible by the 2017 constitutional amendment, which relieved him of the obligation to relinquish his ties to his political

[3] European Commission, Türkiye 2025 Report, p. 26; European Commission, Türkiye 2024 Report, p. 25.

[4] Venice Commission, Report on Judicial Appointments (22 June 2007), CDL-AD(2007)028, para. 29; Consultative Council of European Judges (CCJE), Opinion No. 24 (2021): Evolution of the Councils for the Judiciary and their role in independent and impartial judicial systems, CCJE(2021)11, para. 30.

[5] Venice Commission, Opinion on the amendments to the Constitution adopted by the Grand National Assembly on 21 January 2017 and to be submitted to a national referendum on 16 April 2017 (Venice, 10-11 March 2017), CDL-AD(2017)005, para. 119. See also ECtHR, *Selahattin Demirtaş v Turkey (no.2),* App no. 14305/17, 22 December 2020, para. 434; ECtHR, *Yüksekdağ Şenoğlu and others v. Turkey*, App no. 14332/17 and 12 others, 8 November 2022, paras. 637-638.

[6] Venice Commission, Türkiye, Opinion on the composition of the Council of Judges and Prosecutors and the procedure for the election of its members, 141st Plenary Session (Venice, 6-7 December 2024), CDL-AD(2024)041.

[7] TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) before the Grand Chamber (supra note 1), para. 6.

[8] Several current or previous CJP members have previously worked for the AKP or held government positions (see https://www.hsk.gov.tr/havvanur-yurtsever and https://www.birgun.net/haber/hsk-nin-yeni-uyesi-havvanur-yurtsever-oldu-366938 ; https://www.yeniakit.com.tr/haber/bilal-temel-kimdir-hsk-uyesi-bilal-temel-nereli-kac-yasinda-1542754.html). The Deputy President of the CJP and President of its Second Chamber since May 2025 was previously in charge of presiding over the prosecution of "terrorism"-related offences at the Istanbul courthouse and led operations against alleged members of the Gülen organisation (https://www.hsk.gov.tr/fuzuli-aydogdu ; https://medyascope.tv/2025/05/21/hsknin-yeni-uyeleri-kimler/). The role of Deputy Minister of Justice has similarly been instrumentalised. Between 2022 and 2024, Judge Akın Gürlek, former Chair of the judicial formation responsible for convicting opposition MP Selahattin Demirtaş in one of the multiple criminal proceedings based on his political statements (Istanbul 14th Assize Court), and for refusing to implement a 2020 judgment by the TCC in the case of opposition MP Kadri Enis Berberoğlu, was Deputy Minister of Justice. On 11 February 2026, Akın Gürlek - one of the most prominent figures in the prosecution and conviction of opposition politicians, human rights defenders and other perceived dissenters to Erdoğan's regime - became Minister of Justice, who presides the CJP under Article 159 of the Constitution.
The Deputy Justice Minister from 2024 to 2026 was Mehmet Yılmaz, previously responsible for leading the prosecution of "terrorism"-related cases (https://www.sabah.com.tr/gundem/2024/06/07/istanbul-adliyesi-bassavci-vekili-mehmet-yilmaza-veda-etti).
The current Deputy Justice Minister Can Tuncay was previously one of the prosecutors in charge of criminal proceedings involving opposition politician Ekrem Imamoğlu, together with Akın Gürlek (https://sendika.org/2026/02/gurlek-yardimcilarini-da-ibb-operasyonu-ekibinden-secmis-chpli-gunaydindan-tepki-742848).

party.[9] For example, in 2017 and 2021, he appointed to the CJP a prosecutor who was involved, before and during his CJP mandate, in contested and flawed, high-profile cases against government critics (one of which led to a judgment against Türkiye by the ECtHR).[10] This prosecutor was later elected as Deputy President of the CJP and President of its Second Chamber, resulting in both chamber presidents being Erdoğan-appointed members.[11] In 2025, two new members appointed by President Erdoğan became new chamber presidents.[12]

Thirdly, the election of the remaining 7 CJP members by Parliament has inevitably followed a party-logic and has failed to ensure the independence of those members from the ruling AKP/MHP coalition.[13] The election process has been highly politicised and has repeatedly circumvented constitutional safeguards. In 2017, two opposition parties (CHP and HDP) refused to participate in the selection of candidates by a joint parliamentary committee,[14] which led the ruling political coalition to nominate all candidates.[15] In 2021, a "quota" agreement was made prior to voting, in which the AKP/MHP coalition determined the names for 4 CJP seats and the İYİ Party/CHP determined the remaining 3 seats, excluding the HDP from the process.[16] Two members appointed through this process previously worked for the AKP or held government positions,[17] and one had been previously appointed to the CJP by President Erdoğan himself.[18] These politically negotiated nominations bypassed the confidential, multi-round voting system laid out in Article 159 of the Constitution, which is designed to safeguard a fair selection procedure.[19] It seriously compromised the secrecy of the vote

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[9] Prior to the amendment, the office of the president was designed to be nonpartisan, and the president's resignation from any political affiliation served as a crucial safeguard against politicized appointments to the judiciary.

[10] TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24), para. 8, https://www.hrw.org/sites/default/files/media_2024/10/Kavala%20v%20Turkiye%20%282%29%20Third%20Part%20Intervention%20by%20TLSP%20HRW%20ICJ.pdf . The prosecutor in question, M. A. E., was involved in the highly political Gezi Park "Çarşı" case (involving supporters of the Besiktas football club accused of participating in the Gezi Park protests of 2013), in which he appealed the court's decision to acquit the accused (https://www.evrensel.net/haber/269841/savci-carsinin-beraatine-karsi-cikti). He also led the investigation in the notorious "Cumhuriyet newspaper case", in which the conviction of 18 journalists was sought on alleged terrorism-related charges following their arrest in 2016. (https://www.cumhuriyet.com.tr/haber/skandal-gazeteciligiyargiladi-koltugu-kapti-1028834); ECtHR, Sabuncu and Others v Turkey, App no. no. 23199/17, 10 November 2020.

[11] They are responsible for the management and representation of the chambers under Article 159 of the Constitution.

[12] The Deputy President of the CJP and President of its Second Chamber since May 2025 was previously in charge of presiding over the prosecution of "terrorism"-related offences at the Istanbul courthouse and led operations against alleged members of the Gülen organisation (https://www.hsk.gov.tr/fuzuli-aydogdu; https://medyascope.tv/2025/05/21/hsknin-yeni-uyeleri-kimler/)

[13] Venice Commission, Türkiye, Opinion on the composition of the Council of Judges and Prosecutors and the procedure for the election of its members (supra note 6), para. 33; TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) before the Grand Chamber (supra note 1), para. 6.

[14] The joint parliamentary committee votes to decide on three candidates per position to be filled, before a vote takes place in the general assembly between these candidates. For a discussion, see Fahri Bakırcı, 'On the Election of Members to the Council of Judges and Prosecutors and the Constitutional Court in Ensuring Independence of the Judiciary' (15 December 2021), DergiPark, pp. 36-41, https://dergipark.org.tr/en/download/article-file/2278599 .

[15] Ibid. p. 45. Bakırcı notes that in practice, 'the primary decision is made by the Joint Committee, and the decision taken in the committee is implemented in the General Assembly without much debate'. He also observes that one of the opposition parties, the İYİ Party, appears to have voted in line with the ruling coalition, implying that even if the two opposition parties had participated in the election, the 2/3rd majority required for election in the first round may in any case have been reached by the ruling coalition

[16] See https://www.bbc.com/turkce/haberler-turkiye-57186006 ; Bakırcı (supra note 14) pp. 41-44. If the method prescribed in Article 159 had been followed, a failure of the ruling bloc to secure a 2/3rd or 3/5th majority would theoretically lead to the opposition parties determining anywhere between 0 and 7 CJP members, due to the randomised drawing system envisaged. With the "quota" system this number was limited to 3 out of 7. Bakırcı argues that the intention was to minimise the number of members of the CJP that the opposition had a chance of appointing, while at the same time avoiding a risk of annulment in case associated with outright rejection of the drawing method laid out in the Constitution.

[17] See https://www.yeniakit.com.tr/haber/bilal-temel-kimdir-hsk-uyesi-bilal-temel-nereli-kac-yasinda-1542754.html ; https://www.birgun.net/haber/hsk-nin-yeni-uyesi-havvanur-yurtsever-oldu-366938 and https://www.birgun.net/haber/hsk-nin-yeni-uyesi-havvanur-yurtsever-oldu-366938 .

[18] https://web.archive.org/web/20150909191540/http:/www.hsyk.gov.tr/uyeler/uyeler/aysel-demirel.html

[19] As evidenced by all nominees being approved in the first round of voting.

and reduced the likelihood that individual MPs would select CJP candidates based on objective, non-partisan criteria.[20] The May 2025 elections of CJP members in Parliament generated considerable controversy and were contested before the TCC for not following the procedure guaranteed by the Constitution.[21] However, the TCC declared itself incompetent to examine the case.[22] One of the members elected during this process was known to be a member of the Court of Cassation who refused to implement the TCC judgment in the case of detained opposition MP Can Atalay,[23] and has been reported to have close ties with members of the ruling political coalition.[24] In addition, the most recent Parliamentary vote resulted in the re-election of a CJP member who has been directly affiliated with the ruling party AKP.[25]

Under these circumstances, the CJP, rather than serving as a safeguard for judicial independence, has become a mechanism for consolidating undue influence over the judiciary, contributing to a "climate of fear and submission" among judges and prosecutors.[26] The CJP's powers related to disciplinary proceedings, transfers, promotions, and case and judicial formation appointments have been exercised in breach of the criteria laid out in Law no. 2802 on Judges and Prosecutors and with the improper purpose of furthering the political interests of the ruling coalition.[27] Furthermore, it bears noting that, pursuant to Article 159(10) of the Constitution, the decisions of the CJP — with the sole exception of dismissals from the profession — are not subject to judicial review. This effectively precludes any independent scrutiny of the fairness and legality of the Council's decisions, notwithstanding the Venice Commission's recommendation that judicial review be introduced against all decisions of the CJP.[28]

2. Deeply biased judicial recruitment system

The executive's grip over judicial appointments has reached a critical level, fundamentally undermining the separation of powers and eroding the structural foundations of an independent judiciary. No real safeguards are currently in place to ensure that judges' and prosecutors' recruitment is conducted fairly, in line with international standards.[29]

Law No. 2802 on Judges and Prosecutors provides for a system of appointment governed by the Ministry of Justice, based on a written exam followed by an oral exam ('*mülakat*') (Articles 8, 9 and 9A). The oral exam is conducted by an exam committee predominantly consisting of officials from the Ministry of Justice (5 members), the General Secretary of the CJP, who is appointed by the Minister of Justice, and one member from the Justice Academy (a state institution responsible for running

[20] Bakırcı, (supra note 14), p. 43.
[21] See https://oad.org.tr/blog/anayasa-mahkemesinin-hsk-uyelik-secimine-iliskin-karari-uzerine/ .
[22] TCC, Decision no. 2025/159 (22 July 2025), https://normkararlarbilgibankasi.anayasa.gov.tr/ND/2025/159; https://www.anayasa.gov.tr/tr/haberler/norm-denetimi-basin-duyurulari/h%C3%A2kimler-ve-savcilar-kurulu-uyeligi-secimlerine-dair-turkiye-buyuk-millet-meclisi-kararinin-iptali-talebine-iliskin-karar/#:~:text=Anayasa%20Mahkemesi%2022%2F7%2F2025,g%C3%B6revsizlik%20nedeniyle%20reddine%20karar%20vermi%C5%9Ftir .
[23] See below.
[24] See the reporting on H. Y. , https://medyascope.tv/2025/05/21/hsknin-yeni-uyeleri-kimler/ .
[25] See https://sonhaber.ch/akpli-gecmisiyle-bilinen-havvanur-yurtsever-yeniden-hsk-uyesi-oldu/ .
[26] Venice Commission, Opinion on the composition of the Council of Judges and Prosecutors and the procedure for the election of its members (2024) (supra note 6), para. 35.
[27] TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) before the Grand Chamber (supra note 1), para 7; Rule 9.2 submission by TLSP, HRW and the ICJ concerning the case of Kavala v. Türkiye (Application No. 28749/18), 26 January 2024, paras 35-38, https://hudoc.exec.coe.int/?i=DH-DD(2024)263E .
[28] Venice Commission, Opinion on the composition of the Council of Judges and Prosecutors and the procedure for the election of its members (2024) (supra note 6), para. 86.
[29] TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) before the Grand Chamber (supra note 1), para. 8; Rule 9.2 submission by TLSP, HRW and the ICJ concerning the case of Kavala v. Türkiye (Application No. 28749/18), 26 January 2024 (supra note 27), paras. 30-33.

trainings for judges and prosecutors).[30] Therefore, all state institutions that are part of the exam committee are either directly part of the executive or under its effective control and influence.

These interviews lack transparency and are not based on objective criteria. Several judicial actors have raised concerns that the outcomes are predetermined, depending on whether candidates had been informally approved by the ruling political parties.[31]

It should be noted that, between 2017 and 2018, in the aftermath of the attempted coup d'etat of 15 July 2016 and the mass dismissal of thousands of judges under the state of emergency, a presidential decree lifted the requirement to achieve a minimum score of 70 out of 100 in the written examination, effectively allowing appointments to be made solely on the basis of interviews and following a political agenda.[32] Although the minimum score threshold was later reinstated, a large number of judges were recruited through this process to replace arbitrarily dismissed or detained judges. In addition, serious concerns have also emerged since 2017 regarding the influence of fundamentalist religious groups in judicial appointments. Such interference carries the risk of introducing religious doctrine into a secular legal system through the placement of individuals affiliated with these groups within the judiciary, among other serious risks.[33]

3. Unlawful and politically motivated decisions regarding promotions, transfers, disciplinary measures and the dismissal of judges and prosecutors

Established standards reflected in the European Court of Human Rights' (ECtHR) jurisprudence on judicial independence require decisions affecting the career of judges and prosecutors to be based on objective criteria and a transparent process.[34] However, the CJP's powers related to disciplinary proceedings, transfers, promotions, and case and judicial formation appointments have been exercised in breach of the criteria laid out in Law no. 2802 on Judges and Prosecutors and with the improper purpose of furthering the political interests of the ruling coalition.[35]

A legislative amendment of 2020 added to the rules on the promotion of judges and prosecutors that "account will be taken of whether the persons concerned caused a finding of violation by the ECtHR or the TCC, as well as the nature and gravity of the violation, and the efforts of the persons concerned to safeguard the rights enshrined in the European Convention on Human Rights and the Constitution".

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[30] Law No. 2802 on Judges and Prosecutors, Article 9A.

[31] See statements of former Istanbul Bar Association President Mehmet Durakoğlu, https://www.gazeteduvar.com.tr/yargidatorpil-iddiasi-cok-uzun-yillardir-isliyor-haber-1508357.
See the accusations against the head of exam committee in 2024, Deputy Minister of Justice Ramazan Can, https://www.birgun.net/haber/hakimleri-akpnin-torpilcisi-secmis-588205.
In 2018 an opposition MP presented a list of over 100 newly recruited judges and prosecutors who had held active roles within the ruling AKP party (https://www.diken.com.tr/chpli-yarkadas-hakim-savci-atanan-akplileri-acikladi-113-kisilik-liste/). See also a previous report noting a clear bias against candidates seen as not supportive of the government, ICJ, Turkey: the Judicial System in Peril - A Briefing Paper, Geneva, June 2016, p.15, https://www.icj.org/wp-content/uploads/2016/07/Turkey-Judiciary-in-Peril-Publications-Reports-Fact-Findings-Mission-Reports-2016-ENG.pdf .

[32] TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) before the Grand Chamber (supra note 1), para. 8. Candidates who performed well on the written test reported interviews of no more than two or three minutes with no substantial questions: https://gazetememur.com/kpss/turkiye-2ncisi-3-dakikada-elendi-mulakat-mulkuntemeli,NOZqN1Ubsk29H7qTqX_q6Q;https://www.gazeteduvar.com.tr/gundem/2019/09/05/hakim-savci-sinavinda-mulakattartismasi ; https://www.gazeteduvar.com.tr/savci-adayi-mulakat-belgesine-ulasti-bu-kadar-rezilligi-tahmin-etmezdim-haber1584495 .

[33] See, https://www.yargiclarsendikasi.org/post/Ba%C4%9F%C4%B1ms%C4%B1z%20ve%20tarafs%C4%B1z%20yarg%C4%B1%20hayali ; https://www.evrensel.net/haber/445641/chpli-antmen-sordu-adalet-bakanligi-hsk-ve-yargitayi-tarikatlar-ele-mi-gecirdi ; and https://www.dw.com/tr/15-temmuz-g%C3%BClencilerin-yerine-kimler-geldi/a-62477855 .

[34] See e.g. ECtHR, *Bilgen v Turkey*, App. no. 1571/07, 9 March 2021, para. 63

[35] TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) before the Grand Chamber (supra note 1), para 7. See Rule 9.2 submission by TLSP, HRW and the ICJ concerning the case of Kavala v. Türkiye (Application No. 28749/18), 26 January 2024 (supra note 27), paras. 35-38.

However, in practice, failure to abide by ECtHR and TCC judgments has constituted no obstacle to promotion. On the contrary, judges may even appear to be rewarded for refusal to apply European Convention on Human Rights (ECHR or Convention) standards.[36] This pattern is further compounded by public statements by leading officials, which reveal outright resistance to the binding judgments and recommendations of international human rights bodies addressing the erosion of judicial independence.[37]

It remains common practice for the CJP to reassign or transfer judges as a disguised sanction to avoid or punish decisions perceived to jeopardise the Government's interests or to be in favour of perceived dissidents. Examples include the CJP's interference in the case of Osman Kavala[38] and recent measures in relation to the widened Gezi Park prosecutions,[39] in the criminal proceedings involving opposition politician Ekrem Imamoğlu,[40] and in proceedings relating to the conditional release of unjustly convicted human rights lawyer Selçuk Kozağaçlı.[41] Strikingly, the crackdown on the opposition party CHP and the widened Gezi Park investigations were first led by the newly appointed Istanbul Public Prosecutor of the time Akın Gürlek — current Minister of Justice — known for his involvement as prosecutor or judge in various courts in the prosecution and conviction of perceived dissenters.[42]

4. The Constitutional Court: structural independence issues and intensifying pressure in cases concerning perceived dissidents

The issues casting serious doubt on the efficiency of the individual application procedure before the TCC have not only persisted but continued to deepen. First, the current method of appointment of the TCC members does not adequately ensure their independence from the executive branch. The

[36] Rule 9.2 submission by TLSP, HRW and the ICJ concerning the case of Kavala v. Türkiye (Application No. 28749/18), 26 January 2024 (supra note 27), paras. 34-36. See supra note 8 on Akın Gürlek's promotions. Another notable example of the expedited promotion of judges or prosecutors who flagrantly disregard ECHR or constitutional standards is the 'anomalous' process of appointment of former Istanbul Chief Public Prosecutor İrfan Fidan to the TCC in 2021.

[37] Erdoğan's chief advisor has recently described criticisms of the Undersecretary of Justice's membership of the CJP as "elitist, illegitimate, and anti-democratic", observing that "international regulations and decisions are secondary" and the judiciary must depend on "the will of the people" (https://www.cumhuriyet.com.tr/siyaset/mehmet-ucum-dan-akin-gurlek-tartismalarina-yanitbilerek-carpitmak-2451114).

[38] The judge F.B.E. who refused to implement the ECtHR's judgment and sentenced Kavala to prison was previously appointed to his position despite failing to meet a 4-year seniority requirement (https://yetkinreport.com/en/2022/09/07/turkish-bar-associations-head-judges-and-prosecutors-are-in-fear/).

[39] A disciplinary investigation was initiated against a judge who ordered the release of Ayşe Barım, a talent agent and leading figure of the Turkish cinema industry detained as part of the widened Gezi Park investigation (see further Rule 9.2 submission by TLSP, HRW and the ICJ concerning the case of Kavala v. Türkiye (Application No. 28749/18), 26 May 2025, (supra note 2), para. 23).

[40] Without providing any objective justification, the CJP terminated the permanent appointment of two of the three judges scheduled to examine the appeal against Imamoğlu's conviction and sentence (https://www.dw.com/tr/hski%CC%87mamo%C4%9Flu-davas%C4%B1na-bakacak-istinaf-heyetini-de%C4%9Fi%C5%9Ftirdi/a-66628426); a judge who voted to acquit him in the defamation proceedings brought by former Istanbul Public Prosecutor Akın Gürlek was reassigned from the Assize Court to a labour court (https://t24.com.tr/haber/akin-gurlek-davasinda-imamoglu-nun-tum-suclamalardan-beraat-etmesi-yonunde-oykullanan-hakim-mehmet-can-kozan-in-gorev-yeri-degistirildi,1254386); another judge who acquitted Imamoğlu in a separate criminal case (concerning other fraud allegations) was transferred to Kahramanmaraş (https://www.birgun.net/haber/imamogluna-beraat-veren-hakim-marasa-atanmis-673034); and a judge who previously convicted Imamoğlu in another case was appointed to the appellate panel hearing the case concerning other fraud allegation, in which he had been acquitted (https://www.cumhuriyet.com.tr/siyaset/ekrem-imamoglu-nun-beraat-ettigi-ihale-davasinayapilan-atama-dikkat-cekti-dosyaya-o-hakim-geldi-2461778).

[41] The Bakırköy Public Prosecutor who objected to his conditional release in April 2025, leading to the overturning of a decision to release him despite his eligibility for conditional release (https://www.bbc.com/turkce/articles/cgkgnl3exnno), was appointed prosecutor to the Supreme Court in October 2025 (https://t24.com.tr/haber/hsk-dan-istanbul-kararnamesi-gurlek-e-yakinisimler-kritik-gorevlere-atandi,1265338).

[42] Rule 9.2 submission by TLSP, HRW and the ICJ concerning the case of Kavala v. Türkiye (Application No. 28749/18), 26 May 2025, (supra note 2), paras. 22-23.

President has the power to appoint 12 out of the 15 members of the TCC.[43] As the Venice Commission noted, the President's political affiliations compromise his neutrality in this context.[44] Five members currently appointed by President Erdoğan have previously held government positions:[45] one was chief advisor to the President;[46] two are former Deputy Ministers of Justice (who were ex officio members of the CJP), one of whom also served as an AKP MP;[47] one was a former official in the Ministry of Justice;[48] and one was a former Director of Presidential Administrative Affairs.[49] Additionally, two of the three members elected by Parliament have also been affiliated with the government or the ruling party.[50] Furthermore, two of the TCC members appointed by the President are from the Court of Cassation and two from the Council of State. Through its control over the CJP, which elects the members of both courts, the executive can thus strategically promote certain judges to the top courts and then to the TCC.[51]

Second, the lack of independence of the TCC has translated into a failure to provide impartial oversight and effective protection of human rights guarantees in cases involving perceived dissidents.[52] Most strikingly, notwithstanding the ECtHR's rare finding of a violation of Article 18 ECHR on account of the arbitrary detention of Osman Kavala, the TCC declined to find that his continued detention violated his rights.[53] More recently, the TCC similarly concluded that no violation of the right to liberty and security had occurred in the case of prominent human rights defender Şebnem Korur Fincancı, who had been detained in connection with her professional assessment of reported human rights abuses by Türkiye's armed forces,[54] a conclusion that stands in clear contravention of the ECtHR's well-

[43] Under Article 146 of the Constitution, three TCC members are appointed by Parliament, and "the President chooses three members of the Court of Cassation and two members of the Council of State among three candidates nominated by their General Assembly for each vacancy from among their Chairmen and Members; three members, of which at least two lawyers, from among three candidates nominated by the Council of Higher Education from among faculty members working in the fields of law, economics and political sciences of higher education institutions that are not its members; and four members from among senior executives, freelance lawyers, first-class judges and prosecutors, and rapporteurs of the Constitutional Court who have served as rapporteurs for at least five years". See https://verfassungsblog.de/recognizing-court-packing/ .

[44] Venice Commission, Opinion on the amendments to the Constitution (supra note 5), para. 94; Bakırcı (supra note 14), pp. 54-55.

[45] TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) before the Grand Chamber (supra note 1), para. 12.

[46] See https://www.anayasa.gov.tr/tr/baskanvekilleri-ve-uyeler/uyeler/doc-dr-recai-akyel/ .

[47] See https://www.anayasa.gov.tr/tr/baskanvekilleri-ve-uyeler/uyeler/yildiz-seferinoglu/ ; https://www.anayasa.gov.tr/tr/baskanvekilleri-ve-uyeler/uyeler/selahaddin-mentes/ .

[48] See https://www.anayasa.gov.tr/tr/baskanvekilleri-ve-uyeler/baskanvekilleri/basri-bagci/ .

[49] See https://www.anayasa.gov.tr/tr/baskanvekilleri-ve-uyeler/uyeler/doc-dr-metin-kiratli/ .

[50] TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) before the Grand Chamber (supra note 1), para. 12. See https://www.anayasa.gov.tr/tr/baskanvekilleri-ve-uyeler/uyeler/muhterem-ince/ ; https://www.dw.com/tr/aym%C3%BCyeli%C4%9Fine-kenan-ya%C5%9Far-se%C3%A7ildi/a-60487408 .

[51] TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) before the Grand Chamber (supra note 1), para. 12. For instance, Mr. İrfan Fidan, who was involved in the prosecution of several politically charged criminal cases (including Gezi Park case), was appointed to the TCC after just 20 days of tenure at the Court of Cassation - an unprecedentedly short tenure; Communication of 26 January 2024 by NGOs in Kavala v. Türkiye (supra note 27), para. 36; See Kemal Gözler, *Elveda Anayasa Mahkemesi: İrfan Fidan Olayı*, 23 January 2021,https://www.anayasa.gen.tr/irfan-fidan-olayi.htm).

[52] TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) before the Grand Chamber (supra note 1), para. 12.

[53] TCC, Mehmet Osman Kavala (2), App no. 2020/13893, 29 December 2020, https://kararlarbilgibankasi.anayasa.gov.tr/BB/2020/13893 . The TCC also found the application brought by judge Alparslan Altan, detained in the aftermath of the coup attempt, inadmissible. Yet, in a judgment finding violations of Mr. Altan's rights, the ECtHR highlighted the TCC's failure to address his argument that there was no concrete evidence that could justify his pre-trial detention (ECtHR, *Alparslan Altan v Turkey*, App no. 12778/17, 16 April 2019, para. 138). The TCC, in a later judgment, explicitly refused to implement the ECtHR's judgments concerning the pre-trial detention of judicial officers including Mr. Altan (TCC, Yıldırım Turan, App no. 2017/10536, Inadmissibility decision of 4 June 2020).

[54] TCC, Rasime Şebnem Korur, App no 2022/105315, Judgment of 12 June 2025. See Front Line Defenders, Sebnem Korur Fincanci (https://www.frontlinedefenders.org/en/profile/sebnem-korur-fincanci).

established case-law.[55] The TCC has repeatedly failed to find violations in cases relating to arbitrary detention and ill-treatment, torture or unlawful death of alleged "members of terrorist organisations" in detention.[56] It has arbitrarily denied requests for release from detention submitted by political prisoners with serious health conditions.[57] Beyond its pattern of non-violation findings, the TCC has frequently interpreted its jurisdiction in an unduly restrictive manner, thereby avoiding rulings on matters of strategic interest to the ruling coalition.[58]

The TCC's approach consists of a strategic combination of rights-compliant and non-compliant decisions, shaped by the political sensitivity and timing of the matter at hand, prevailing government policies and priorities, and the judicial formation hearing the case.[59] The cases relating to the use of the encrypted communication application ByLock offer a particularly telling illustration of this selective approach to human rights standards and ECtHR case-law.[60] In *Yalçınkaya v Türkiye*, the ECtHR found violations of Articles 6 and 7 ECHR in connection with the use of ByLock as criminal evidence[61] and ordered Turkish authorities to adopt general measures under Article 46 ECHR. Yet, the President of the TCC publicly expressed his disagreement, stating, "ultimately, the courts in Türkiye will make the decision".[62] In several cases, the TCC has failed to comply with the ECtHR judgments[63] or has ruled that it lacks jurisdiction *rationae materiae* to review lower courts' refusal to grant affected persons a retrial following the ECtHR's judgment.[64] The court has also been delaying rulings on related cases, in what appears to be a deliberate strategy to avoid implementing Yalçınkaya.[65]

Third, the TCC's lack of a transparent prioritisation policy further entrenches its selectivity and creates conditions conducive to interference with its independence.[66] In this regard, the TCC has allowed considerable and unjustified delays to accumulate in addressing systemic human rights violations,

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[55] See eg ECtHR, *Selahattin Demirtaş (no. 2) v. Turkey* [GC], Application no. 14305/17, 22 December 2020, paras. 314-318. The Dissenting Opinion to the TCC judgment in Ms. Fincancı's case (supra note 54) highlights that "[her] arrest warrant contains no assessment showing how the applicant's speech legitimized, praised, or encouraged the use of coercive, violent, or threatening methods by a terrorist organization." (para. 15).

[56] In the context of alleged members of the Gülen organisation, see Justice Square, Turkish Prisons Report (2016-2024), pp. 4460.

[57] See for instance the case of detained opposition politician Murat Çalık, mayor of the Beylikdüzü province of Istanbul, https://www.cumhuriyet.com.tr/turkiye/aym-den-tahliye-talebine-ret-karari-murat-calik-in-avukatlarindan-aciklama-2434242 .

[58] Although Article 159 of the Constitution explicitly regulates the CJP's appointment, the TCC held that alleged irregularities in the procedure for 2025 CJP elections amounted to a 'parliamentary decision' exempt from judicial review, departing from its established case-law, and dismissed the case on the grounds of "lack of competence" (Case file no. 2025/133, Decision no. 2025/159 of 22 July 2025) (see https://oad.org.tr/blog/anayasa-mahkemesinin-hsk-uyelik-secimine-iliskin-karari-uzerine/). In Yıldırım Turan, the TCC rejected the ECtHR's finding in *Alparslan Altan v Turkey* and *Baş v Turkey*, finding the application inadmissible as manifestly ill-founded (TCC, Yıldırım Turan, App no. 2017/10536, Inadmissibility decision of 4 June 2020, para. 119; ECtHR, Alparslan Altan v Turkey, App. No. 12778/17, 16 April 2019, para. 112; *Baş v Turkey*, App no. 66448/17, 3 March 2020, para. 153).

[59] TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) before the Grand Chamber (supra note 1), para. 14. Bertil Emrah Oder, 'The Resistance-Deference Paradox', 28 September 2022, https://verfassungsblog.de/the-resistance-deference-paradox/ .

[60] Ibid.

[61] ECtHR, *Yüksel Yalçınkaya v Türkiye* [GC], App no. 15669/20, 26 September 2023.

[62] See https://www.gazeteduvar.com.tr/anayasa-mahkemesi-baskani-arslan-aihm-kararina-biz-katilmiyoruz-haber-1640350

[63] E.g. TCC, Ali Faik Aygun, App no. 2018/23712, 16 November 2023, para. 51 (citing the TCC's previous case law and making no reference to *Yalçınkaya v Türkiye*). In recent decisions, the TCC found that using ByLock usage to justify dismissal of two prosecutors had not violated their right to respect for private life (https://www.anayasa.gov.tr/tr/haberler/bireysel-basvurubasin-duyurulari/fetopdy-ile-iltisaklari-ve-irtibatlari-olduklari-degerlendirilerek-meslekten-cikarilmalari-nedeniyle-yapilanbasvurulara-iliskin-kararlar/).

[64] See TCC, Fatih Dilbaz, App no. 2024/11, Judgment of 17 April 2025.

[65] https://medyascope.tv/2024/07/15/rusen-cakirin-konugu-kerem-altiparmak-yuksel-yalcinkayanin-bylock-davasi-aihm-tarihinin-en-buyuk-buzdagi/.

[66] TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) before the Grand Chamber (supra note 1), para. 15.

particularly in politically sensitive cases,[67] while certain other cases are concluded quickly.[68] For instance, applications concerning the suspension of MPs' mandates were decided only after the mandate had lapsed or the MP concerned had been barred from running for office due to a terrorism-related conviction.[69] Similarly, applications seeking the annulment of presidential decrees have remained pending for an average of more than two years,[70] thereby allowing unlawful decrees to remain in effect for sufficient time to produce their intended effects. Applications that ultimately result in findings of violation tend to remain pending for significantly longer than other cases,[71] which is strongly indicative of the tactical and deliberate nature of such delays.

Fourth, there is a growing and visible trend of intentional non-implementation of TCC judgments by lower courts, particularly on the rare occasions when the TCC has reached timely decisions on the merits in cases not favoured by the government.[72] Notable examples of non-implementation include the judgments ordering the release from pre-trial of two journalists,[73] a pilot judgment requiring Parliament to amend overbroad anti-terrorism legislation,[74] judgments requiring lower courts to suspend criminal proceedings against MPs with parliamentary immunity,[75] as well as the TCC's recent judgment ordering the release Gezi Park defendant Tayfun Kahraman.[76]

Recent proceedings concerning Mr. Kavala's co-defendants in the Gezi Park trial provide a particularly stark illustration of the intensifying political pressure on the TCC and the challenges to its effectiveness as a remedy for human rights violations.[77] The Court of Cassation openly refused to comply with multiple TCC rulings finding violations of detained opposition MP Can Atalay's rights and ordering his

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[67] *See Selahattin Demirtaş (no. 4) v Türkiye*, App no. 13609/20, 8 July 2025, para. 152; ECtHR, *Kavala v. Turkey,* Application no. 28749/18, 10 December 2019, para. 188. The ECtHR has stressed that justifications relating to the TCC's workload could not "eternally justify extremely lengthy delays" in its review of applications.
See also Council of Europe Committee of Ministers decision on 9-11 March 2026 (1553rd meeting, 9-11 March 2026 (DH) H46-39 Selahattin Demirtaş (No. 2) group v. Turkey (Application No. 14305/17), underlining that the TCC had still not examined Mr Demirtaş's complaint, pending before it since 7 November 2019, https://hudoc.exec.coe.int/#{%22sort%22:[%22execdocumenttypesorting%20ascending,execdocumentreferencesorting%20descending%22],%22execidentifier%22:[%22CM/Del/Dec(2026)1553/H46-39E%22]} .

[68] TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) before the Grand Chamber (supra note 1), para. 15.

[69] See TCC, Selma Irmak (3), App no. 2018/9763 of 15 March 2018, 2 May 2024; Osman Baydemir (3), App no. 2018/10290 of 16 April 2018, Inadmissibility decision of 8 February 2023. The application lodged by Selahattin Demirtaş in November 2019 remains pending. A TCC application lodged by journalist Murat Aksoy in 2018 concerning his conviction for alleged "support for a terrorist organisation" was ruled on only in 2025, when the TCC found a violation of his right to freedom of expression (TCC, Murat Aksoy (2), App no. 2018/35195, Judgment of 29 April 2025).

[70] Ahmet Ayata, Stages and Durations in The Decisions of the Constitutional Court: An Evaluation Centered on Presidential Decrees, Necmettin Erbakan University Law Faculty Review, 7(3), pp. 588-603, p. 602.

[71] Ibid.

[72] TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) before the Grand Chamber (supra note 1), para. 16.

[73] See ECtHR*, Şahin Alpay v Turkey*, 16538/17, 20 March 2018; *Mehmet Hasan Altan v Turkey*, App no. 13237/17, 20 March 2018. The domestic courts refused to implement decisions of the TCC ordering the release from pre-trial detention of journalists Şahin Alpay and Mehmet Altan, arguing that the TCC's decisions were not binding upon them. ECtHR, *Şahin Alpay v Turkey*, 16538/17, 20 March 2018; *Mehmet Hasan Altan v Turkey*, App no. 13237/17, 20 March 2018

[74] TCC, Hamit Yakut, App no. 2014/6548, 10 June 2021. See https://www.amnesty.org/en/documents/eur44/7765/2024/en/ ; https://bianet.org/haber/aym-ayni-maddeyi-ikinci-kez-iptal-ettiduzenleme-bir-oncekiyle-ayni-303476.

[75] See TCC, Kadri Enis Berberoğlu (2), App no. 2018/30030, 17 September 2020; Kadri Enis Berberoğlu (3), App no. 2020/32949, 21 January 2021; TCC, Can Atalay (2) [Plenary Assembly], App no. 2023/53898, Judgment of 25 October 2023, paras. 89-93 and paras. 107-108, 117.

[76] See https://bianet.org/haber/courts-refuse-torelease-gezi-park-convict-tayfun-kahraman-despite-top-court-ruling-313513#google_vignette ; https://bianet.org/haber/aym-tayfun-kahraman-hakkinda-bir-kez-daha-ihlal-var-dedi-318294 .

[77] TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) before the Grand Chamber (supra note 1), para. 17.

release and retrial,[78] and took the unprecedented step of seeking a criminal investigation against TCC members.[79] President Erdoğan publicly attacked the TCC and proposed curtailing the individual application procedure,[80] while an MP from Mr. Atalay's party was physically attacked during an extraordinary parliamentary session convened to address the matter.[81] Domestic courts subsequently likewise refused to release co-defendant Tayfun Kahraman, notwithstanding a TCC ruling in his favour.[82]

5. Influence of the President and his governing coalition over ongoing proceedings

The European Commission stated in its 2022, 2023, 2024 and 2025 Türkiye reports that pressure by the President and the governing coalition over judges and prosecutors undermine, in particular, respect of the principle of the presumption of innocence and the right to a fair trial, and prevents members of the judiciary from carrying out their duties in accordance with EU standards.[83] In this regard, there are multiple recent examples of continuing attacks by the President or other high-level members of government and their political allies against individuals perceived as critics or political opponents, as well as members of the judiciary who exercise their functions in a manner perceived as contrary to the government's interests.

Most notably, following the ECtHR's findings of violations against Türkiye in two cases concerning Osman Kavala, while President Erdoğan publicly stated that he would not respect the ECtHR's judgment,[84] the Turkish Ministry of Foreign Affairs harshly criticised the Parliamentary Assembly of the Council of Europe (PACE) for "instrumentalising judicial processes for politics", after its October 2023 resolution calling for Osman Kavala's immediate release and signalling further steps in case of continued non-compliance.[85] These incidents evidence the government's continuing attempt to block domestic courts' implementation of the ECtHR's judgment through the release of Osman Kavala.

More recently, in the case concerning the ongoing detention of Can Atalay, President Erdoğan publicly attacked the TCC and proposed limiting individual applications to the TCC.[86] Similarly, in January 2024, Presidential Chief Advisor Mehmet Uçum claimed that the Constitution was violated by the TCC by its decision in the Can Atalay case.[87] Uçum's following statements also included references to the dissolution case pending before the TCC against pro-Kurdish and minority rights People's Democratic Party (HDP): "*In the past, the Constitutional Court closed parties it ideologically disagreed with and restricted their political participation rights. Today, it doesn't close a political party that is under the influence of terrorist elements, even acting in organic unity with a terrorist organization. Moreover, it*

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[78] See further HRW, ICJ, TLSP, "Flouting the European Court of Human Rights and Bringing Domestic Courts to Heel: Türkiye's Collision Course with the Council of Europe" (January 2025), pp. 11-12, https://www.hrw.org/news/2025/01/24/flouting-european-court-human-rights-and-bringing-domestic-courts-heel .

[79] See https://www.bbc.com/turkce/articles/c72q6d5d9j2o .

[80] See https://www.aljazeera.com/news/2023/11/10/erdogan-criticises-top-turkey-court-stoking-judicial-crisis .

[81] See https://edition.cnn.com/2024/08/17/middleeast/turkey-parliament-fist-fight-intl/index.html ; https://www.milliyet.com.tr/gundem/mhp-lideri-bahceli-can-atalay-konusu-tamamiyla-kapandi-7173328 .

[82] TCC, Tayfun Kahraman [Plenary Assembly], App no. 2023/98215, 31 July 2025; https://bianet.org/haber/aym-tayfun-kahraman-hakkinda-bir-kez-daha-ihlal-var-dedi-318294 .

[83] European Commission, Türkiye 2025 Report, p.p. 26-28; European Commission, Türkiye 2024 Report, p. 25; European Commission, Türkiye 2023 Report, pp. 23-24; European Commission, Türkiye 2022 Report, pp. 23-25.

[84] See https://www.duvarenglish.com/turkey-will-not-respect-council-of-europes-ruling-on-osman-kavala-says-erdogan-news-60291 .

[85] See https://www.aa.com.tr/tr/gundem/disisleri-bakanligi-akpmnin-turkiyeye-iliskin-kararinin-tarihi-bir-hata-oldugunu-belirtti/3018094 .

[86] See https://www.aljazeera.com/news/2023/11/10/erdogan-criticises-top-turkey-court-stoking-judicial-crisis .

[87] See https://bianet.org/haber/erdogan-s-advisor-targets-the-constitutional-court-says-it-creates-systemic-crisis-290138 . The declaration came after the second violation decision regarding Can Atalay, a member of the Turkey Workers' Party (TİP), who was elected as an Member of Parliament in the general elections on May 14, 2023, but has nevertheless not been released from the prison.

enables financial support, including special election funds, to be provided to this party, which is evident not to participate in elections, thus opening the door to indirect financing of terrorism."[88]

Moreover, in 2024, President Erdoğan referred to judges and prosecutors dismissed after the attempted coup d'etat as "flies" of "the FETÖ swamp" and criticised the Council of State's decision to reinstate 387 of them, following which the then Minister of Justice, Yılmaz Tunç announced that the Council of State decision would be re-examined by the CJP.[89]

Finally, in connection with the ongoing proceedings against the imprisoned Istanbul Mayor Ekrem İmamoğlu and his party, the CHP, President Erdoğan made a series of deeply troubling public statements that serve to undermine the presumption of innocence and the right to a fair trial. Most notably, in reference to the corruption allegations against Mayor İmamoğlu, President Erdoğan declared on 14 May 2025 that the ongoing investigation in Istanbul concerned what he described as a "criminal organisation without precedent in the history of the Republic", whose actions had reached dimensions threatening national security through organised corruption and extortion.[90]

These statements by the President and members of the governing coalition demonstrate repeated interferences with and attempts to influence the judicial process, in clear breach of the rule of law and the principle of separation of powers.

6. Recommendations

The European Commission's recommendations to the Turkish authorities on this matter should include, among other measures, the implementation of steps to:

- Ensure the structural independence of the CJP, change the problematic recruitment system for judges and prosecutors, and protect judges and prosecutors from politically charged and influenced decisions against them:
  - Modify the method of appointment and composition of the CJP in line with the recommendations of the Venice Commission and international standards, including by ensuring that at least half of the members of the CJP are elected by the judiciary and that the members currently appointed by the President are instead appointed by Parliament;
  - Revise the deficient mechanism for recruiting judges and prosecutors, curtail the role of the Ministry of Justice in the procedure, and strengthen the involvement of the judiciary in the recruitment and selection of prospective judges and prosecutors;
  - Ensure, in law and in fact, that decisions concerning judges and prosecutors, including their appointment, promotion, removal from a case, transfer, and disciplinary measures against them, are transparent and based on objective criteria, in line with international standards on judicial independence;
  - Strengthen the guarantees in law and practice for the security of tenure of judges and prosecutors, including by ensuring that transfer against their will is limited to exceptional cases, based on objective and predefined criteria, and that judges and prosecutors may be suspended or removed only for reasons of incapacity or behaviour that renders them unfit to discharge their duties;
  - Ensure access to an effective remedy before an independent judicial body for all decisions concerning judges and prosecutors, including appointment, transfer, and disciplinary measures;

[88] Ibid.

[89] See https://www.ensonhaber.com/gundem/adalet-bakani-yilmaz-tunc-danistayin-fetoculere-yonelik-karariyla-ilgili-konustu . "FETÖ" is the abbreviation of "Fethullahist Terrorist Organisation," the government's designation for the Gülen movement.

[90] See https://kisadalga.net/haber/gundem/erdogandan-ibb-operasyonu-aciklamasi-ulke-guvenligini-tehdit-edecek-boyutlara-ulastigi-anlasiliyor-126335 .

- Implement the ECtHR's judgments in *Alparslan Altan v Turkey, Baş v Turkey* and *Turan and 426 others v Turkey* on the unreasonable extension by the domestic courts of the concept of "*in flagrante delicto*" used to justify the prosecution and detention of judges;
- Transfer the power of the Minister of Justice to grant permission for the lifting of functional immunity of judges and prosecutors to the judiciary.

- Ensure the structural independence of the TCC, including by reforming the problematic appointment system for the TCC members,
- Strengthen the effectiveness of the individual application mechanism before the TCC;
- Ensure that members of the executive refrain from attempting to influence ongoing court proceedings.

B. Instrumentalisation of Criminal Law to Silence Human Rights Defenders and Suppress Scrutiny and Criticism of the State

Far from improving, the environment in which HRDs in Türkiye operate has deteriorated further. HRDs continue to face serious restrictions on their rights, while the targeting of NGOs working in the human rights field has intensified, accompanied by the ongoing arbitrary detention and prosecution of an increasingly broad range of related actors. Political interference in and instrumentalisation of the judiciary against HRDs and others perceived as obstacles to the coalition parties has become rampant and systematic.[91]

In 2024 the Council of Europe Commissioner for Human Rights noted that there has been an alarming surge in criminal prosecutions targeting HRDs, reaching "unprecedented levels".[92] Since then, Türkiye has made no progress in addressing abuse of criminal proceedings and repression of HRDs and other government critics. On the contrary, it has regressed, effectively normalising these systematic human rights and rule of law violations.[93] Notably, according to the Human Rights Foundation of Turkey (HRFT), in 2025, in Türkiye, HRDs were subjected to judicial harassment —through detention, criminal investigation and prosecution — in 299 cases.[94] The stigmatisation and criminalisation of HRDs is illustrated by a significant number of incidents including:

- Multiple criminal cases brought against the then President of the Turkish Medical Association (TTB), Şebnem Korur Fincancı, who is also an executive board member of the Human Rights Foundation of Türkiye (TİHV). In January 2024, her conviction for "making propaganda for a terrorist organisation" was upheld by a second instance court. In June 2025, the TCC found no violation of her right to liberty and security regarding her detention for her professional assessment of reported human rights abuses by Türkiye's armed forces,[95] in clear contravention of the ECtHR's well-established case-law.[96]

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[91] See supra note 2.

[92] Council of Europe Commissioner for Human Rights, 'Memorandum on freedom of expression and of the media, human rights defenders and civil society in Türkiye', 5 March 2024, para. 33, https://rm.coe.int/memorandum-on-freedom-of-expression-and-of-the-media-human-rights-defe/1680aebf3d (The Commissioner, referred to the Report of Human Rights Foundation of Türkiye (Report on Repression, Obstacles and Challenges Faced by Human Rights Defenders in Türkiye in 2022) according to which, in 2022 alone, 1.143 human rights defenders appeared before judges in 105 different criminal cases for their activities in the field of human rights).

[93] Rule 9.2 submission by TLSP, HRW and the ICJ concerning the case of Kavala v. Türkiye (supra note 2) para 26;

[94] HRFT, Repression, Obstacles and Challenges Faced by Human Rights Defenders in Turkey in 2025, https://en.tihv.org.tr/wp-content/uploads/2026/01/2025-Yearly-Report_HRD.pdf .

[95] TCC, Rasime Şebnem Korur, App no 2022/105315, Judgment of 12 June 2025. See Front Line Defenders, Sebnem Korur Fincanci (https://www.frontlinedefenders.org/en/profile/sebnem-korur-fincanci).

[96] See for example ECtHR, *Selahattin Demirtaş (no. 2) v. Turkey [GC*], Application no. 14305/17, 22 December 2020, paras. 314-318. The Dissenting Opinion to the TCC judgment in Ms. Fincancı's case (supra note 54) highlights that "[her] arrest warrant contains no assessment showing how the applicant's speech legitimized, praised, or encouraged the use of coercive, violent, or threatening methods by a terrorist organization." (para. 15).

- Criminal proceedings brought against the president and 10 executive board members of the Istanbul Bar Association with the charge of “spreading terrorist propaganda” under Article 7/2 of the Anti-Terrorism Law and “publicly disseminating misleading information” under Article 217/A of the Turkish Penal Code , solely for issuing a public statement on 21 December 2024 concerning the killing of two journalists in northern Syria and the arrest of journalists and lawyers at a related peaceful protest in Istanbul the day before.[97] On 9 January 2026, the trial court acquitted 11 lawyers of both charges they faced.[98]

- Criminal proceedings brought against Fırat Epözdemir, a lawyer and member of the executive board of the Istanbul Bar Association, who was arbitrarily detained on 23 January 2025 upon his return from an advocacy visit to Council of Europe (CoE) institutions.[99] On 25 January 2025, a judge ordered his pre-trial detention on alleged charges of "membership in a terrorist organisation" and "making propaganda for a terrorist organisation", formalised in an indictment dated 8 April 2025. He was held in pre-trial detention until 29 May 2025 and later acquitted of the charges on 29 January 2026.[100]

- The conviction and sentencing of ten lawyers who are members of the Association of Lawyers for Freedom (Özgürlük İçin Hukukçular Derneği, ÖHD) and of 20 executives and staff of the Prisoners’ Families Solidarity Association (Tutuklu Aileleri ile Dayanışma Derneği, TUAD) by the Istanbul 14th Heavy Penal Court on 28 January 2026.[101] The case originated from a criminal investigation launched in 2016 against ÖHD lawyers and TUAD members, based on allegations that they had facilitated communication between prisoners held in separate prisons and the outside world between 2011 and 2014. All defendants in the case were charged with “membership of an armed organisation” and, in some cases, with “making propaganda for an armed organisation”, solely on account of their lawful professional and advocacy activities.

- Criminal proceedings brought against Enes Hocaoğulları, International Advocacy and Resource Development Coordinator of ÜniKuir on account of a speech Enes Hocaoğulları delivered on 27 March 2025 as a youth delegate at the Congress of Local and Regional Authorities of the Council of Europe. He was arrested and held in pre-trial detention until 8 September 2025 on the charges of “publicly disseminating misleading information” and “inciting public hatred and hostility”. On 23 February 2026, the trial court acquitted him.[102]

Moreover, judicial harassment, smear campaigns, vilification, stigmatisation, and other hostile actions against members of LGBTI communities and LGBTI HRDs continue unabated.[103] Notably, criminal proceedings remain ongoing against eleven members of the executive and supervisory board of the Genç (Young) LGBTI+ Association in connection with alleged breaches of the Law on Associations

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[97] See https://www.icj.org/turkey-drop-bogus-charges-against-istanbul-bar-association-leadership/ .
[98] See https://www.amnesty.org/en/latest/news/2026/01/turkiye-acquittal-of-istanbul-bar-association-board-welcome-news-in-the-face-of-misuse-of-the-criminal-justice-system/ .
[99] See https://www.lawyersforlawyers.org/international-organisations-harbour-deep-concern-over-actions-taken-against-the-istanbul-bar-association-and-arrest-of-lawyer-firat-epozdemir/ .
[100] See https://www.mlsaturkey.com/en/istanbul-bar-association-board-member-lawyer-firat-epozdemir-acquitted
[101] See https://www.turkeylitigationsupport.com/_files/ugd/9265a1_9034d5cc831443389b5f3a0d3ebb0219.pdf
[102] https://en.tihv.org.tr/wp-content/uploads/2026/01/2025-Yearly-Report_HRD.pdf ; https://www.frontlinedefenders.org/en/case/turkiye-youth-and-lgbtqi-rights-defender-enes-hocaogullari-acquitted-all-charges .
[103] See Third Party Intervention before the ECtHR in the case of Kaos Gay and Lesbian Cultural Research and Solidarity Association (Kaos GL) v. Türkiye(Application nos. 5797/22 and 27507/23) by The TLSP, The Association for Monitoring Equal Rights, The Human Rights Foundation of Turkey, Truth Justice Memory Center, University Queer Research and LGBTI+ Solidarity Association, Women for Women's Human Rights, https://static1.squarespace.com/static/5b8bbe8c89c172835f9455fe/t/6762c3fbe3fd491ee83cfe30/1734525947673/ECtHR+Kaos+GL+TPI+02122024+Final.pdf; See Nina Keese and Beril Önder, ‘Debate Over a New Judicial Package in Türkiye Heightens the Urgency of Kaos GL v. Türkiye Before the ECtHR’ (16 January 2026), Opinio Juris, https://opiniojuris.org/2026/01/16/debate-over-a-new-judicial-package-in-turkiye-heightens-the-urgency-of-kaos-gl-v-turkiye-before-the-ecthr/ .

through the activities of the association.[104] Article 30 of the Law on Associations (Law No. 5253) stipulates that an association "may not be founded to serve a purpose expressly prohibited by the Constitution or the laws." The indictment argued that the objective outlined in the Association's statute violates Article 41 of the Turkish Constitution on the protection of the family and children's rights. In the meantime, the association was also dissolved as a result of civil proceedings brought against it.[105]

A further recent example of the crackdown against LGBTI HRDs concerns the criminal proceedings initiated against Defne Güzel, a trans woman human rights defender and the chairperson of 17 Mayıs Derneği (May 17 Association), for alleged breaches of the Law on Associations. The indictment was issued in the wake of a wave of systematic audits targeting the May 17 Association and concerns two of the Association's publications — namely, *My Intersex Story* and the exhibition catalogue *The Children, Roe Deer, Flowers, Fires,* which features gender non-conforming bodies — both of which have been branded as "contrary to public morality".[106]

Lastly, in recent years, environmental HRDs have also been subjected to increasingly systematic detention. Notably, İlayda Çekiç and Emir Döner, who have been actively involved in environmental activism in the Kurtderesi neighbourhood of Samandağ, Hatay, were repeatedly detained by law enforcement officers in September and October 2025.[107] The two environmental HRDs were targeted due to peaceful protests against the entry of law enforcement officers into private lands and were released without their statements being taken. Additionally, environmental HRD Esra Işık, who was arrested and placed in pre-trial detention for protesting the expropriation of farmland in the vicinity of Akbelen Forest in Milas, continues to face criminal proceedings.[108]

Recommendations

The European Commission's recommendations to the Turkish authorities on this matter should include, among other measures, the implementation of steps to:

- Adopt a concrete policy and targeted legislation on the protection of HRDs against any form of harassment or persecution, including through arbitrary arrest and detention, bring an end to punitive prosecutions and misuse of criminal law against them, and create a safe and enabling environment for them to pursue their activities;
- Take all necessary steps to address domestic judicial authorities' non-implementation of ECtHR judgments and its substantial case law under Articles 5, 10, 11 and 18 ECHR in cases against Türkiye;
- End the current judicial paradigm equating the legitimate and non-violent exercise of ECHR rights, such as criticism of State organs and scrutiny of state policies, with criminal behaviour.

C. Abuse of Criminal Legislation Against Elected Representatives and Political Dissent

In Türkiye, the legitimate exercise of fundamental rights such as freedom of expression and freedom of assembly and association is repeatedly being linked to violent events and serious criminal offences through a manifestly unreasonable interpretation of criminal law and evidentiary standards. In these proceedings against real or perceived dissenting voices, the basic tenets of legality and of the right to a fair trial are systematically violated.

[104] See https://www.frontlinedefenders.org/en/case/eleven-members-genc-lgbti-association-trial ; https://tgeu.org/defne-guzel-trans-human-rights-defender-and-chair-of-may-17-association-targeted-in-criminal-case-in-turkiye/ .
[105] Ibid.
[106] See https://www.frontlinedefenders.org/en/case/judicial-harassment-lgbtqi-rights-defender-defne-guzel .
[107] HRFT, Repression, Obstacles and Challenges Faced by Human Rights Defenders in Turkey in 2025 (supra note 94), p. 3.
[108] See https://t24.com.tr/gundem/tutuklanan-akbelen-direniscisi-esra-isik-27-nisanda-hakim-karsisina-cikacak,131445 .

Turkish authorities have persistently failed to adhere to ECHR standards and to implement ECtHR judgments finding violations of freedom of expression due to their unforeseeable and unreasonable application of criminal law against perceived political dissenters.[109] Prosecutorial and judicial authorities often resort to terrorism-related offences and other criminal provisions to punish political statements and activities, leading to extremely heavy prison sentences, with the aim of permanently incapacitating politically disfavoured expressions of opinion on matters of public interest like "the Kurdish issue".[110] Most notably, former HDP co-chairs Selahattin Demirtaş and Figen Yüksekdağ Şenoğlu have been in prison since November 2016 despite the ECtHR's critical findings in their cases.[111] In the *Selahattin Demirtaş (no. 2)* and *Yüksekdağ Şenoğlu and Others* judgments, the ECtHR found that judicial authorities' interpretation and application of criminal legislation had constituted an arbitrary interference with the applicants' right to freedom of expression under Article 10 ECHR and that the criminal provisions relied on did not offer sufficient guarantees against such arbitrariness.[112] Furthermore, the ECtHR found that the motives put forward for the applicants' detention — namely, alleged involvement in terrorism offences — had merely been a cover for the ulterior purpose of stifling pluralism and limiting freedom of political debate.[113] Moreover, in the *Selahattin Demirtaş (No. 4)* judgment (in July 2025), the ECtHR examined the evidence and reasoning presented to justify Mr Demirtaş's detention prior to his conviction and found that the said evidence was not such as to establish a reasonable suspicion that he had committed the offences at issue and concluded that the measures taken by the authorities in respect of the applicant had instead served an ulterior, political purpose.[114]

The ECtHR judgments in these cases have still not been implemented by the Turkish authorities. Mr Demirtaş and Ms Yüksekdağ Şenoğlu have been in prison for more than 9 years and cases concerning the detention of parliamentarians have been pending for an unreasonable amount of time before the TCC.[115] Besides the case of Selahattin Demirtaş, since November 2019, many other applications lodged by other HDP parliamentarians to challenge proceedings against them restricting their ability to carry out their functions have remained pending before the TCC for over three times the period considered by the ECtHR in the Yüksekdağ Şenoğlu and others judgment as unreasonable.[116]

When parliamentary inviolability is not lifted outright by unlawful judicial decisions—as in *Selahattin Demirtaş (no. 2)* and *Yüksekdağ Şenoğlu and others* — Members of Parliament are instead widely faced with abusive requests from judicial authorities to Parliament to lift their inviolability, especially opposition MPs.[117] These requests (known as *fezleke*, or summaries of proceedings) are often based on MPs' statements or publications.[118] This practice has been condemned by the Parliamentary Assembly of the Council of Europe ("the PACE"), which pointed to its highly detrimental impact on the sound functioning of the Parliament in Türkiye, and its chilling effect on political debate.[119]

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[109] Rule 9.2 submission by TLSP, HRW, ICJ and FIDH concerning Selahattin Demirtas v. Turkey (No. 2) (Application No. 14305/17), 12 February 2024, para. 40, https://hudoc.exec.coe.int/?i=DH-DD(2024)216E .
[110] Ibid. para. 42.
[111] ECtHR, *Selahattin Demirtaş (no. 2) v Turkey [GC],* App. no. 14305/17, 22 December 2020 and *Yüksekdağ Şenoğlu and others v Türkiye*, App. no. 14332/17, 8 November 2022.
[112] Ibid.
[113] ECtHR, *Selahattin Demirtas v. Turkey (no. 2),* App. No. 14305/17, [GC], paras. 423-438; and *Yüksekdag Şenoğlu and Others v. Turkey*, App. no. 14332/17, paras. 637-639.
[114] ECtHR, *Selahattin Demirtaş (No. 4) v. Türkiye,* App. No. 13609/20, 8 July 2025.
[115] Council of Europe Committee of Ministers decision on 9-11 March 2026 (1553rd meeting, 12-14 March 2024 (DH) H46-39 Selahattin Demirtaş (No. 2) group v. Turkey (Application No. 14305/17) (supra note 67).
[116] Rule 9.2 submission by TLSP, HRW, ICJ and FIDH concerning Selahattin Demirtas v. Turkey (No. 2) (Application No. 14305/17) (supra note 109) para 52.
[117] Ibid. para. 31
[118] Ibid.
[119] Resolution 2376 (2021) on the functioning of democratic institutions in Turkey (22 April 2021), para. 13

The ECtHR underlined in *Selahattin Demirtaş (no. 2) v. Turkey* that, along with Mr Demirtaş, a number of other leading figures, as well as elected mayors from the HDP had been placed in pre-trial detention mainly for their political speeches. It stressed that the prosecutorial and judicial authorities' abuse of criminal law served as a basis for the arbitrary detention and thereby silencing HDP politicians at key political moments. This politically motivated judicial strategy, as identified by the ECtHR, has since been deployed against numerous opposition politicians more broadly. The strategy has been extensively applied against HDP, DEM Party (the successor to HDP), and pro-Kurdish politicians, many of whom have been taken into custody and faced with terrorism-related charges.[120] A particularly striking manifestation of this approach is the removal of elected mayors from office on the basis of alleged suspicion of terrorism-related offences, and their replacement by unelected, government-appointed "trustees". This practice has disproportionately affected local representatives in the predominantly Kurdish south-east.[121]

Since the local elections of 2024, a similar strategy has been directed at CHP mayors and local representatives. Notably, the mayors of Şişli and Esenyurt district municipalities in Istanbul and Ovacık district municipality in Tunceli have been taken into custody on terrorism-related charges and replaced by government-appointed trustees. A significant number of further CHP mayors have likewise been taken into custody and removed from office on other grounds, primarily corruption charges.[122] In these cases, in place of those removed, the municipal councils elected deputy mayors, some of whom are AKP members.[123]

The most prominent example remains the criminal proceedings against Istanbul Mayor and presidential candidate Ekrem İmamoğlu, along with 406 Istanbul municipal officials, all facing what appear to be politically motivated corruption charges.[124] Taken together, these prosecutions — directed exclusively against opposition mayors and local politicians — are emblematic of the politically motivated judicial strategy being systematically deployed against the two most significant opposition parties in Türkiye.

In addition, domestic courts have unlawfully set aside parliamentary inviolability in relation to MPs elected in 2018 and 2023. Thus, several courts in recent years have held that Article 14 of the Constitution ("abuse of rights to disrupt the integrity of the territory or nation or to destroy fundamental rights") must be interpreted as encompassing terrorism-related offences. This has resulted in MPs accused of terrorism-related offences being stripped of their inviolability, as Article 83(2) of the Constitution provides that the situations set forth in Article 14 of the Constitution are excluded from the scope of inviolability. Although the TCC found this practice in violation of electoral rights under Article 67 of the Constitution in the cases of Ömer Faruk Gergerlioğlu, Leyla Güven and

[120] See for example, the latest presidential elections of May 2023, in which the HDP pledged support to the CHP candidate running against Mr Erdoğan. Merely weeks before these elections, 128 persons, including HDP politicians and candidate MPs from opposition parties, were taken into custody across 21 cities purportedly on suspicion of terrorism-related offences (See https://bianet.org/haber/journalists-lawyers-politicians-detained-across-turkey-in-raids-targeting-pro-kurdish-groups-277727 ; and https://bianet.org/haber/gazeteci-vekil-adaylarindan-tutuklamalara-tepki-erdogan-in-bitmeyen-ozgurluk-dusmanligi-277905).

[121] Rule 9.2 submission by TLSP, HRW, ICJ and FIDH concerning Selahattin Demirtas v. Turkey (No. 2) (Application No. 14305/17) (supra note 109), para 63. See also https://www.hrw.org/news/2020/02/07/turkey-kurdish-mayors-removal-violates-voters-rights .

[122] See https://bianet.org/haber/31-belediye-baskani-gorevden-alindi-13-une-kayyim-atandi-318228 According to this report, by 1 April 2026, the mayors of 3 metropolitan municipalities (Istanbul, Adana and Antalya), together with 15 district municipalities (Beşiktaş, Avcılar, Beyoğlu, Büyükçekmece, Beylikdüzü, Şile, Ceyhan, Seyhan, Manavgat, Bolu Merkez, Kuşadası, Beykoz, Bayrampaşa, Gaziosmanpaşa, Uşak Merkez) have been removed from office.

[123] Beykoz, Bayrampaşa and Gaziosmanpaşa districts in Istanbul.

[124] See https://www.hrw.org/news/2026/03/03/turkiye-leading-opponent-of-erdogan-on-trial ; https://www.amnesty.org/en/latest/news/2026/03/turkiye-politically-motivated-prosecution-of-istanbul-mayor-raises-serious-fair-trial-concerns/ ; https://verfassungsblog.de/judicial-harassment-in-turkey-imamoglu/ .

Can Atalay,[125] the Court of Cassation explicitly rejected the TCC's findings (as discussed above).[126] Thus, judicial authorities have adopted a jurisprudence permitting the lifting of parliamentary inviolability without a decision by Parliament, in circumstances defined arbitrarily, retroactively, and unforeseeable by the judiciary based on the extremely vague notion of "abuse of rights".[127]

The lawsuit filed against the HDP for its dissolution with a five-year political ban request on its 451 prominent members, which is still pending before the TCC, also raises serious questions concerning democracy in Türkiye. The ECtHR's recent findings in the cases concerning HDP members, the Government's systemic interference with the judiciary, and the ongoing practice of using criminal law as a tool to silence critical voices illustrate that the government is using political party dissolution to stifle pluralism and to limit freedom of political debate, which is at the very core of the concept of a democratic society.

As the PACE highlighted in October 2022, "it has become challenging for members of the political opposition to exercise their elected mandates in a free and safe environment".[128] The examples cited above show that opposition politicians have been specifically targeted, and the measures taken by the domestic authorities display a pattern in which the opposition politicians' rights guaranteed by the ECHR have been restricted systematically for an ulterior purpose of stifling pluralism and limiting freedom of the political debate.

Recommendations

The European Commission's recommendations to the Turkish authorities on this matter should include, among other measures, the implementation of steps to:

- Secure the annulment of criminal proceedings initiated during all parliamentarians' terms in office based on the unforeseeable and arbitrary lifting of their parliamentary immunity by the constitutional amendment of May 2016 or by the judicial authorities;
- Ensure that the judicial authorities implement the jurisprudence of the TCC precluding decisions by the judiciary to set aside parliamentary inviolability;
- End the judicial authorities' widespread practice of issuing summaries of proceedings (*fezleke)* requesting Parliament to lift parliamentarians' inviolability based on their exercise of Convention rights;
- Ensure that remedies and safeguards against arbitrary interferences with the rights of elected representatives and other opposition politicians are effective in practice, including access to the investigation file to challenge pre-trial detention, respect for fair trial rights, implementation of TCC judgments on parliamentary immunity;
- Address other obstacles to opposition politicians' exercise of their elected mandates in a free and safe environment, in particular:
  - allow elected local representatives to freely exercise their functions in accordance with the results of the March 2024 local elections;
  - Ensure the cessation of the proceedings seeking the closure of the HDP and a political ban on hundreds of its members, which rely on the legitimate exercise by HDP politicians of their Convention rights, on their lawful and non-violent political activities, and on evidence already examined by the ECtHR in the *Demirtaş (no. 2)* group judgments and found to be protected under the ECHR;

[125] TCC Ömer Faruk Gergerlioğlu, App. No. 2019/10634, 1 July 2021, para. 103; TCC, Leyla Güven, App. No. 2018/26689, 7 April 2022, para. 109); TCC, Can Atalay (2) [Plenary Assembly], App no. 2023/53898, Judgment of 25 October 2023; TCC, Can Atalay (3) [Plenary Assembly], App. no. 2023/99744, 21 December 2023.
[126] Court of Cassation, File no. 2023/12611, Judgment of 28 September 2023, pp. 47-50.
[127] Rule 9.2 submission by TLSP, HRW, ICJ and FIDH concerning Selahattin Demirtas v. Turkey (No. 2) (Application No. 14305/17) (supra note 109), para. 30.
[128] Resolution 2459 (2022) of the Parliamentary Assembly of the Council of Europe on the honouring of obligations and commitments by Türkiye, para. 2.

- Refrain from ad hominem verbal attacks, threats, or intimidation against opposition politicians and from exercising covert or overt influence over criminal proceedings, including through public comments designating named politicians as “terrorists” who must be “punished” based on their expression of political opinion, including criticism of state policies.

II. Anti-Terror Laws and Their Arbitrary Application

Unfolding anti-terrorism law and practice in Türkiye continues to stand in sharp contrast to the core principles of international human rights law, and the fundamental constraining principles of criminal law inherent in a rule of law approach. While the problem is longstanding, in the aftermath of the attempted coup d'etat of 15 July 2016, the widespread abuse of over-broad criminal legislation, specifically anti-terror laws, has been an increasingly common practice.

During this period, the ECtHR ruled on a number of crucial cases that illustrate this expansive interpretation of anti-terrorism laws in Türkiye and its impact on the legitimate activity of critical voices. Most notably, *Kavala*, *Selahattin Demirtaş (no. 2), Selahattin Demirtaş (no. 4)* and *Figen Yüksekdağ Şenoğlu* concern the arbitrary pre-trial detention of prominent critical voices similarly charged with terrorism-related offences.

The inherent vagueness and breadth of many provisions of anti-terrorism criminal laws, coupled with their expansive interpretation and widespread application by prosecutors and judges, have been extremely problematic.[129] As a result, Türkiye has consistently been criticised by international organisations, due to the misappropriation of criminal law to impede the legitimate exercise of rights.[130]

Firstly, as suggested by the ECtHR and other international bodies and experts, the definitions of certain crimes in Turkish anti-terrorism legislation fall short of the requirements of legality and foreseeability. The vagueness of anti-terror legislation is closely interconnected with the "judicial harassment" of HRDs, journalists and politicians. Most notably,

- Article 220(6) and (7) and Article 314(1) and (2) of the Criminal Code,[131] fail to meet the legality standard under the ECHR and are widely used to criminalise the exercise of Convention

[129] See the Third Party Intervention: The TLSP, HRW and the ICJ in the case of Taner Kılıç v. Turkey (App No. 208/18) pp.8-10, https://static1.squarespace.com/static/5b8bbe8c89c172835f9455fe/t/5d5a7b5ffbeeb000019c7c09/1566210920345/1608 2019+Kilic+v+Turkey.pdf; UN Special Rapporteur on the right to freedom of opinion and expression, Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression on his Mission to Turkey, A/HRC/35/22/Add.3, 21 June 2017, pp. 5-6; Venice Commission, Opinion on Articles 216, 299, 301 and 314 of the Penal Code of Türkiye, CDL-AD(2016)002,15 March 2016; Venice Commission, Opinion on the Compatibility with International Human Rights Standards of Law No. 7262 on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction, CDL-AD(2021)023cor, 6 July 2021, para. 7,https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2021)023cor-e .

[130] See Council of Europe Commissioner for Human Rights, ‘Türkiye: Authorities should ensure the implementation of human rights standards on freedom of expression, peaceful assembly and association’, https://www.coe.int/en/web/commissioner/-/t%C3%BCrkiye-authorities-should-ensure-the-implementation-of-human-rights-standards-on-freedom-of-expression-peaceful-assembly-and-association; See the statement of The UN Special Rapporteur on the situation of human rights defenders, Mary Lawlor, https://www.ohchr.org/en/press-releases/2025/01/turkiye-expert-dismayed-continued-misuse-counter-terrorism-law-keep-human ; Resolution 2376 (2021) of the Parliamentary Assembly of the Council Europe, para. 14, https://pace.coe.int/pdf/c710cf1083fe265694630da3e6ac0ae6241d4e214bf91f522a494ef19e341c07/res.%202376.pdf .

[131] Article 220 of the Criminal Code proscribes the offence of “involvement in organisations established for the purpose of committing crimes”. Article 220(6) of the Criminal Code concerns “committing a crime on behalf of a terrorist organization without being a member of the organisation” and Article 220(7) of the TCC concerns “assisting terrorist organisations without being a member of them.
Article 314(1) and (2) of the Criminal Code proscribes forming, leading or membership of an armed terrorist organization. The Grand Chamber in *Selahattin Demirtaş v. Turkey (No. 2)* held that the offences in Article 314(1) and (2) of the Criminal Code, were overly broadly interpreted by domestic courts. The Court stressed that “the content of Article 314 […] coupled

rights.[132] For example, activities of HRDs that are perceived to challenge the government can be categorised as membership of, or support for, terrorist organisations.[133] As stated above, while Article 220(6) was recently amended by Law No. 7499, which came into force on 2 March 2024, the revision failed to address the concerns raised by the TCC in its pilot judgment on the subject (Hamit Yakut application), as well as the rulings of the ECtHR on this issue.[134]

- Article 309 (attempted overthrow of the constitutional order) and 312 (attempted overthrow of the Government by force and violence) of the Criminal Code do not meet the requirements of clarity, specifity and foreseeability inherent in *nullum crimen sine lege*.[135]

Secondly, judicial authorities, far from adopting a restrictive interpretation of these broadly formulated laws, give a broad, selective, and unforeseeable interpretation to various criminal provisions.[136] The result of inherently problematic anti-terror legislation, widely construed by the judicial authorities, has been to punish a broad array of legitimate activities of political dissenters,[137] HRDs[138] and journalists.[139] In this context, widespread pre-trial detention and prosecutions have been described by various experts as "judicial harassment" of government opponents or perceived opponents.[140]

Recent statistics lend weight to the vast scope of application of anti-terror laws in Türkiye today. Notably, according to the Council of Europe's Annual Penal Statistics on prison populations for 2024, Türkiye has 20,253 prisoners convicted of terrorism offences, whereas in all Council of Europe member

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with its interpretation by the domestic courts, [did] not afford adequate protection against arbitrary interference by the national authorities" and that "such a broad interpretation of a provision of criminal law cannot be justified where it entails equating the exercise of the right to freedom of expression with belonging to, forming or leading an armed terrorist organisation, in the absence of any concrete evidence of such a link."

[132] See ECtHR, *Işıkırık v Turkey*, App. no. 41226/09, 14 November 2017 and *Bakır and Others v. Turkey*, App. no. 46713/10, 10 July 2018 (Articles 220/6 and 220/7 did not meet the requirement of the quality of law prescribed in the ECHR).

[133] See the Third Party Intervention: The TLSP, HRW and the ICJ in the case of Taner Kılıç v. Turkey (App No. 208/18) (supra note 127) pp.8-10; UN Special Rapporteur on human rights defenders, World Report on the Situation of Human Rights Defenders, Dec. 2018, p.381.

[134] TCC, Hamit Yakut, App no. 2014/6548, 10 June 2021. See https://www.amnesty.org/en/wpcontent/uploads/2024/03/EUR4477652024ENGLISH.pdf . On 5 November 2025 the TCC annulled once more the provision in question (https://bianet.org/haber/aym-ayni-maddeyi-ikinci-kez-iptal-ettiduzenleme-bir-oncekiyle-ayni-303476).

[135] See Rule 9.2 submission by TLSP, HRW and the ICJ concerning the case of Kavala v. Türkiye (Application No. 28749/18), 26 January 2024 (supra note 27), p. 24, https://hudoc.exec.coe.int/?i=DH-DD(2024)263E .

[136] See ECtHR, *Selahattin Demirtaş v. Turkey (no. 2),* para. 337; See also Venice Commission Opinion on Articles 216, 299, 301 and 314 of the Penal Code of Türkiye (supra note 127) pp. 26, 27; See also Venice Commission, Opinion on the Compatibility with International Human Rights Standards of Law No. 7262 on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction (supra note 127) para. 7.

[137] Members of the HDP were particularly targeted with prosecutions and detentions for political expression. Recently, several CHP members have also been targeted with prosecutions and detentions for political expression. See above *I.C. Abuse of Criminal Legislation Against Elected Representatives and Political Dissent*.

[138] See for example ECtHR, *Taner Kılıç v. Turkey*, App No. 208/18, 31 May 2022 and *Kavala v. Turkey*, App No. 28749/18, 10 December 2019.

[139] See for example several cases concerning journalists arbitrarily detained and prosecuted for alleged terrorism-related offences involving publications critical of the government: ECtHR, *Mehmet Hasan Altan v. Turkey*, App. no. 13237/17, 20 March 2018; *Şahin Alpay v. Turkey*, App. no. 16538/17, 20 March 2018; *Sabuncu and Others v. Turkey*, App. no. 23199/17, 10 November 2020; *Şık v. Turkey* (no. 2), App. no. 36493/17, 24 November 2020; *Atilla Taş v. Turkey*, App. no. 72/17, 19 January 2021; *Ahmet Hüsrev Altan v. Turkey*, App. no. 13252/17, 13 April 2021*; Murat Aksoy v. Turkey*, App. no. 80/17, 13 April 2021.

[140] TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) before the Grand Chamber (supra note 1), para 23 ; Monitoring Committee of the Council of Europe Congress, https://www.coe.int/en/web/congress/-/t%C3%BCrkiye-s-detained-and-suspended-opposition-mayors-among-key-topics-at-the-monitoring-committee-of-the-council-of-europe-congress;
The Commissioner for Human Rights of the Council of Europe, Memorandum on freedom of expression and media freedom in Turkey, CommDH(2017)5, Section II; Thomas Hammarberg and John Howell, Parliamentary Assembly of the Council of Europe Report on the functioning of democratic institutions in Turkey, Doc. 15272, 21 April 2021, paras. 36, 42 and 52.

states prison authorities reported a combined total of 21,325 prisoners convicted of terrorism offences.[141]

Furthermore, Turkish judicial authorities' other problematic practices show the lack of a rule of law approach to criminal law. Those practices include the excessive use of pre-trial detention, reclassifying substantially the same facts as new crimes to justify ongoing detention, charging those critical of government with "particularly serious offences", and non-implementation of ECtHR judgments.[142]

More broadly, fair trial rights of those perceived as political opponents or dissenters are systematically trampled. The dismantling of fair trial guarantees as such constitutes a significant obstacle to the cessation and non-recurrence of violations similar to those in the *Osman Kavala* and *Selahattin Demirtaş (no. 2)* group of cases.

In the light of the above, it should be underlined that in Türkiye, criminal laws are used as impediments to the exercise of the Convention rights, mainly freedom of expression, against those expressing dissent or criticism of the authorities, through arbitrary prosecutions and detention, which constitutes, among other things, a violation of Article 18 in conjunction with both Articles 5 and 10 of the ECHR.

Recommendations

The European Commission's recommendations to the Turkish authorities on this matter should include, among other measures, the implementation of steps to:

- Secure the immediate release of Selahattin Demirtaş, Figen Yüksekdağ Şenoğlu and Osman Kavala and end the continued violation of their rights under the ECHR, as found by the ECtHR;
- Amend overbroad and vaguely worded articles of the Turkish Criminal Code and Law No. 3713 on the Prevention of Terrorism;
- End the judiciary's instrumentalization of criminal law to silence and suppress critical voices;
- Take all necessary steps to address domestic judicial authorities' non-implementation of ECtHR judgments and its substantial case law under Articles 5, 10 and 11 ECHR in cases against Türkiye.
- Take concrete steps to ensure that the legal safeguards protecting freedom of expression and the ECtHR jurisprudence are genuinely and effectively applied by judicial — including prosecutorial — authorities in the application and interpretation of anti-terrorism legislation (including Articles 216, 299, 301, 309, 312 and 314 of the Turkish Criminal Code and Articles 6 and 7 of the Anti-Terror Law), and secure the implementation of the Committee of Ministers' and Venice Commission's recommendations on this issue;
- End the current judicial paradigm equating the legitimate and non-violent exercise of Convention rights, such as criticism of State organs and scrutiny of state policies, with criminal behaviour;
- Strengthen judicial authorities' respect for the principle of legality and rights of liberty and fair trial in their interpretation and application of criminal law, particularly through their application of foreseeable and clearly pre-defined criteria, reliance on sufficiently strong and verifiable evidence within the scope of these criteria, and reasoned examination of defendants' arguments based on their Convention rights and ECtHR case-law.

III. Continuing Crackdown on Freedom of Peaceful Assembly

There continue to be severe violations of the right to peaceful assembly in Türkiye for three main reasons: i) the blanket and specific bans on demonstrations and events; ii) police interventions with

[141] See https://wp.unil.ch/space/files/2025/09/250924_rapport-space-i-2024.pdf .
[142] See below *V. Evasion of ECHR Obligations and Circumvention of the Implementation of ECtHR Judgments*

excessive use of force; and iii) the criminalisation of peaceful protestors.[143] Moreover, the application of relevant domestic laws and authorities' practices have disproportionately affected specific regions and groups in Türkiye, notably the predominantly Kurdish southeast, women's rights organisations, LGBTI+ groups and workers.

A. Blanket and specific bans on demonstrations and events

Domestic authorities regularly impose pre-emptive administrative bans on all demonstrations and events in different cities and districts.[144] On numerous occasions, the authorities have sought to thwart proposed assemblies before they could take place by imposing general and specific bans. Meetings and demonstrations have been prohibited on the basis of abstract, discretionary and arbitrary criteria, mostly aiming at systematically banning assemblies organised in certain locations or on particular issues. The authorities have routinely sought to justify these restrictions on grounds of public order, ensuring peace and internal security, as well as citing additional ill-defined and abstract reasons. These grounds have often been generic and almost a word-for-word copy of the grounds for restrictions provided in the law,[145] without specifying concrete reasoning, which is specific to the context.[146]

The authorities systematically banned demonstrations and assemblies in certain symbolic locations such as Taksim or Galatasaray Square in Istanbul, or central public places in the southeast of Türkiye. Bans have likewise been systematically imposed countrywide on demonstrations and assemblies concerning specific issues, most notably LGBTI+ rights and women's rights.

Since 2015, authorities have systematically issued administrative bans on LGBTI+ assemblies, including Pride Marches.[147] May Day solidarity demonstrations in Istanbul's Taksim Square have similarly been subject to systematic administrative bans since 2013, a practice that has continued unabated notwithstanding a 2023 TCC decision finding a violation of the right to freedom of peaceful assembly in connection with this very practice.[148]

The Saturday Mothers'/People vigil in Galatasaray Square was subject to a ban from 25 August 2018 until 11 November 2023, during which the police violently dispersed the participants by intervening with excessive force and arrested them. Notwithstanding two subsequent decisions by the TCC finding violations of the right to freedom of assembly in November 2022 and March 2023,[149] the Saturday Mothers/People were only permitted to resume their vigil subject to severe restrictions, including the placement of police barriers around the statue at which the vigil used to take place, significantly

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[143] See Council of Europe Committee of Ministers, 1459th meeting (March 2023) (DH) - Rule 9.2 - Communication from NGOs (Joint submission by 33 NGOs and Bar associations) (23/01/2023) in the case of Oya Ataman v. Turkey (Application No. 74552/01) [DH-DD(2023)134], https://hudoc.exec.coe.int/?i=DH-DD(2023)1504E .

[144] Ibid. para. 28.

[145] See FIDH's Western Europe Desk; FIDH/OMCT's Observatory for the Protection of Human Rights Defenders, 'A Perpetual Emergency: Attacks on Freedom of Assembly in Turkey and Repercussions for Civil Society' ("FIDH report") (July 2020), pp. 16-17, https://www.fidh.org/IMG/pdf/obs_turkeyweb.pdf .

[146] Ibid.

[147] İnsan Hakları Derneği, 'İnsan Hakları Eylem Planı Çerçevesinde LGBTI+ Hakları ve Hak İhlalleri Raporu' (Report on LGBTI+ Rights and Human Rights Violations within the Framework of the Human Rights Action Plan) (February 2024), https://ihd.org.tr/en/wp-content/uploads/2024/02/IHD_LGBTI-Rights-Violations-Report.pdf; Umut Rojda Yıldırım, Sosyal Politika, Cinsiyet Kimliği ve Cinsel Yönelim Çalışmaları Derneği (SPoD), '2015'ten Günümüze Yasaklarla İstanbul Onur Yürüyüşü' (Report concerning the restrictions on the Istanbul Pride March since 2015) (December 2022), https://spod.org.tr/wp-content/uploads/2022/12/2015ten-Gunumuze-Yasaklarla-Istanbul-LGBTI-Onur-Yuruyusu.pdf .

[148] TCC, Türkiye Devrimci İşçi Sendikalari Konfederasyonu (Disk) ve Diğerleri Başvurusu (App no. 2016/14517); See https://www.amnesty.ie/turkiye-ban-on-may-day-celebrations-must-be-lifted/. In December 2023, Türkiye's TCC ruled that the right to freedom of peaceful assembly of DİSK (the Confederation of Revolutionary Workers' Trade Unions), during the May Day celebrations in Taksim Square in 2014 and 2015 had been violated by the bans and forceful dispersals of protesters by law enforcement officials.

[149] TCC, Maside Ocak Kışlakçı (Application no. 2019/21721, 16/11/2022); TCC, Gülseren Yoleri (Application no. 2020/7092, 29 March 2023).

limiting access to the square, and the imposition of a strict cap on the number of persons permitted to attend the reading of press statements.[150]

The Feminist Night March — an annual rally held in Istanbul on International Women's Day and organised continuously since 2003 — has been subject to systematic bans and restrictions for a number of consecutive years. Most recently, Turkish authorities took repressive measures once again ahead of “feminist night march”, a rally organised every year in Istanbul on International Women’s Day, in March 2026.[151]

In addition, protests and demonstrations for other human rights, environmental rights, and political and socio-economic rights were banned and dispersed by the police on several occasions.[152] For instance, in October 2025, authorities imposed a blanket ban on all assemblies and collective activities across four districts of Istanbul for the duration of the day on which imprisoned Istanbul Mayor Ekrem İmamoğlu appeared before the judicial authorities in court.[153]

In practice, demonstrations, protests, assemblies and press conferences face systematic bans, being frequently declared "unlawful" without adequate and sufficient justification and facing violent intervention by security forces. Meanwhile, permitted protests are only allowed "in certain areas which are announced in advance".[154] In practice, these public spaces are chosen in a selective way to limit the visibility of protests which are perceived by the authorities to be in opposition or otherwise contrary to the Government's position.[155]

B. Police interventions with excessive use of force

In practice, peaceful protestors in Türkiye often risk being subject to police violence and arbitrary arrest simply by participating in demonstrations which can arbitrarily and unforeseeably be declared "unlawful". An examination of Turkish law enforcement officials' practices during assemblies reveals the following:[156]

- The police systematically enforce the dispersal of assemblies despite their peaceful nature.
- While dispersing the crowd, the police persistently use excessive force - in some cases life threatening force - on protestors, which in itself may amount to ill-treatment or torture.
- Peaceful protesters are systematically arrested in large numbers and ill-treated during their police custody.

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[150] See https://bianet.org/haber/cumartesi-anneleri-meclis-raporu-18-subatta-aciklanmisti-uygulamada-adim-yok-317726 ; https://x.com/CmrtesiAnneleri/status/2042954569551089984?s=20 .

[151] See https://artigercek.com/guncel/taksimde-8-mart-yasagina-dava-istanbul-barosundan-iptal-basvurusu-343933h ; https://medyascope.tv/2026/03/08/8-mart-feminist-gece-yuruyusu-yasaklara-ragmen-gerceklestirildi/ .

[152] See https://bianet.org/haber/diyarbakir-miting-yasaklari-yargiya-tasindi-ne-olursa-olsun-bu-mitingi-yapacagiz-315922 .

[153] See https://t24.com.tr/gundem/imamoglu-caglayan-adliyesi-nde-ifade-verecek-istanbul-valiligi-nden-4-ilcede-miting-ve-eylem-yasagi,1270334?_t=1776641000635 .

[154] See Amnesty International, Beyhan T. ‘Hapsedilen Taksim: Protesto hakkının adım adım nasıl kısıtlandığına bir örnek’ (Imprisoned Taksim: An Example of How the Right to Protest Has Been Gradually Restricted) (12 September 2022), https://www.amnesty.org.tr/icerik/hapsedilen-taksimprotesto-hakkinin-adim-adim-nasil-kisitlandiginabir-ornek (These public spaces are chosen from secluded areas where there is limited transportation).

[155] Ibid.

[156] See, for more details and statistics Rule 9.2 - Communication from NGOs (Joint submission by 33 NGOs and Bar associations) (23/01/2023) in the case of Oya Ataman v. Turkey (supra note 140) (the submission reveals the gravity of this systemic problem in Türkiye with statistics and examples gathered by different NGOs). See also https://www.coe.int/en/web/commissioner/-/t%C3%BCrkiye-authorities-should-ensure-the-implementation-of-human-rights-standards-on-freedom-of-expression-peaceful-assembly-and-association .

- There is no serious ex post facto review to assess the reasonableness and proportionality of the administrative authorities' actions or the use of excessive force by the police.

Despite the seriousness of the situation, police officers are rarely criminally prosecuted for using excessive force.[157] In fact, in the majority of cases of police brutality, criminal proceedings are not initiated against the alleged perpetrators because governors do not grant the requisite permission under Law No. 4483 on the Prosecution of Public Officials.[158] The administrative and judicial practice in the country demonstrates that there is a general climate of impunity for perpetrators. This aggravates police violence and constitutes an additional hurdle for protesters in exercising their right to freedom of assembly and obtaining justice in case of violations.[159]

C. Criminalisation of peaceful protestors

In addition to the imposition of bans on assemblies and the use of excessive force to disperse peaceful demonstrations, the systematic use of criminal sanctions and administrative fines against participants of peaceful assemblies continues to be a very serious problem.

The widespread and systematic use of Law Nos. 2911 and 5442 against individuals who try to exercise their right to freedom of peaceful assembly often results in criminal sanctions under Law No. 2911 or misdemeanour fines under Law No. 5326.[160]

In addition to being prosecuted for breaching Law No. 2911, other criminal charges are applied against peaceful protestors based on an overly broad or unforeseeable interpretation of criminal law. Notably, demonstrators have been charged under Article 265(1)[161] of the Criminal Code for obstructing security forces in the execution of their duties by way of resistance together with other persons,[162] or under Article 299 of the Criminal Code for insulting the President of the Republic, because of slogans chanted during assemblies (such as “Jump jump, those who don’t jump are Tayyip”).[163] Furthermore, some demonstrators have been charged under Law No. 3713 on the Prevention of Terrorism, including for alleged 'terrorist propaganda' in the absence of any statement glorifying terrorism or inciting to hatred or to the commission of acts of violence or terrorism.[164]

Some of the recent examples concerning the criminal prosecution of individuals who participated in peaceful demonstrators include Saturday Mothers/People,[165] women who joined "Feminist Night

[157] See FIDH’s Western Europe Desk; FIDH/OMCT’s Observatory for the Protection of Human Rights Defenders, ‘A Perpetual Emergency: Attacks on Freedom of Assembly in Turkey and Repercussions for Civil Society’ (“FIDH report”) (July 2020), pp. 28-29 https://www.fidh.org/IMG/pdf/obs_turkeyweb.pdf . For more recent examples of impunity, see https://www.cumhuriyet.com.tr/turkiye/cumartesi-anneleri-ne-yonelik-polis-mudahalesine-verilen-takipsizlik-kararina-itiraz-edildi-2460479 , https://expressioninterrupted.com/tr/polis-siddeti-cezasizlik-zirhiyla-korunuyor-gazeteciler-hem-sahada-hem-adliyede-hedef/ .

[158] Law No. 4483 on the Prosecution of Public Officials published in the Official Gazette no. 23896, dated 4 December 1999.

[159] Rule 9.2 - Communication from NGOs (Joint submission by 33 NGOs and Bar associations) (23/01/2023) in the case of Oya Ataman v. Turkey (supra note 143).

[160] Ibid. pp. 20-21

[161] Article 265 § 1 of the Criminal Code reads as follows: “Anyone who uses methods of violence or threats against a public officer with a view to obstructing him or her in the execution of his or her duties shall be liable to imprisonment of between six months and three years”.

[162] ESHID, Barışçıl Toplantı ve Gösteri Hakkı İzleme Raporu 2021 (Monitoring Report on the Right to Peaceful Assembly and Demonstration), pp. 31, 47.

[163] See a very recent example, https://www.mlsaturkey.com/tr/trans-aktivist-iris-mozalar-8-martta-ziplamak-suclamasiyla-yargilaniyor.

[164] HRFT, Repression, Obstacles and Challenges Faced by Human Rights Defenders in Turkey in 2025 (supra note 94), p. 4; ESHID, Barışçıl Toplantı ve Gösteri Hakkı İzleme Raporu 2021 (supra note 162), p. 47.

[165] Ibid, HRFT, p. 9.

Marches" organised on 8 March International Women's Day,[166] demonstrators who took part in assemblies organised by LGBTI+ community,[167] and protestors in the predominantly Kurdish southeastern provinces of Türkiye.[168]

D. Recommendations

In light of these findings, the European Commission should ensure that its engagement as well as its financial and technical assistance to Türkiye contributes to supporting reforms that promote and protect the right to peaceful assembly. Furthermore, the Commission's recommendations to the Turkish authorities on this matter should include, among other measures, the implementation of steps to:

- Amend Law No. 2911 to ensure that its provisions are fully in line with the principles set out in the case law of the ECtHR;
- Amend Law No. 5442 to ensure that its provisions are fully in line with the principles set out in the case law of the ECtHR; in particular, amend Article 11(C) which grants broad powers to governors to ban both peaceful public assemblies and indoor human rights events;
- Review the 2016 Directive on the use of tear gas and other crowd control weapons to ensure that it complies in all respects with international standards in relation to the use of crowd control weapons and to make use of the international expertise which could be made available through the European Union and the Council of Europe;
- Put in place an effective ex post facto review mechanism to assess the reasonableness and proportionality of any use of excessive force by law enforcement officials;
- Stop the criminalization of persons who exercise their right to freedom of peaceful assembly;
- Pursue a clear and detailed strategy to prevent violations of the right to freedom of peaceful assembly; and
- Carry out an effective overview of the in-service training programmes for law enforcement officials on human rights, proportionate use of force, intervention against public events and use of tear gas.

IV. Violations of the Rights of Prisoners

Prisoners in Türkiye face a wide range of serious and well-documented human rights violations. These include the detention of seriously ill prisoners in conditions incompatible with their state of health and the arbitrary denial of their release despite the risk of irreversible harm; widespread reports of torture and other ill-treatment, including in high-security facilities; prolonged solitary confinement and severely restricted access to social, cultural and educational activities; arbitrary disciplinary sanctions imposed for petitions, correspondence, participation in hunger strikes protesting prison conditions or fair trial violations, or other forms of peaceful expression; restrictions on prisoners' access to lawyers, family members and independent monitors; and the lack of effective and independent remedies to challenge these violations.[169]

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[166] See https://t24.com.tr/gundem/21-feminist-gece-yuruyusu-davasi-ertelendi-polisler-hakkinda-suc-duyurusunda-bulunulmadi,1292382?_t=1776654282195 ; https://www.mlsaturkey.com/tr/21-feminist-gece-yuerueyuesuende-goezaltina-alinan-kadinlara-dava-acildi .

[167] See https://bianet.org/haber/23-istanbul-onur-yuruyusu-davasi-53-saniga-104-polis-314892 ; https://t24.com.tr/gundem/trans-onur-yuruyusu-durusmasinda-ikinci-gun-iki-aktivistin-daha-adl-kontrolu-kaldirildi,1306483?_t=1776654802769 .

[168] See https://www.vanekspres.com.tr/vanda-kayyum-atamalarini-protesto-eden-6-kisiye-hapis-cezasi .

[169] Association of Lawyers for Freedom (Özgürlük İçin Hukukçular Derneği, ÖHD), Foundation for Society and Legal Studies (Toplum ve Hukuk Araştırmaları Vakfı, TOHAV) Media and Law Studies Association (Medya ve Hukuk Araştırmaları Vakfı, MLSA), and The World Organization against Torture (OMCT), Joint Alternative Report to the Committee against Torture in relation to its review of the fifth periodic Report of Türkiye, June 2024, https://www.omct.org/site-resources/files/OMCT-Alternative-Report-on-Turkey-CAT-80th-Session.pdf .

Without prejudice to the breadth and seriousness of these concerns, the present submission focuses on two closely interrelated issues concerning the arbitrary prolongation of the detention of prisoners in Türkiye: (i) the continuing denial of the "right to hope" of prisoners serving aggravated life sentences, in breach of the ECtHR's judgments in the *Gurban* group of cases; and (ii) the arbitrary denial of the conditional release rights of political prisoners. Taken together, these practices expose a sentence-execution regime that operates, in law and in fact, as a tool to prolong the imprisonment of perceived opponents of the ruling political coalition.

A. Continuing Denial of the "Right to Hope" of Aggravated Life-Sentenced Prisoners

Under Article 107(16) of Law No. 5275 on the Execution of Sentences and Security Measures, and Article 17(4) of Anti-Terror Law No. 3713, persons sentenced to aggravated life imprisonment for offences committed within the framework of a "terrorist organisation" or against "the security of the State", "the constitutional order" or "national defence" are expressly excluded from conditional release. These prisoners are therefore subject to a regime that is, in law and in fact, irreducible: they have no prospect of release, regardless of the time served, their conduct in detention, or any change in their personal circumstances or risk profile.[170]

Independent estimates indicate that over 4,000 individuals are currently subject to this regime, although the Turkish authorities have, to date, failed to disclose official figures despite repeated requests by the Committee of Ministers.[171]

In the *Gurban* group of cases — comprising *Gurban v. Turkey*, *Öcalan (No. 2) v. Turkey*, *Kaytan v. Turkey*, and *Boltan v. Turkey* — the ECtHR found violations of Article 3 ECHR on the ground that the applicants were subjected to irreducible life sentences without any possibility of review or release on penological grounds.[172] The ECtHR held that Turkish legislation governing the execution of sentences did not provide for a review mechanism for persons sentenced to aggravated life imprisonment for the above categories of offences, resulting in an all-life regime which, in law and in practice, offered no real possibility of release.

These findings are firmly rooted in the ECtHR's well-established case-law, including *Vinter and Others v. the United Kingdom* [GC], *Murray v. the Netherlands* [GC], *Petukhov v. Ukraine (No. 2)* [GC], *László Magyar v. Hungary* and *Bodein v. France*. Under this case-law, life sentences are compatible with Article 3 only if they are both *de jure* and *de facto* reducible.[173] This requires, at a minimum: a realistic prospect of release known to the prisoner from the outset; a first review no later than 25 years after the imposition of the sentence, with further periodic reviews at reasonable intervals; assessment based on individualised and objective criteria, including the prisoner's conduct in detention, personal development and current risk to society — rather than solely on the nature of the original offence; robust procedural safeguards, including access to legal assistance, the right to be heard, reasoned decisions and the right to appeal or seek judicial review; and universal applicability, with no category of offence or prisoner excluded from review, including persons convicted under "State security" or "terrorism" offences.

The *Gurban* group has been under enhanced supervision of the Committee of Ministers. In its decisions at the 1419th meeting (December 2021) and the 1507th meeting (September 2024) and interim resolution at the 1537th meeting (September 2025), the Committee noted the absence of any

[170] TLSP, ELDH, MAF-DAD and LLG, Rule 9.2 submission on the implementation of the *Gurban v. Türkiye* group of cases, 21 July 2025, https://hudoc.exec.coe.int/?i=DH-DD(2021)1088E.
[171] Ibid
[172] ECtHR, *Gurban v. Turkey*, Appl. no. 4947/04, 15 December 2015; *Öcalan (No. 2) v. Turkey*, App. no. 24069/03, 18 March 2014; *Kaytan v. Turkey*, App. no. 27422/05, 15 September 2015; *Boltan v. Turkey*, App. no. 33056/16, 12 February 2019.
[173] ECtHR, *Vinter and Others v. the United Kingdom* [GC], App. nos. 66069/09, 130/10 and 3896/10, 9 July 2013, paras. 119–122; *Murray v. the Netherlands* [GC], App. no. 10511/10, 26 April 2016, paras. 100–104; *Petukhov v. Ukraine (No. 2)* [GC], App. no. 41216/13, 12 March 2019, paras. 168–172; *László Magyar v. Hungary*, App. no. 73593/10, 20 May 2014, paras. 54–59; *Bodein v. France*, App. no. 40014/10, 13 November 2014, paras. 53–62.

concrete steps by the Turkish authorities, stressed that the exclusion of prisoners convicted of crimes against "the security of the State", "the constitutional order" or "national defence" within "a terrorist organisation" from conditional release was incompatible with the ECHR, and urged the authorities to adopt the necessary legislative reforms without further delay.[174]

B. Arbitrary Denial of the Conditional Release Rights of Political Prisoners

Alongside the outright exclusion of aggravated life-sentenced prisoners from any prospect of release, a second, closely related practice has emerged and become increasingly entrenched in recent years: the arbitrary denial or revocation of conditional release of political prisoners who are in principle legally eligible for it. This practice — popularly referred to as "burning sentence execution" (*infaz yakma*) — has been used as an illegitimate means of punishing political prisoners and unlawfully prolonging their detention.[175]

The practice has been facilitated by amendments introduced to Article 89 of Law No. 5275 in 2020 and by the accompanying Regulation on Observation and Classification Centres and Evaluation of Convicts, which introduced an extremely broad, subjective and invasive monitoring and evaluation of almost all aspects of convicts' lives in detention. Assessment of "good conduct" is carried out by Administrative and Observation Boards — administrative bodies chaired by the Chief Public Prosecutor or a prosecutor he or she designates and composed of prison administration, medical and educational staff who also have ongoing interactions with inmates, conduct disciplinary inquiries, and impose disciplinary sanctions. These Boards therefore lack independence, impartiality and legal expertise, yet operate as *de facto* judicial authorities in determining eligibility for release. The addition of remorse to the criteria to be assessed further blurs the line between substantive criminal law and execution law, and pressures convicts to express remorse even if unjustly convicted, in order to secure release.

The Human Rights Association estimated that at least 501 prisoners faced multiple rejections of their conditional release between 2021 and 2024, at least 105 of them with health conditions, 42 of whom were in critical condition.[176] The Ankara Bar Association, reviewing complaints of arbitrary denial or postponement of conditional release, found that the relevant prison boards' decisions replicated the text of the law identically, did not provide concrete examples or explanations relating to convicts' behaviour or alleged lack of good conduct, failed to address convicts' arguments and submissions, and ignored convicts' health conditions.[177] It further noted that judicial review by sentence execution judgeships was merely formal and failed to address the arguments and evidence provided.

Two emblematic cases illustrate how this regime is instrumentalised against HRDs and government critics:

- The case of **Selçuk Kozağaçlı**, a prominent human rights lawyer, former chair of the Progressive Lawyers' Association (ÇHD) and winner of Lawyers for Lawyers' 2019 award, who has been the subject of a relentless campaign of judicial harassment for over a decade in connection with his lawful professional activities, including the representation of victims of human rights violations.[178] Mr Kozağaçlı became legally eligible for conditional release on 11

[174] See decisions listed here: https://hudoc.exec.coe.int/?i=DH-DD(2025)857E .
[175] See https://www.lawyersforlawyers.org/arbitrary-denial-of-parole-for-political-prisoners-joint-un-communication-on-the-detention-of-human-rights-lawyer-selcuk-kozagacli/ .
[176] Human Rights Association, Report on rights monitoring in Turkey's prisons [Turkish], 5 August 2025, p. 82, https://www.ihd.org.tr/wp-content/uploads/2025/08/2024-Y%C4%B1l%C4%B1-Hapishane-Raporu-1.pdf .
[177] Ankara Bar Association, Human Rights Centre, Application of Good Conduct in the Execution of Sentences and Rights Violations Experienced, 13 November 2023, pp. 11-14, https://ankarabarosu.org.tr/serve/file/4c35158c-926e-11ee-a7c0-000c29c9dfce/ihm20231204rapor_58294.pdf .
[178] FIDH/OMCT, "Turkey: Selçuk Kozağaçlı and other ÇHD lawyers on trial once again", 26 May 2025, https://www.fidh.org/en/region/europe-central-asia/turkey/turkey-selcuk-kozagacli-and-other-chd-lawyers-on-trial-once-again .

February 2025, having served three quarters of his sentence. He was initially denied release on the basis of a "development score" below the minimum threshold — a score directly linked to a disciplinary sanction imposed in connection with a hunger strike protesting prison conditions. Following a challenge, a finding of good conduct was issued by the Prison Board and he was released by order of the sentence execution judgeship on 16 April 2025. However, only one day later, following an objection by the Bakırköy Public Prosecutor, the same judgeship revoked its own decision in the absence of any new facts or conduct, and Mr Kozağaçlı was re-arrested at a colleague's house on 17 April 2025.[179] The revocation, issued within 24 hours and in contradiction with the prior remittal order of the execution judgeship, constitutes a manifest breach of the principles of legal certainty and legal predictability and was not in accordance with the applicable standards governing conditional release.

- The case of **Murat Arslan**, former rapporteur of the TCC and former President of the now-dissolved Association for the Union of Judges and Prosecutors (YARSAV), winner of the Parliamentary Assembly of the Council of Europe's Václav Havel Human Rights Prize in 2017.[180] Mr Arslan has been in detention since October 2016 and was sentenced in 2019 to 10 years' imprisonment on charges of "membership of a terrorist organisation" in connection with the Gülen organisation. He had completed three quarters of his sentence as of 16 April 2024. Despite his undisputed good behaviour and the fulfilment of the objective prerequisites for conditional release, his application was denied on abstract grounds such as "insufficient integration efforts" and "perceived risk of re-offending".[181]

The arbitrary denial of conditional release engages multiple Convention rights. Under the ECtHR's case-law and established international standards, release mechanisms must pursue the objective of social reintegration and the prevention of reoffending; eligibility criteria must be clear, foreseeable and based on objective factors; the modification or revocation of a non-custodial measure must be done only after careful examination of the facts; and decisions on granting, postponing or revoking conditional release must be taken by independent and impartial authorities and be subject to judicial review by an independent body. Furthermore, the use of conditional release as a disguised punishment — for example, through the reliance on spent disciplinary sanctions imposed for the exercise of Convention rights such as peaceful protest through hunger strikes — is incompatible with the rights to liberty and security, to freedom of expression and assembly, and to an effective remedy.

C. Recommendations

The European Commission's recommendations to the Turkish authorities on this matter should include, among other measures, the implementation of steps to:

- Adopt legislative and other adequate measures to ensure that all forms of life sentences are *de jure* and *de facto* reducible, in accordance with Article 3 ECHR, and fully implement the ECtHR's judgments in the *Gurban* group of cases;
- Introduce legislative reforms to establish a functioning, accessible and judicially reviewable mechanism for the review of all aggravated life sentences, which: (i) is independent of political discretion and ensures that decisions are made by a competent, independent and impartial judicial authority or a body subject to independent judicial oversight; (ii) guarantees an initial review no

[179] See https://www.lawyersforlawyers.org/arbitrary-denial-of-parole-for-political-prisoners-joint-un-communication-on-the-detention-of-human-rights-lawyer-selcuk-kozagacli/ .

[180] Parliamentary Assembly of the Council of Europe, award of the Václav Havel Human Rights Prize to Murat Arslan, 9 October 2017.

[181] MEDEL, EAJ, AEAJ and Judges for Judges, "Letter to the Turkish Minister of Justice in support of Murat Arslan", 30 April 2024, https://medelnet.eu/medel-eaj-aeaj-and-judges-for-judges-in-support-of-murat-arslan/; MEDEL, "Conditional Release and De Facto Criminal Courts in Türkiye", May 2024, https://medelnet.eu/wp-content/uploads/2024/05/conditional-release-report.pdf .

later than 25 years after the imposition of the sentence, with further periodic reviews at reasonable intervals; (iii) enables an individualised assessment based on objective criteria — including conduct in detention, personal development, reduction in risk to society and legitimate penological objectives — and not solely on the nature of the original offence; (iv) applies uniformly and without discrimination to all categories of life-sentenced individuals, including those convicted under Turkish Penal Code provisions concerning "State security", "constitutional order" and "national defence" and under Anti-Terror Law No. 3713; and (v) is supported by robust procedural safeguards, including access to legal assistance, the right to be heard, reasoned decisions and the right to appeal or seek judicial review;

- Revise Article 89 of Law No. 5275 and its implementing regulations, in order to ensure that the criteria for assessing "good conduct" for the purposes of conditional release are clear, objective, foreseeable and non-discriminatory, and aimed at social reintegration and the prevention of reoffending — rather than at the moral evaluation of convicts or the punishment of the exercise of Convention rights, including through expressions of "remorse" or compliance with broad and subjective behavioural requirements;
- Ensure that decisions on granting, postponing or revoking conditional release, as well as on imposing or modifying conditions attached to it, are taken by independent and impartial authorities, and are subject to effective judicial review by an independent judicial body, in line with the Tokyo Rules and the Committee of Ministers' Recommendation Rec(2003)22;
- End the practice of relying on spent disciplinary sanctions — particularly those imposed in connection with the exercise of rights to freedom of expression and peaceful protest such as hunger strikes — as grounds for denying or revoking the conditional release of political prisoners, and review decisions taken on such grounds with a view to remedying the resulting violations;
- Publish comprehensive data, in line with the request repeatedly made by the Committee of Ministers, on: (i) the number of individuals currently serving aggravated life sentences without access to a review mechanism; (ii) the number of persons currently on trial, or subject to sentencing requests, for aggravated life imprisonment under the same regime; and (iii) the number of applications for conditional release that have been denied or revoked, disaggregated by offence category and grounds invoked;
- Ensure that any legislative or institutional reforms concerning aggravated life imprisonment and the sentence review regime are developed and implemented through a transparent and inclusive process, with effective consultation with bar associations, civil society organisations and independent experts.

V. Lack of an Effective Remedy for Public Sector Workers Dismissed Under the State of Emergency

During the two-year nationwide state of emergency following the attempted coup d'etat of 15 July 2016, approximately 130,000 public sector workers were dismissed *en masse* from their positions, either directly by emergency decrees to which their names were appended or through an employer's termination decision based on a simplified procedure provided by emergency decree, on grounds of their alleged "membership", "affiliation" or "link" to "terrorist organisations".[182] Reports suggest the actual number is higher, but the Government has never disclosed the precise number.

On 23 January 2017, an "Inquiry Commission" was established by Emergency Legislative Decree no. 685 and given powers to review challenges to dismissals of public servants by emergency decree. The decree provided for judicial review of Commission decisions before administrative courts "designated"

[182] Communication to the Committee of Ministers under Rule 9.2 by the TLSP and Amnesty International in the case of *Piskin v. Turkey* (Application No. 33399/18), 17 January 2025, para. 4, https://hudoc.exec.coe.int/ENG?i=DH-DD(2025)99E.

by the High Council of Judges and Prosecutors (subsequently renamed as Council of Judges and Prosecutors).[183] Dismissals by employers were subject to labour court scrutiny.

In a 2019 report based on an extensive review of the Commission's decisions, TLSP concluded that the Inquiry Commission did not provide an effective remedy for challenging state of emergency dismissals, given a lack of independence, an excessively lengthy processing time, violations of the presumption of innocence and other fair trial rights, the retroactive criminalisation of lawful acts, reliance on weak or non-existent evidence, and rejection of applications on vague grounds of "affiliation" or "link" with a terrorist organisation.[184]

In a second report from 2023, TLSP found that judicial review of Commission decisions also failed to provide dismissed public servants with an effective domestic remedy, given unreasonably prolonged delays in the examination of cases and various serious shortcomings in administrative courts' review such as lack of reasoning, application of overly broad and vague criteria for review, and retroactive characterisation of lawful practices as criminal behaviour, depriving the applicants of a reasonable prospect of success.[185]

The ECtHR has ruled on a case concerning the dismissal of a former employee of a government agency by his employer based on an emergency decree, for unspecified alleged "affiliation" or "links" to "illegal structures". In its *Pişkin v. Turkey* judgment dated 15 December 2020, it found violations of Articles 6 and 8 of the ECHR, based on the lack of due process and access to meaningful judicial review, and the dire impact of the dismissal on these grounds on the applicant's private life.[186]

The judgment implementation process remains under the supervision of the Committee of Ministers,[187] including three repetitive cases in which the ECtHR found violations of the right to a fair trial due to inadequate judicial review of summary dismissals under emergency legislative decree.[188] The Government has failed to provide data showing that these violations have been adequately addressed.[189]

Several years after the end of the state of emergency, the TCC has ruled that certain restrictions on the rights of dismissed public sector workers such as denial of compensation for reinstated workers, denial of pension and passport suspension, were unconstitutional.[190] Yet, in judgments in which it has addressed the dismissals themselves, along with the judicial review process, it has consistently found claims of violations of fair trial rights inadmissible.[191] It has also considered dismissals for alleged

[183] Article 11 of Emergency Legislative Decree no. 685.

[184] TLSP, 'Access to Justice in Turkey? A Review of the State of Emergency Inquiry Commission' (October 2019), https://www.turkeylitigationsupport.com/_files/ugd/9265a1_ed4096de736d407abe35524f25eb564f.pdf ; See also Amnesty International, 'Turkey: No end in sight: Purged public sector workers denied a future in Turkey' (EUR 44/6272/2017, 22 May 2017), p. 18.

[185] TLSP, 'Access to Justice for Dismissed Public Servants in Türkiye (Volume II)': An Analysis of Judicial Review of Decisions of the State of Emergency Inquiry Commission' (August 2023), https://www.turkeylitigationsupport.com/_files/ugd/9265a1_0221a5d743264a0e9cd2a07b5b50ffb5.pdf)

[186] ECtHR, *Pişkin v. Turkey*, App. no. 33399/18), 15 December 2020.

[187] See https://hudoc.exec.coe.int/ENG?i=004-57513 .

[188] ECtHR, *Onat and others v Türkiye,* App. no. 61590/19 and 6 others, 25 March 2025 (final 25 June 2025); ECtHR, *Sayinyigit and others v Türkiye,* App. no. 53256/19 and 2 others, 11 December 2025; ECtHR, *Felemez and others v Türkiye,* App. no. 30027/20 and 3 others, 22 January 2026.

[189] Rule 9.2 submission by the TLSP and Amnesty International in the case of Piskin v. Turkey (supra note 182), para. 15, https://hudoc.exec.coe.int/ENG?i=DH-DD(2025)99E .

[190] Duvar, 'Turkey's top court rules passport cancellation for sacked civil servants unconstitutional', 29 January 2022 (https://www.duvarenglish.com/turkeys-top-court-rules-passport-cancellation-for-sacked-civil-servants-unconstitutional-news-60256); Duvar, 'Turkey's Constitutional Court overturns ruling denying compensation to dismissed public officials', 7 October 2024 (https://www.duvarenglish.com/turkeys-constitutional-court-overturns-ruling-denying-compensation-to-dismissed-public-officials-news-65051); Stockholm Center for Freedom, 'Turkey's top court finds discrimination in denial of retirement payment to dismissed civil servant', 7 August 2025 (https://stockholmcf.org/turkeys-top-court-finds-discrimination-in-denial-of-retirement-payment-to-dismissed-civil-servant/).

[191] See Judgments delivered on 29 May 2025 by the Plenary of the TCC in the cases of *N.E.* (Appl. no. 2022/62466) and *A.S.*, App. no. 2023/30928; Judgment of *Halit Inciroğlu,* App. no. 2023/38006, 29 May 2025; Judgment in the case of *Erkan Sezgin*,

'terrorist links' based on evidence of use of the messaging application ByLock rights-compliant,[192] despite the ECtHR's finding that such evidence did not give rise to any reasonable suspicion of terrorism-related offences in the context of criminal proceedings.[193]

Dismissed public sector workers therefore continue to lack effective and timely remedies, as well as the opportunity to return to their jobs.[194] While some requests for reinstatement of dismissed public sector workers have reportedly been approved by domestic courts, others reportedly continue to be dismissed on an arbitrary basis.[195] In addition, data in relation to administrative judiciary and labour court proceedings related to dismissals remain unavailable, including their success rates.[196]

Recommendations

The European Commission's recommendations to the Turkish authorities on this matter should include, among other measures, the implementation of steps to:

- Ensure the effectiveness of the right to an effective remedy of public sector workers dismissed during the state of emergency, the reinstatement of arbitrarily dismissed workers, and adequate reparation;
- Comply with the ECtHR's *Pişkin v Turkey* judgment, including through domestic courts' interpretation and application of the law to dismissals cases in a manner consistent with principles laid out in the case;
- Prevent further violations of fair trial rights and the right to respect for private life of dismissed public sector workers;
- Publish comprehensive factual information and statistics, including:
    - the exact number of public sector workers dismissed under the state of emergency;
    - procedures and criteria used for dismissals;
    - institutions from which public sector workers were dismissed;
    - the number of cases successfully challenged before labour courts, the Inquiry Commission, administrative courts, or other domestic tribunals;
    - actions taken following decisions in favour of the applicants, including a breakdown of those reinstated, reassigned, provided with compensation -along with details of the formula used to calculate it- or other remedies;
    - the number of those who were placed in different positions or workplaces;
    - the number of public sector workers or whose legal challenges were rejected;
    - the number of public sector workers whose appeals or judicial reviews are still pending before the domestic courts, including the number of individual applications pending at the TCC;
- Adopt a clear and binding time-limit within which the domestic authorities must conclude fair and effective determinations of challenges to the dismissal decisions,
- Ensure that all dismissed public sector workers who obtained a decision of violation and/or reinstatement are provided with full reparation, including restitution and appropriate compensation and guarantee of non-repetition.

App. no. 2022/86339, dated 16 July 2025; Judgment of *Yavuz Kök,* App. no. 2023/93746, 25 September 2025; Judgment of *Sinan Ulu,* App. no. 2023/57158, 25 September 2025; Judgment of *B.K.,* App. no. 2023/38927, 20 November 2025; Judgment of *Sümeyra Bakla,* App. no. 2023/46215, 20 November 2025.

[192] Judgments delivered on 29 May 2025 by the Plenary of the TCC in the cases of *N.E.*, App. no. 2022/62466 and *A.S.*, App. no. 2023/30928; Judgment in the case of *Erkan Sezgin,* App.no. 2022/86339, dated 16 July 2025.

[193] ECtHR, *Yüksel Yalçınkaya v Türkiye* [GC], App. no. 15669/20, 26 September 2023.

[194] Rule 9.2 submission by the TLSP and Amnesty International in the case of Piskin v. Turkey (supra note 182), para. 18.

[195] For instance in the case of the 'Academics for Peace': BirGün, 'Academic Aykut Çoban was reinstated' [*Akademisyen Aykut Çoban görevine iade edildi],* 8 April 2026 (https://www.birgun.net/haber/akademisyen-aykut-coban-gorevine-iade-edildi-704478)'; and Cumhuriyet, 'A new refusal to the Academics for Peace!' *['Barış Akademisyenlerine bir ret daha!'],* 11 April 2026 (https://www.cumhuriyet.com.tr/turkiye/baris-akademisyenlerine-bir-ret-daha-2494288).

[196] Rule 9.2 submission by the TLSP and Amnesty International in the case of Piskin v. Turkey (supra note 182), para. 22.

VI. Evasion of ECHR Obligations and Circumvention of the Implementation of ECtHR Judgments

The misuse of criminal proceedings by numerous Turkish judicial authorities, including through the unreasonable interpretation of criminal law provisions and a concomitant disregard for fundamental procedural rights and the ECHR, reflects a pattern of entrenched resistance to the ECtHR's judgments and the standards established in its case-law.[197] According to the Department for the Execution of Judgments, Türkiye has a staggering 144 leading ECtHR judgments, along with 296 repetitive cases, still pending implementation.[198] Türkiye has the highest number of leading cases pending implementation among 46 CoE member states, accounting for 31.5% of the leading judgments ruled against it.[199] The Committee of Ministers' supervision of Türkiye's systemic non-implementation of ECtHR judgments reveals recurring practices aimed at avoiding discharge of its ECHR obligations, particularly in politically sensitive cases.[200]

A. Judicial authorities' actions aimed at circumventing national or ECtHR judgments or hindering effective legal protection

The Turkish authorities frequently bring multiple overlapping charges and institute parallel criminal proceedings on the basis of the same or substantially similar facts and legal grounds.[201] This tactic has been well-documented in *Atilla Taş v. Turkey*, *Kavala v. Turkey*, *Selahattin Demirtaş v. Turkey (no. 2),* and *Figen Yüksekdağ and others v. Türkiye*, where judicial authorities reclassified substantially the same facts as new 'crimes' to justify ongoing detention.[202] Judicial authorities also issue release orders that are not executed as other arrest and detention orders are placed simultaneously.[203] This represents discreet but systematic efforts by the judicial authorities to hinder access to justice.[204] These tactics are simultaneously instrumentalised by the government to reinforce its narrative against perceived dissidents and to provide a veneer of legitimacy for its non-compliance with ECtHR judgments.[205] Such practices amount to serious violations and abuse of legal process, especially when used to bypass judicial decisions by high national courts or by the ECtHR and to prevent individuals from securing effective protection of the law and the opportunity for release.[206] In *Demirtaş (no. 4),* the ECtHR has expressly recognised the existence of a "general context of repression targeting groups opposed to the official policy in Türkiye and consisting in the requalification of substantially identical facts into new offences to justify repressive measures".[207]

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[197] TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) (supra note 1), pp. 8-9, Rule 9.2 submission by TLSP, HRW and the ICJ concerning the case of Kavala v. Türkiye (Application No. 28749/18), 26 January 2024 (supra note 27).
[198] See https://www.coe.int/en/web/execution/turkey .
[199] TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) (supra note 1), p. 9; see also https://www.coe.int/en/web/execution/closed-cases .
[200] TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) (supra note 1), p. 9.
[201] Ibid.
[202] Ibid.
[203] Ibid. See the criminal proceedings against Mr. Kavala and Mr. Demirtaş.
[204] Ibid. See also, Dilek Kurban, 'Authoritarian Resistance and Judicial Complicity: Turkey and the European Court of Human Rights', 35 The European Journal of International Law (2) 384.
[205] Ibid.
[206] Communication to the Committee of Ministers under Rule 9.2 by ARTICLE 19, HRW, ICJ, FIDH and TLSP, in the case of Selahattin Demirtaş v. Turkey (No. 2) 8 February 2021, paras. 59-63, https://hudoc.exec.coe.int/?i=DH-DD(2021)192revE .
[207] ECtHR, *Selahattin Demirtaş (no. 4) v Turkey*, App no. 13609/20, 8 July 2025, para. 315.

B. Actions by government authorities that, while superficially cooperative in a procedural sense, impede the proper implementation of the ECtHR judgments

While the Turkish government routinely invokes the language of 'dialogue' and 'cooperation' with the Council of Europe, the implementation measures it has undertaken have frequently been superficial, symbolic, and ultimately hollow.[208] As noted above, a significant number of leading groups of cases against Türkiye remain pending before the Committee of Ministers.[209] Although the Committee of Ministers has strongly urged the authorities to consider legislative amendments to key provisions of criminal and anti-terrorism law, the government has persistently pointed to prior legislative changes and maintained that no further action is required.[210] Furthermore, legislative measures presented as 'judicial reforms' in the context of addressing systemic issues have, in practice, served to compound existing deficiencies in Convention compliance rather than remedy them, as documented in civil society reports.[211]

C. Practices reflecting overt non-compliance

Certain practices point to an outright refusal on the part of both government and judicial authorities to comply with ECtHR rulings.[212] In such cases, the authorities have directly challenged the ECtHR's findings and the Committee of Ministers' decisions, denying both the need for reform and the existence of systemic issues.[213] In cases concerning perceived dissidents in particular, the Turkish authorities have openly defied the ECtHR's findings and called into question its authority to assess the compatibility of domestic law with the Convention, while seeking to reframe the narrative surrounding the applicants.[214] In a number of instances, the President and his governing coalition have publicly attacked ECtHR rulings, as well as those TCC judgments that are consistent with the ECHR standards,[215] in flagrant disregard for the ECHR system as a whole.[216]

The non-implementation of the ECtHR's two judgments concerning Mr. Kavala is emblematic of a deliberate political resolve to resist the ECtHR's rulings and intensify the repression of perceived opponents of the regime.[217] In a similar vein, the competent authorities have continued to resist the release of former HDP co-chairs and MPs Selahattin Demirtaş and Figen Yüksekdağ Şenoğlu, in breach of their obligations under Article 46 ECHR.[218] The judicial harassment of both individuals is ongoing,

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[208] See TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) (supra note 1), p. 9.
[209] See *Öner and Türk* group (51962/12, 31 March 2015); *Işıkırık* group; *Altuğ Taner Akçam* and *Artun and Güvener* groups; *Nedim Şener* group.
[210] Committee of Minister's decision of 4-6 March 2025 concerning H46-36 Öner and Türk group (Application No. 51962/12) and other groups; Turkish government's Action Plan for Öner and Türk groups of 19 January 2026 submitted to the Committee of Ministers, in particular paras. 230, 253-257, 268, (see further https://hudoc.exec.coe.int/?i=004-36806).
[211] See TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) (supra note 1), p. 9; See https://www.amnesty.org/en/wp-content/uploads/2024/03/EUR4477652024ENGLISH.pdf; https://bianet.org/haber/aymayni-maddeyi-ikinci-kez-iptal-etti-duzenleme-bir-oncekiyle-ayni-303476 .
[212] See Kavala TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) (supra note 1), p. 10
[213] See e.g. the Turkish government's action plans submitted before the Committee of Ministers in the case of Selahattin Demirtaş (No. 2) v. Türkiye[GC], and Yüksekdağ Şenoğlu and Others v. Türkiye, https://hudoc.exec.coe.int/?i=DH-DD(2024)812E .
[214] Dilek Kurban (supra note 204), p. 386. For example, TCC, Yıldırım Turan, App. no. 2017/10536, 4 June 2020 (inadmissibility), §119.
[215] See https://www.aljazeera.com/news/2023/11/10/erdogan-criticises-top-turkey-court-stoking-judicial-crisis. See also President Erdoğan's statements against the ECtHR's Selahattin Demirtaş (n. 2) judgment at https://tr.euronews.com/2020/12/23/erdogan-aihm-in-demirtas-karar-tamamen-siyasidir .
[216] See TLSP, HRW and the ICJ, Third Party Intervention in Kavala (no. 2) v Türkiye (App no. 2170/24) (supra note 1), p. 10.
[217] Rule 9.2 submission by TLSP, HRW and the ICJ concerning the case of Kavala v. Türkiye (Application No. 28749/18), 26 May 2025, (supra note 2), paras. 18-26.
[218] ECtHR, *Selahattin Demirtaş (no. 2) v Turkey [GC],* App. no. 14305/17, 22 December 2020, para. 442; *Yüksekdağ Şenoğlu and others v Turkey*, App. no. 14332/17, Judgment of 8 November 2022, para. 655. The Committee of Ministers' December

and Mr. Demirtaş was convicted of insulting the President in separate proceedings in January 2026.[219] The conviction of Yüksel Yalçınkaya[220] and the new wave of mass arrests predicated on the use of the ByLock messaging application[221] constitute further unmistakable signals of open defiance of the ECtHR's judgments.

D. Recommendations

The European Commission's recommendations to the Turkish authorities on this matter should include, among other measures, the implementation of steps to:

- Take all necessary steps to address domestic judicial authorities' non-implementation of ECtHR judgments and its substantial case law;
- Undertake, without further delay, the legislative amendments to key provisions of criminal and anti-terrorism law repeatedly called for by the Committee of Ministers, and refrain from presenting cosmetic legislative measures as meaningful judicial reform;
- Secure the immediate release of Selahattin Demirtaş, Figen Yüksekdağ Şenoğlu and Osman Kavala and end the continued violation of their rights under the ECHR, as found by the ECtHR;
- Refrain from public statements attacking or undermining the authority of the ECtHR and the Committee of Ministers, and acknowledge the binding nature of the ECtHR's judgments under Article 46 ECHR.
- Engage substantively and in good faith with the enhanced supervision procedure before the Committee of Ministers, and submit action plans that reflect genuine and measurable commitments to reforms.

2025 decision (CM/Del/Dec(2025)1545/H46-42) and March 2026 decision (CM/Del/Dec(2026)1553/H46-39) on this group of cases emphasise authorities' persistent failure to ensure implementation.

[219] See https://medyascope.tv/2026/01/06/demirtasa-yine-hapis-1-yil-5-ay-hapis-aihm-kararlari-yeniden-gundemde/ . Furthermore, on 28 January 2026, Mr Demirtaş's lawyer was convicted of "membership of a terrorist organisation" and "terrorist propaganda" and sentenced to over 11 years' imprisonment.

[220] On September 2024, the local court hearing the retrial of Yüksel Yalçınkaya handed down the same sentence against him, despite the ECtHR ruling that the evidence used in his initial sentencing did not comply with the ECHR standards.

[221] See https://en.tihv.org.tr/documentation/28-january-2026-hrft-documentation-center-daily-human-rights-report/ .