IN THE EUROPEAN COURT OF HUMAN RIGHTS

Application no. 37204/25

BETWEEN:

Ekrem İmamoğlu

Applicant

– and –

Türkiye

Respondent

– and –

Turkey Litigation Support Project
Human Rights Watch
International Commission of Jurists

Interveners

WRITTEN SUBMISSIONS OF THE INTERVENERS

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14 September 2026

I. Introduction

1. The Third-Party Interveners ("the Interveners") submit these comments with leave of the President of the Second Section of the European Court of Human Rights ("the ECtHR" or "the Court"), granted on 9 July 2026 pursuant to Rule 44(3) of the Rules of Court.
2. The application concerns the pre-trial detention of the elected Istanbul mayor, Ekrem İmamoğlu, a prominent member of the main opposition Republican People's Party (CHP) and, at the time of the events giving rise to the application, its designated candidate in the forthcoming presidential elections in Türkiye. His candidacy was declared under the CHP leadership subsequently removed by court order, as addressed in Section II below. Mr. İmamoğlu was arrested on 19 March 2025 on suspicion of "establishing and leading a criminal organisation", "accepting bribes", "interfering with public tenders", and "unlawfully obtaining personal data". He was suspended from office on 23 March 2025 and remains in detention.
3. In Türkiye, as the Interveners have documented, the repression of political opposition forms part of a broader weakening of checks and balances, in particular through the erosion of judicial independence[1] and the misuse of the judicial system and criminal law to secure influence or control over those responsible for scrutinising the exercise of State power.[2] Where the individuals targeted are elected representatives and candidates for office, the effects on enjoyment of Convention rights by such measures extend beyond the individuals targeted to the functioning of political pluralism itself.[3] The Interveners accordingly submit that the Court's assessment of complaints brought by opposition politicians and candidates for office should take account of their role in a democratic society, and of the pattern of misuse of criminal law and parallel proceedings against opposition politicians and others challenging the exercise of State power in Türkiye.
4. With a view to assisting the Court, this submission provides an analysis of resort to criminal law against opposition politicians and government critics in Türkiye, and the limits imposed by regional and international human rights law and standards (Section II); limits on judicial independence and the effectiveness of the Turkish Constitutional Court ("TCC") as a remedy (Section III); and the limits prescribed by Article 18 of the European Convention on Human Rights ("the ECHR" or "the Convention") and Article 3 to Protocol No. 1 to the Convention on the detention and prosecution of opposition politicians (Section IV).

II. The resort to criminal law and parallel punitive measures against the opposition in Türkiye

5. In order to comply with the Convention, domestic law must comply with the principle of the rule of law.[4] Regional and universal standards accordingly contain minimum limits on resort to criminal

[1] Turkey Litigation Support Project (TLSP), "Dismantling Human Rights, Democracy and the Rule of Law in Türkiye (I): Judicial Independence and Court Capture", May 2026 (https://www.turkeylitigationsupport.com/publications/dismantling-human-rights-democracy-rule-of-law-turkey-1); TLSP, Human Rights Watch (HRW), International Commission of Jurists (ICJ), "'Third Party Intervention in *Osman Kavala (no. 2)* v Türkiye (no. 2170/24)" before the Grand Chamber of the ECtHR, 10 February 2026 (https://www.turkeylitigationsupport.com/_files/ugd/9265a1_209ab72f30e74e18bb7f207b980344b9.pdf) .
[2] See, in relation to civil society, the legal profession and the media respectively: ECtHR, *Kavala v. Türkiye (no. 2)* [GC], no. 2170/24, 25 August 2026, paras. 279 and 312; TLSP, European Association of Lawyers for Democracy and World Human Rights (ELDH), the International Bar Association's Human Rights Institute (IBAHRI), ICJ, and Lawyers for Lawyers (L4L), "Third Party Intervention in *Gökoğlu and Çiçek v. Türkiye* (no. 41949/19 and 5 other applications)", July 2026 (https://www.turkeylitigationsupport.com/publications/third-party-intervention-ecthr-independence-legal-profession-turkiye); Amnesty International, "Türkiye: End the crackdown on journalists", 3 May 2026 (https://www.amnesty.org/en/documents/eur44/0957/2026/en/).
[3] ECtHR, *Selahattin Demirtaş v. Turkey (no. 2)* [GC], no. 14305/17, 22 December 2020, paras. 388-392.
[4] ECtHR, *Gulcu v Turkey,* no. 17526/10, 19 January 2016, para. 59.

law, including the non-derogable principle of legality[5] – encompassing non-retroactivity,[6] legal certainty,[7] and strict construction[8] – the presumption of innocence and rules on burden of proof;[9] a reasonably proximate link between the individual prosecuted and harm caused or risked;[10] and the individual – not collective – nature of criminal responsibility.[11] In *Kavala (no. 2*), this Court found that a construal of the law equating the exercise of Convention rights with the constituent elements of an exceptionally grave offence had unforeseeably extended the provision's scope, afforded no protection against arbitrariness and could not be regarded as "prescribed by law".[12]

1. The application of criminal law against the opposition in Türkiye

6. The Interveners have documented a clear pattern of misuse of criminal law and pre-trial detention against critical voices in Türkiye, in contravention of the principles set out above. Over the last decade, this pattern has been particularly evident in relation to opposition-run municipalities, with increasing recourse to "anti-terrorism", "organised crime", "corruption", and related charges.

7. Between 2016 and 2024, criminal proceedings were systematically used against opposition-run municipalities, resulting in the removal of elected mayors from HDP (Peoples' Democratic Party) and DEM Party (Peoples' Equality Democratic Party - the successor to HDP), on the basis of alleged "terrorism-related offences", and their replacement by government-appointed "trustees", a practice that disproportionately affected local representatives in the predominantly Kurdish south-east.[13] In *Selahattin Demirtaş (no. 2)*, the ECtHR identified this practice as part of a strategy for silencing HDP politicians, as in Demirtaş's case, at key political moments.[14]

8. Since the local elections of 2024, in which the CHP won the largest share of the national vote and secured decisive victories in major cities,[15] the practice has extended beyond that region: the CHP mayors of Şişli and Esenyurt district municipalities in Istanbul and of Ovacık district municipality in Tunceli province were taken into custody on "terrorism"-related charges and

[5] International Covenant on Civil and Political Rights, Article 15(1); Convention on the Rights of the Child, Article 40(2)(a); European Convention on Human Rights, Article 7(1); American Convention on Human Rights, Article 9; African Charter on Human and Peoples' Rights, Article 7(2). See also Universal Declaration on Human Rights, Article 11; EU Charter of Fundamental Rights, Article 49; Rome Statute, Article 22.
[6] ICRC, General principles of international criminal law (https://www.icrc.org/sites/default/files/document/file_list/general-principles-of-criminal-law-icrc-eng.pdf).
[7] Ibid.; Shane Darcy, "The Principle of legality at the crossroads of human rights and international criminal law", in: Margaret de Guzman and Diane Amann (eds.), Arcs of Global Justice.
[8] Ilias Bantekas and Lutz Oette, International Human Rights Law and Practice, 4th ed (2024), p. 624; ICRC, General principles of international criminal law (supra n 6); See e.g. ECtHR, *Başkaya and Okçuoğlu v Turkey,* nos. 23536/94 and 24408/94, 8 July 1999, para. 36; ECtHR, *Capeau v Belgium,* no. 42914/98, 13 January 2005, para. 25.
[9] TLSP, "Expert Opinion on Freedom of Expression and Propagandising for Terrorism Submitted to the Case of Ayşe Çelik Pending Before the Turkish Constitutional Court (2019)", para. 51 (https://www.turkeylitigationsupport.com/publications/expert-opinion-freedom-of-expression-propagandising-terrorism-ayse-celik-constitutional-court).
[10] Ibid., para. 46.
[11] Ibid.; Andrew Ashworth and Lucia Zedner, Preventive Justice (OUP 2014), p. 112.
[12] ECtHR, *Kavala v. Türkiye (no. 2)* [GC], no. 2170/24, 25 August 2026, paras. 162 and 171.
[13] TLSP, 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", 26 April 2026, p. 20 (https://www.turkeylitigationsupport.com/publications/state-rule-of-law-fundamental-humanrights-turkiye) ; HRW, "Turkey: Kurdish Mayors' Removal Violates Voter's Rights", 7 February 2020 (https://www.hrw.org/news/2020/02/07/turkey-kurdish-mayors-removal-violates-voters-rights); HRW, "Türkiye: Government Removes Elected Mayors", 6 November 2024, (https://www.hrw.org/news/2024/11/07/turkiye-government-removes-elected-opposition-mayors); HRW, "Turkey: Crackdown on Kurdish Opposition", 20 March 2017, Turkey.
[14] ECtHR, *Selahattin Demirtaş v. Turkey (no. 2)* [GC], no. 14305/17, 22 December 2020, paras. 428-9.
[15] See https://www.bbc.com/news/world-europe-68704375.

replaced by government-appointed trustees.[16] However, the type of criminal legislation invoked has evolved since 2024: CHP elected mayors are now arrested and placed in pre-trial detention primarily on "corruption" and "bribery" charges as well as "leading a criminal organisation",[17] with municipal councils electing deputy mayors in their place, some of them AKP (Justice and Development Party) members.[18] Between March 2025 and August 2026, the number of CHP-run municipalities subject to judicial proceedings reportedly rose to 43, and the number of arrested mayors to 31.[19] These proceedings form part of a systematic targeting of democratically elected officials in opposition-controlled local government through an application of criminal law tailored to whichever opposition party the central government regards as a political threat at a given time.

9. The measures targeting local government officials have not happened in isolation. Since 2015, successive governments under the AKP have used the criminal justice system to remove elected opposition politicians from political life, targeting opposition parties in turn. In 2016, the HDP co-chairs Selahattin Demirtaş and Figen Yüksekdağ Şenoğlu, along with numerous other MPs and elected mayors, were arrested following the targeted lifting of parliamentary immunity, at a time when the party held 10.7 percent of the seats in parliament and commanded the support of more than five million voters.[20] The former parliamentarians have since been repeatedly prosecuted in individual proceedings based exclusively on the exercise of their right to freedom of expression, including political speeches and activities that did not involve or advocate violence.[21] The action taken against the pro-Kurdish and minority rights party HDP, and its regional sister party, the Democratic Regions Party (DBP), came in the run-up to the constitutional referendum of 16 April 2017, which sought to replace Türkiye's parliamentary system with a presidential one, concentrating power in the office of the president.[22]
10. The misuse of criminal law against opposition politicians and officials has been extended to other opposition MPs elected in 2018 and 2023, as domestic courts have unlawfully set aside their parliamentary inviolability guaranteed under Article 83(2) of the Constitution without Parliamentary approval, by interpreting Article 14 of the Constitution as encompassing terrorism-related offences.[23] Although the TCC found this practice violated electoral rights under Article 67 of the Constitution in the cases of Ömer Faruk Gergerlioğlu (HDP), Leyla Güven (HDP) and Can Atalay (Workers' Party of Turkey - TİP),[24] the Court of Cassation explicitly rejected those

[16] TLSP, CSO contribution (supra n 13) p. 20. Şişli Mayor Şahan was later released from the terrorism-related charges but remains in detention in connection with the separate criminal proceedings brought against Mr. İmamoğlu and 406 other Istanbul municipal officials. The municipality continues to be run by a government-appointed trustee.
[17] See https://www.diken.com.tr/iki-yilda-kac-chpli-belediye-baskani-tutuklandi-kaci-gorevden-alindi/.
[18] Beykoz, Bayrampaşa, Gaziosmanpaşa and Üsküdar districts in İstanbul; Bursa metropolitan municipality.
[19] Examples include the criminal proceedings brought against Mr. İmamoğlu, along with 406 Istanbul municipal officials.
See also https://www.diken.com.tr/iki-yilda-kac-chpli-belediye-baskani-tutuklandi-kaci-gorevden-alindi/. Accordingly, by 26 August 2026, the mayors of four metropolitan municipalites (Istanbul, Adana, Antalya and Bursa), three city municipalities (Adıyaman, Bolu and Uşak), together with 29 district municipalities have been removed from office.
[20] HRW, TLSP, ICJ, and International Federation for Human Rights (FIDH), "Turkey: Release Politicians Wrongfully Detained for Seven Years", 3 November 2023, (https://www.hrw.org/news/2023/11/03/turkey-release-politicians-wrongfully-detained-7-years).
[21] Ibid.
[22] See, HRW, "Turkey: Crackdown on Kurdish Opposition" (n 13); See also *Selahattin Demirtaş v. Turkey (no. 2)* [GC], no. 14305/17, 22 December 2020, para. 437, where the Court held that the applicant's detention, "especially during two crucial campaigns relating to the referendum and the presidential elections, pursued the ulterior purpose of stifling pluralism and limiting freedom of political debate, which is at the very core of the concept of a democratic society".
[23] TLSP, CSO contribution (n 13), p. 20.
[24] See Constitutional Court, *Ömer Faruk Gergerlioğlu*, no. 2019/10634, 1 July 2021, para. 103; *Leyla Güven*, no. 2018/26689, 7 April 2022, para. 109; *Can Atalay (2)* [Plenary Assembly], no. 2023/53898, 25 October 2023; *Can Atalay (3)* [Plenary Assembly], no. 2023/99744, 21 December 2023.

findings.[25] Thus, domestic jurisprudence permits 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".[26]

11. The Interveners' research covering the period since the 2014 local elections has not identified comparable criminal proceedings or comparable use of pre-trial detention against mayors or MPs affiliated with the AKP or its ally, MHP (Nationalist Movement Party). First, AKP and MHP MPs have not faced with the targeted lifting of their parliamentary immunity.[27] Second, the Interveners identified only five cases in which AKP-affiliated mayors were removed from office as a result of criminal proceedings on "terrorism", "corruption" or "bribery"-related charges,[28] and five cases in which AKP-affiliated mayors were placed in pre-trial detention during ongoing criminal proceedings against them. Four of those cases concerned "terrorism"-related charges (accusations relating to links with the Fethullah Gülen network),[29] and one case concerned "extortion" charges under Article 250(1) of the Turkish Penal Code, which likewise resulted in removal from office.[30] Third, in two further cases mayors convicted at first-instance of "corruption" and "bribery"-related charges were neither removed from office nor detained, whereas opposition mayors have been removed and detained while proceedings were still ongoing.[31]

12. A related episode in 2017 concerns the resignation of several long-serving AKP mayors - including Melih Gökçek (Ankara), Kadir Topbaş (Istanbul), Recep Altepe (Bursa) and Ahmet Edip Uğur (Balıkesir) - within a few weeks of one another, following public calls by President Erdoğan for what he described as a renewal of the ruling party's local organisation ahead of the 2019 elections.[32] Although some were the subject of long-standing public allegations concerning "corruption" and "mismanagement of municipal resources" as well as having close ties to the Fethullah Gülen network,[33] none was subject to a criminal investigation, prosecution, or request for pre-trial detention in connection with those allegations during their term as mayor.[34] Their

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[25] Court of Cassation, file no. 2023/12611, 28 September 2023, pp. 47-50.

[26] Rule 9.2 submission by TLSP, HRW, ICJ and FIDH concerning *Selahattin Demirtas v. Turkey (No. 2)* (no. 14305/17), 12 February 2024, para. 30 (https://hudoc.exec.coe.int/?i=DH-DD(2024)216E); see also ECtHR, *Kavala v. Türkiye (no. 2)* [GC], no. 2170/24, 25 August 2026, para. 130 (on the deliberate non-implementation of the TCC's Can Atalay judgment being liable to undermine the rule of law and the effectiveness of the individual application).

[27] ECtHR, *Selahattin Demirtas v. Turkey (No. 2)* [GC], no. 14305/17, 22 December 2020, para. 427.

[28] Three AKP affiliated mayors were removed in the aftermath of the attempted *coup d'etat* of 15 July 2015 (see https://t24.com.tr/gundem/akpden-ihrac-edilen-3-belediye-baskani-gorevden-uzaklastirildi,409281?_t=1788304122296). See for more recent two cases, https://www.icisleri.gov.tr/keskin-belediye-baskani-ekmel-congerin-icisleri-bakanliginca-gorevden-uzaklastirilmasina-dair-basin-aciklamasi and https://www.evrensel.net/haber/5982054/yolsuzluk-sorusturmasi-kapsaminda-gorevden-uzaklastirilmisti-yahsihan-belediye-baskani-sungur-6-yil-8-ay-hapis-cezasina-carptirildi.
Criminal proceedings on corruption- and bribery-related charges have resulted in the conviction of a small number of former AKP-affiliated mayors, but none was removed from office or placed in pre-trial detention while still serving.

[29] See concerning Enver Başaran and Savaş Akarçeşme, https://www.diken.com.tr/darbe-girisimi-gazeteci-ercan-gun-fetopdy-uyeligi-sucundan-tutuklandi/; see also https://www.odatv.com/guncel/akpli-belediye-baskani-fetoden-tutuklandi-102800 and https://www.diken.com.tr/eski-akpli-belediye-baskani-fetoden-tutuklandi/.

[30] See https://www.evrensel.net/haber/5982054/yolsuzluk-sorusturmasi-kapsaminda-gorevden-uzaklastirilmisti-yahsihan-belediye-baskani-sungur-6-yil-8-ay-hapis-cezasina-carptirildi.

[31] See https://kisadalga.net/haber/detay/rusvetten-ceza-verilen-akpli-belediye-baskanlari-hala-gorevde_38555.

[32] See https://bianet.org/haber/akp-spokesperson-calling-for-resignation-is-not-an-anti-democratic-practice-191077.

[33] See for example https://www.dw.com/tr/melih-g%C3%B6k%C3%A7ek-hakk%C4%B1ndaki-dosyalar-nereye-tak%C4%B1ld%C4%B1/a-58978117; and https://yetkinreport.com/2019/04/05/sahi-erdogan-kadir-topbas-ile-melih-gokceki-neden-gorevden-almisti/. In the course of finalising this intervention, it was reported that an investigation had been opened into former Ankara mayor Melih Gökçek in August 2026, nine years after his resignation, concerning his and his family's financial affairs (https://bianet.org/haber/melih-gokcek-e-sorusturma-acildi-322950).

[34] The government has sought to refute allegations of selective enforcement against opposition-run municipalities by citing aggregate statistics on administrative "investigation permit" *(soruşturma izni*), according to which a higher number of AKP-run municipalities have been subject to such permissions than CHP-run municipalities (see https://t24.com.tr/video/mecliste-belediye-operasyonlari-tartismasi-cikti-akp-grup-baskanvekili-usta-evinden-alinma-geregi-duyulanlar-var-ki-evinden-aliniyorlar,71084#goog_rewarded). However, this comparison relies on a legal

departure from office was brought about through internal political pressure exerted by the party leadership, rather than through the criminal law mechanisms - indictment, arrest, pre-trial detention, or judicial removal from office - that have, as set out above, been systematically applied to democratically elected mayors from opposition parties.[35]

13. Selective enforcement thus operates not only through the disparate application of criminal charges, but also through the near-total absence of any criminal law response to serious allegations against officials of the governing party. None of the AKP mayors or MPs was charged with "leading a criminal organisation", whereas that charge has been brought against a substantial number of opposition mayors - in some cases including their lawyers -[36] in connection with the conduct of municipal administration and the discharge of their office.[37] HDP-related criminal proceedings have been characterised by a systematic denial of safeguards for the rights to liberty and to a fair trial,[38] and comparable practices have been documented in the mass proceedings against CHP politicians,[39] including hearings of up to 15 hours, held over consecutive days.[40]

2. The use of multiple, successive and overlapping criminal proceedings

14. The Turkish prosecuting and judicial authorities frequently bring multiple, overlapping charges and institute parallel criminal proceedings against opposition figures on the basis of the same or substantially similar facts and legal grounds.[41] This tactic has been well-documented *in Atilla Taş v. Turkey, Kavala v. Turkey, Selahattin Demirtaş v. Turkey (no. 2),* and *Yüksekdağ Şenoğlu and others v. Türkiye*, where judicial authorities reclassified substantially identical facts as new 'crimes' to justify ongoing detention.[42] Judicial authorities also issue arrest and detention orders for government opponents or critics, in respect of the same facts, that often coincide with orders for their release on other charges as a means of ensuring that the individuals remain in custody.[43] The Interveners consider this a covert but deliberate effort by the judicial authorities to hinder access to justice and the right to an effective remedy.[44] These tactics are used by the government

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distinction that the government's statement does not acknowledge. Under Law No. 4483, prior administrative authorization is required only for offenses committed by public officials "by reason of duty" - a category that excludes "bribery" or "extortion" by a public official, which under Article 17(1) of Law No. 3628 may be investigated directly by prosecutors, and offenses such as "membership of a criminal organization", prosecuted under the general provisions of the Code of Criminal Procedure. As the offenses most frequently invoked against opposition-run municipalities in recent proceedings - including "bribery", "extortion", and "criminal-organization membership" - fall outside the permission requirement, the government's statistics do not measure of the scrutiny applied to municipalities of different political affiliations.

[35] See for example, https://www.birgun.net/haber/gokcekin-usulsuzluk-dosyalari-tozlandi-592797.

[36] See HRW, "Türkiye: Jailed Mayor's Lawyer Detained", 26 June 2025 (https://www.hrw.org/news/2025/06/26/turkiye-jailed-mayors-lawyer-detained). See also https://www.dw.com/tr/i%CC%87bb-davas%C4%B1-avukat-mehmet-pehlivan-i%C3%A7in-tahliye-talebi/a-76622968

[37] As noted in supra n 34, organized crime accusations fall outside the prior authorisation requirement of Law No. 4483, so such accusations may be used not only to pursue harsher penalties, but also to bypass that procedure.

[38] For example, when the pre-trial detention of Selahattin Demirtaş and Figen Yüksekdağ Şenoğlu exceeded the seven year statutory limit, the trial court refused their release requests and cut off their lawyers' microphones (https://medyascope.tv/2023/11/06/selahattin-demirtas-figen-yuksekdag-ve-sebahat-tuncelin-tutukluluk-sureleri-doldu-mahkeme-sozlu-tahliye-talebini-reddetti/). The trial against them, known as *Kobane case,* has also been marked by decisive reliance on anonymous testimony, contrary to the Court's case-law (https://www.gazeteduvar.com.tr/kobane-davasi-supheden-sanik-yararlanmiyor-iddia-gucleniyor-haber-1649352).

[39] İstanbul Bar Association, "Preliminary Trial Observation Report, Istanbul 40th Assize Court, Case No. 2025/318, hearings of 9-12 March 2026", 13 March 2026, raising concerns as to judicial independence and impartiality, the rights of the defence and the presumption of innocence (https://istanbulbarosu.org.tr/haber/istanbul-barosundan-silivrideki-ibb-davasina-iliskin-on-rapor-adil-yargilanma-hakki-acisindan-ciddi-sorunlar-tespit-edildi).

[40] See https://www.cumhuriyet.com.tr/siyaset/ttb-ibb-davasi-ndaki-durusma-kosullarina-iliskin-rapor-hazirladi-2535544.

[41] TLSP, HRW and the ICJ, "Third Party Intervention in *Kavala (no. 2) v Türkiye*" (supra n 1), pp. 8-9.

[42] Ibid.; see also TLSP, CSO contribution (supra n 13), p. 35.

[43] Ibid.; see the criminal proceedings against Mr. Kavala and Mr. Demirtaş.

[44] 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.

to reinforce its narrative of wrongdoing by perceived dissidents and to provide a veneer of legitimacy for its non-compliance with ECtHR judgments.[45] 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.[46]

15. 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".[47] In *Kavala (no. 2)*, it found that the case revealed an instrumentalisation of the criminal law by means of successive sets of proceedings, legal reclassifications and repeated detentions, the effect of which was to circumvent fundamental procedural guarantees and neutralise the authority of judicial decisions at both domestic and international level.[48]

16. The conversion of over a dozen CHP mayors elected in 2024 to the AKP since the start of the crackdown, in breach of their democratic mandate, provides strong circumstantial evidence of the increasingly chilling effect of these cumulative criminal proceedings on political pluralism.[49] **The Interveners consider that the recurring practices described above - the selective and targeted application of the criminal law, the successive reclassification of substantially identical facts and the accumulation of multiple proceedings against the same individuals - taken cumulatively, engage the requirement that domestic law comply with the principle of rule of law inherent in each of the Convention rights in issue in the present case. They are particularly important to the Court's assessment under Article 18 ECHR, touching upon the very core of the rights safeguarded by the Convention, as discussed in Section IV.**

3. Parallel, non-criminal measures

17. Beyond the criminal law mechanisms described above, the authorities have relied on a range of administrative measures to interfere with the functioning of opposition-run local governments. For example, these municipalities have been subject to intensified administrative audits and inspections,[50] as well as to restrictions on the disbursement of central government funding and transfers to which municipalities are ordinarily entitled.[51] Such measures, while framed in neutral administrative or budgetary terms, have the practical effect of constraining the capacity of opposition-run local governments to deliver services and to fulfil the mandate for which they were elected. Opposition politicians and municipalities have also been targeted through defamation suits and civil compensation claims brought by public officials - often for very substantial sums -

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[45] Ibid.
[46] ARTICLE 19, HRW, ICJ, FIDH and TLSP, "Rule 9.2 submission, 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).
[47] ECtHR, *Selahattin Demirtaş (no. 4) v. Türkiye*, no. 13609/20, 8 July 2025, para. 315.
[48] ECtHR, *Kavala v. Türkiye (no. 2)* [GC], no. 2170/24, 25 August 2026, para. 278.
[49] See https://www.diken.com.tr/chpden-secilip-akpye-gecen-belediye-baskanlari/; https://medyascope.tv/2026/09/10/mutlak-butlandan-sonra-chpde-kalan-belediye-baskanlari-akpye-geciyor/.
[50] See for example, https://www.cumhuriyet.com.tr/siyaset/ozgur-ozel-akp-nin-pacasindan-yolsuzlugun-aktigi-bir-donemdir-demisti-ekrem-imamoglu-ibb-nin-teftis-tablosunu-acikladi-2482315; https://www.birgun.net/haber/yavasa-106-gokceke-3-teftis-663321 (comparing numbers of administrative inspections and audits against CHP municipalities and previous AKP municipalities). See also https://bianet.org/haber/kayyim-belediyelerinin-cogunda-yillardir-sayistay-denetimi-yok-288169 (showing the lack of audit by the Court of Accounts (Sayıştay) of municipalities run by government-appointed trustees).
[51] See https://www.duvarenglish.com/turkish-opposition-chp-criticizes-new-presidential-decree-cutting-municipal-budgets-news-65313; and https://artigercek.com/politika/hazineden-chpli-belediyelere-kaynak-kesintisi-168651h. See also Bertelsmann Stiftung, "BTI 2026 Country Report – Türkiye" (https://bti-project.org/en/reports/country-report/TUR) (Independent monitoring organisations have similarly observed that the central administration frequently delays funding approvals to opposition-led local governments and, while such measures are not formally framed as sanctions, they function in practice as a mechanism of political pressure that constrains the ability of opposition municipalities to govern effectively).

[52] and through the freezing of personal and municipal assets, frequently initiated shortly after a change in the political control of the municipality concerned.[53] Media outlets perceived as sympathetic to the opposition have similarly been affected by administrative fines,[54] licence proceedings, and other regulatory measures capable of threatening their continued operation.[55]

18. Finally, opposition parties have also faced legal challenges directed at the party organisation itself, including closure proceedings before the TCC,[56] as well as litigation contesting the legitimacy of internal party governance, including the outcome of party congresses and the leadership of party organs.[57] Of particular relevance to the present case are the ongoing proceedings concerning the CHP's party congress and internal leadership, as a result of which Özgür Özel, elected CHP leader in the 38th Congress, was removed from leadership by a court decision.[58] **The Interveners consider that such proceedings, irrespective of their formal legal basis, should be assessed in light of their timing and their cumulative effect alongside the criminal, administrative, and financial measures described above, insofar as they bear on the capacity of the political opposition to organise and to contest elections on an equal footing with the governing party. This background, taken as a whole, underlines the importance of a careful assessment of the case under Article 18 of the Convention taken in conjunction with Article 3 of Protocol No. 1 and Article 5 ECHR, as explained in Section IV below**.

III. Erosion of judicial independence and the ineffectiveness of the Constitutional Court as a remedy

19. Judicial independence in Türkiye has been progressively eroding, particularly, over the past decade and a half, culminating in what is widely described as the "capture" of the judiciary by the ruling AKP/MHP coalition, **a diagnosis consistent with the findings of the Venice Commission, the UN Human Rights Committee and the Parliamentary Assembly of the Council of Europe**.[59] Consequently, political interference in, and instrumentalisation of, the

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[52] HRW, "Türkiye: Leading Opponent of Erdoğan on Trial", 3 March 2026 (https://www.hrw.org/news/2026/03/03/turkiye-leading-opponent-of-erdogan-on-trial) (According to Özgür Özel's lawyers, government and other authorities have brought 49 civil lawsuits against him; the chief prosecutor filed 11 and President Erdoğan 16, seeking damages for Mr. Özel's criticism of them in political speeches). See also https://gazeteoksijen.com/turkiye/erdogandan-ozel-ve-imamogluna-dava-1er-milyon-lira-tazminat-istendi-227040.

[53] See for instance, https://www.bbc.com/turkce/articles/cn08rnqg0x2o (In November 2024, the Minister of Labour and Social Security announced foreclosure procedures against municipalities with outstanding debts to the Social Security Institution, a measure that, according to reporting at the time, was applied in a manner singling out CHP-run cities).

[54] See https://yetkinreport.com/en/2025/03/27/tv-authority-rtuk-delivers-a-major-blow-to-media-freedom-in-turkiye (At its March 27 meeting, the Turkish Radio and Television Supreme Board (RTÜK) imposed the heaviest fines ever on TV channels that do not toe the government line. The common reason for the blackout fines is reportedly the live broadcasting of CHP leader Özgür Özel's rallies, which started with the arrest and continued detention of Ekrem İmamoğlu).

[55] See https://t24.com.tr/gundem/cafer-mahiroglu-ndan-halk-tv-nin-lisansini-onaylamayan-rtuk-e-tepki-bilmedigimiz-bir-takim-niyetlere-sebepler-mi-araniyor,1246706?_t=1778457600024.

[56] HDP closure case is still pending before the TCC (https://bianet.org/haber/hdp-closure-case-file-handed-over-to-rapporteur-277146).

[57] HRW, "Türkiye: Court Removes Leadership of Main Opposition Party", 22 May 2026 (https://www.hrw.org/news/2026/05/22/turkiye-court-removes-leadership-of-main-opposition-party).

[58] Ibid. See also Reuters, "Turkey court rules to oust opposition leader in latest blow to Erdogan's challengers", 21 May 2026 (https://www.reuters.com/world/middle-east/turkey-court-annuls-main-opposition-partys-2023-congress-latest-blow-2026-05-21/).

[59] See TLSP, "Dismantling Human Rights, Democracy and the Rule of Law in Türkiye (I) (supra n 1). See also TLSP, HRW and the ICJ, "Third Party Intervention in *Kavala (no. 2) v Türkiye*" (supra n 1); Venice Commission, "Opinion on the composition of the Council of Judges and Prosecutors and the procedure for the election of its members", CDL-AD(2024)041, 9 December 2024, paras. 118-120; UN Human Rights Committee, "Concluding observations on the second periodic report of Türkiye", CCPR/C/TUR/CO/2, 28 November 2024, paras. 39-40; PACE, Resolution 2597 (2025), 9 April 2025, para 9.

judiciary against the political opposition, human rights defenders and others perceived as obstacles to the governing coalition have become widespread and systematic. In *Kavala (no. 2)*, this Court found that the shortcomings in the criminal proceedings against the applicant were not mere procedural flaws but reflected "a profound deterioration in the judicial context", and that the structural shortcomings affecting the guarantees of independence and impartiality of the judiciary were "likely to facilitate the exertion of direct or indirect influence by the executive branch on certain judicial decisions, particularly in cases with a sensitive political dimension."[60]

20. The main obstacles to the independence and effectiveness of the judiciary include the lack of safeguards against executive and legislative interference with the administration of justice and influence over judges' and prosecutors' career trajectories, principally through the composition and powers of the Council of Judges and Prosecutors (CJP); as well as the growing ineffectiveness of the TCC as a remedy for human rights violations, both in terms of independence and implementation of judgments running counter to the interests of the President and his allies.[61]

21. The Court has itself recognised the "wider context of structural shortcomings" concerning the appointment, transfer and discipline of judges and the repeated failure to execute TCC judgments.[62] In *Kavala (no. 2),* it found that excessively lengthy proceedings before the TCC had reduced the protection afforded at domestic level to a theoretical and illusory right, and the refusal of lower courts to give effect to its judgments was liable to undermine the rule of law.[63] **The Interveners consider that the effectiveness of the individual application procedure calls for particular scrutiny where it concerns a political opponent charged with and detained "on the basis of criminal offences, the scope of which is in many cases interpreted extensively or artificially magnified".**[64]

IV. The application of Article 18 and Article 3 of Protocol No. 1 to the detention and prosecution of opposition politicians

1. Article 18

22. The object and purpose of Article 18 of the Convention is to prohibit misuse of power.[65] Since 2019, this Court has found violations of Article 18 against Türkiye in eight judgments, concerning seventeen opposition politicians from the HDP and one human rights defender.[66] In *Selahattin Demirtaş v Turkey (no. 2)* [GC] and subsequent cases concerning HDP politicians, the Court held that the applicants' detention "pursued the ulterior purpose of stifling pluralism and limiting freedom of political debate, which lies at the very core of the concept of a democratic society";

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[60] ECtHR, *Kavala v. Türkiye (no. 2)* [GC], no. 2170/24, 25 August 2026, paras. 211 and 310.
[61] See TLSP, "Dismantling Human Rights, Democracy and the Rule of Law in Türkiye (I): Judicial Independence and Court Capture" (supra n 1). See also TLSP, HRW and the ICJ, "Third Party Intervention in *Kavala (no. 2) v Türkiye*" (supra n 1) paras 3-18.
[62] ECtHR, *Kavala v. Türkiye* (no. 2) [GC], no. 2170/24, 25 August 2026, para. 210.
[63] Since 2018 this Court has stressed that the TCC's workload must not serve as a perpetual justification for excessively long review of detention. The Court found violations of Article 5(4) where that review took one year and five months and, in *Demirtaş (no. 4),* more than four years, as well as where access to the investigation file was refused in stereotyped terms. See *Kavala v. Turkey*, no. 28749/18, 10 December 2019, paras. 185-196,; *Mehmet Hasan Altan v. Turkey*, no. 13237/17, 20 March 2018, para. 164,; *Şahin Alpay v. Turkey*, no. 16538/17, 20 March 2018, para. 136; *Selahattin Demirtaş v. Türkiye (no. 4)*, no. 13609/20, 8 July 2025, paras. 150-161.
[64] ECtHR, *Kavala v. Türkiye* (no. 2) [GC], no. 2170/24, 25 August 2026, para. 310.
[65] ECtHR, *Merabishvili v Georgia* [GC], no. 72508/13, 28 November 2017, para. 303.
[66] ECtHR, *Kavala v Turkey,* no. 28749/18, 10 December 2019; *Selahattin Demirtaş v. Turkey* (No. 2), no. 14305/17, 22 December 2020; *Yüksekdağ Şenoğlu and Others v. Türkiye*, no. 14332/17, 8 November 2022; *Selahattin Demirtaş v. Türkiye* (No. 4), no. 13609/20, 8 July 2025; *Tuğluk v Türkiye,* no. 71757/17, 14 October 2025; *Kışanak and Tuncel v Türkiye,* nos. 82955/17 and 82956/17, 9 June 2026; *Ürküt v Türkiye,* 17795/22, 9 June 2026; *Kavala (no. 2) v. Türkiye* [GC], no. 2170/24, 25 August 2026.

thereby violating Article 18 in conjunction with Article 5.[67] Evidence of a pattern of prosecution and detention of HDP politicians, the politically strategic timing of these measures and structural deficiencies in judicial independence, as described in Sections II and III, were key to these findings.[68] In *Kavala (no. 2)*, the Court found the criminal proceedings against the applicant, his continued pre-trial detention and his conviction predominantly motivated by an ulterior purpose, and held that the measures pursued the ulterior purpose of stifling pluralism and limiting freedom of political debate.[69] Describing the case as a particularly significant illustration of a systemic problem, it stressed the need to prevent any instrumentalisation of criminal proceedings for purposes other than the impartial administration of justice.[70]

23. The framing of allegations as "organised crime", "corruption" or "terrorism-related offences" carries no presumption of good faith for the purposes of Article 18. The Court's case-law under this provision has developed to a significant extent in relation to ordinary criminal charges: vote-buying and misappropriation of property in *Merabishvili*, illegal entrepreneurship, abuse of office and tax-related offences in *Rasul Jafarov* and other cases concerning civil society figures in Azerbaijan, and abuse of office and misappropriation in *Lutsenko*.[71] **Where a charge appears on its face to serve an uncontroversial public interest, the assessment must accordingly turn on the evidentiary substance of the accusation and on the surrounding conduct of the authorities, rather than on the classification of the offence. In Türkiye, this is of particular significance given the documented and recurrent resort to "organised crime" and "corruption" offences against opposition politicians alongside anti-terrorism laws.**

2. Article 3 of Protocol No. 1

24. Article 3 of Protocol No. 1 to the Convention guarantees the right to free elections, including the right to stand for election.[72] Although the provision focuses on ensuring "the choice of the legislature", the Court has stated that it may be applicable to presidential elections were it established that the office of the Head of State in question had been given the power to initiate and adopt legislation or enjoyed wide powers to control the passage of legislation or the power to censure the principal legislation-setting authorities.[73] The applicability of Article 3 of Protocol No. 1 should therefore be assessed based on the powers and role of the office within the constitutional order concerned.

25. In Türkiye, following constitutional amendments adopted in 2017, the President's powers were expanded to include, *inter alia*: being the leader of his political party, giving him influence over the legislature; dissolving parliament on any grounds whatsoever; issuing presidential decrees without the need for an empowering law which the TCC could review and without an effective review mechanism.[74] The Venice Commission has described the separation of legislative and executive powers under this new regime as "illusory", stressing that the President's power to appoint ministers from among the legislature and to dismiss them provided "an effective source

[67] ECtHR, *Selahattin Demirtaş* (no. 2) [GC], (supra), para. 437; *Yüksekdağ Şenoğlu and Others* (supra), para. 639; *Selahattin Demirtaş v. Türkiye* (No. 4) (supra), para. 319; *Tuğluk* (supra), para. 173; *Ürküt* (supra), para. 64; *Kışanak and Tuncel* (supra), para. 62.
[68] ECtHR, *Selahattin Demirtaş* (no. 2) [GC], no. 14305/17, 22 December 2020, paras. 426-434.
[69] ECtHR, *Kavala (no. 2)* [GC], no. 2170/24, 25 August 2026, paras. 275 and 279. The Court found a violation of Article 18 taken in conjunction with Articles 5(1), 6(1), 10 and 11.
[70] Ibid., paras. 310 and 312.
[71] ECtHR, *Merabishvili v. Georgia* [GC] (supra n 65); *Ilgar Mammadov v. Azerbaijan*, no. 15172/13, 22 May 2014; *Rasul Jafarov v. Azerbaijan*, no. 69981/14, 17 March 2016; *Lutsenko v. Ukraine*, no. 6492/11, 3 July 2012.
[72] ECtHR, *Podkolzina v. Latvia*, no. 46726/99, 9 April 2002, para. 35.
[73] ECtHR, *Boškoski v. the former Yugoslav Republic of Macedonia* (dec.), no. 11676/04, ECHR 2004-VI; *Brito Da Silva Guerra and Sousa Magno v. Portugal* (dec.), nos. 26712/06 and 26720/06, 17 June 2008.
[74] 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", no. 875/2017, 13 March 2017, para. 127.

of patronage over the legislature".[75] **The Interveners submit that these features of the President's role within the constitutional order are important to the Court's assessment of the applicability of Article 3 of Protocol No. 1 to presidential elections in Türkiye.**

26. In certain circumstances, criminal proceedings and pre-trial detention may engage the right to free elections. In *Selahattin Demirtaş (no. 2)*, discussed in Section II, the Court held that in ordering a person's initial and/or continued pre-trial detention, domestic courts must show that they have weighed up the interests of the person concerned as safeguarded by Article 3 of Protocol No. 1 against the public interest depriving that person of his or her liberty, and determined whether the charges have a political basis.[76] Mr Demirtaş was also a candidate in the presidential elections of 2018 and his detention placed him at a disadvantage compared to other candidates, an element the Court took into consideration under Article 18.[77] The Court was not required to rule on this point under Article 3 of Protocol No. 1, given his status as an MP. The Interveners consider that the analysis required of the domestic courts in considering whether these Article 3 safeguards have been maintained should have regard to the effects of the measures not only on the candidate but on the free expression of the opinion of the people in the choice of their representatives.

27. The Demirtaş case is emblematic of a wider pattern in which the safeguards protecting the opposition in Türkiye against arbitrariness have been bypassed. This includes the circumvention of the immunity of opposition MPs; the abusive application of criminal and administrative sanctions against both unelected and elected opposition politicians undermining their right to stand for election and exercise their office; the avoidance of implementation of this Court's judgments and of the application of its relevant case-law; the replacement of elected mayors by government-appointed 'trustees'; lawsuits for the closure of opposition parties based on members' legitimate exercise of their human rights; and impunity for torture and other ill-treatment of representatives of the opposition.[78] These measures are capable of having a chilling effect on pluralism and of interfering with the right to stand for election and to hold elected office, and therefore with "the free expression of the opinion of the people" contrary to Article 3 of Protocol No. 1.

V. Conclusion

28. The Convention and general international human rights law and standards impose clear limits on the prosecution and detention of opposition politicians, prescribing effective due process safeguards and precluding an arbitrary interpretation and application of the law, the use of criminal proceedings for political motives, and an undue restriction of the right to free elections. The Interveners submit that these limits have been disregarded by Türkiye, including through proceedings against the two largest opposition parties in the country based *inter alia* on abusive invocation of criminal legislation on antiterrorism, organised crime, and other serious offences. This pattern forms part of the erosion of the separation of powers, the rule of law and judicial independence for over a decade, with a damaging effect on democratic pluralism and on the right to political representation. In this context, prosecution and detention of political leaders, including elected mayors or opposition presidential candidates call for a high level of scrutiny, taking into account these broader impacts.

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[75] Ibid., para. 52.
[76] ECtHR, *Selahattin Demirtaş (no. 2)* [GC] [GC], no. 14305/17, 22 December 2020, paras. 389, 395, and 397.
[77] Ibid., para. 431.
[78] TLSP, HRW and the ICJ, "Rule 9.2 submission to the Committee of Ministers by concerning the *Selahattin Demirtas v. Turkey (No. 2)* group of cases" 12 February 2024 (https://hudoc.exec.coe.int/ENG?i=DH-DD(2024)216E); HRW, the ICJ and TLSP, "Joint briefing - Flouting the European Court of Human Rights and Bringing Domestic Courts to Heel: Türkiye's Collision Course with the Council of Europe" January 2025 (https://www.turkeylitigationsupport.com/_files/ugd/9265a1_433f9d9249b540b89e51a1545f65a859.pdf).