

**2024 Update: Developments in Gülen-
Related Cases in Türkiye –
“An Overview for Legal Experts”**



February 2025

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ABOUT STICHTING JUSTICE SQUARE

Founding Process

- Justice Square Foundation (SJS), founded by Turkish jurists living in the Netherlands, is a non-profit organization that aims to raise awareness and fight for fundamental human rights and against the violation of these rights.
- With the slogan "We stand for justice," SJS is a human rights foundation that completed the official establishment procedure in May 2023 and has been operating since July 2023 in Amsterdam.
- SJS publishes its activities, projects and announcements on its official website www.justicesquare.org. The foundation also has X and Instagram accounts named @JJJusticesquare.

Our Purpose

- Our main goal is to be active in the field of human rights. We want to be a respectable and contemporary nonprofit organization. In addition, we aim to contribute to the integration and career planning of Turkish jurists in the Netherlands.
- Our foundation strives to cooperate with local and national associations, foundations, unions, bar associations, universities, municipalities and other nonprofit organizations to achieve its stated goals and objectives. We consider it our duty to be aware of the social, cultural and legal problems of Dutch society, of which we try to be an integral part, and to contribute to these issues in cooperation with other organizations.

What We Do?

Our foundation focuses on identifying, reporting and sharing human rights violations and the victims of these violations. For this purpose, we carry out the following activities:

- Publishing academic and current publications and conducting analysis studies,
- Carrying out human rights projects and establishing partnerships with relevant projects,
- Contribute to international reports that provide insights on human rights violations, especially human rights violations in Türkiye, and communicate them to the public,
- Translating rulings of the European Court of Human Rights into Turkish and reporting them to relevant bodies for implementation.

To date, our foundation has published several books and reports on various topics. We also submitted the translation of the ECHR rulings on human rights violations in Türkiye, especially the Yüksel Yalçinkaya and Canavcı decisions, for publication on the ECHR website, where they are now available.¹ Similarly, with regard to the implementation of the Yüksel Yalçinkaya decision, we have made the necessary notifications to the Committee of Ministers of the Council of Europe.

1 <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-228393%22%5D%7D>

INTRODUCTION

1. Following the failed coup attempt on July 15, 2016, Türkiye witnessed widespread and systematic human rights violations targeting members of the Gülen Movement and those alleged to be affiliated with it. Tens of thousands of individuals were arbitrarily arrested, subjected to unjust trials, dismissed from their jobs, had their freedom of movement severely restricted, and faced significant social and economic pressures. The European Court of Human Rights (ECtHR) and numerous international human rights organizations have consistently asserted that this systematic repression violates core principles of the rule of law and fundamental human rights.

2. This backdrop of political persecution led many individuals associated with the Gülen Movement to seek asylum outside Türkiye, including in various European countries, particularly the Netherlands. The ongoing wave of asylum seekers in the Netherlands, especially post-July 2016, highlights the widespread concern among members of the Gülen Movement and others branded as such by the Turkish government.

3. In February 2019, the Dutch Council of State (Raad van State) issued a significant ruling, concluding that “supporters of the Gülen Movement in Türkiye bear a real risk of being subjected to treatment in violation of Article 3 of the European Convention on Human Rights (ECHR) during arrest and detention.” This decision emphasized the gravity of the situation for individuals fleeing political persecution, setting a precedent for the treatment of such asylum applications.

4. However, in response to the Türkiye Country Report published by the Dutch Ministry of Foreign Affairs in August 2023, the Dutch Immigration and Naturalization Service (IND) revised its policy approach. This revision led to the rejection of some asylum claims made by members of the Gülen Movement, prompting concerns about the changing stance toward these applications. Consequently, individuals whose asylum claims were rejected have appealed to the Dutch Council of State for a review of the IND's decisions, challenging the new policy shifts.

5. The Dutch Council of State has subsequently posed critical questions to the IND, specifically regarding the shifting stance on asylum applications from members of the Gülen Movement and individuals considered affiliated with the Turkish government’s designation of the movement. These inquiries not only examine how asylum procedures are currently assessed in light of recent policy adjustments, but also seek clarity on the concrete justifications behind the revised approach, particularly following the 2023 Türkiye Country Report. The IND has provided responses to these questions, which are now under further scrutiny by the Dutch Council of State.

WORKING METHOD

6. This report provides a comprehensive analysis of the current situation in Türkiye, based on the questions raised by the Dutch Council of State to the Immigration and Naturalization Service (IND) and the responses provided. The primary aim of this report is to assess whether there has been any discernible shift in state policies toward members of the Gülen Movement, particularly regarding the application of more objective legal criteria in the investigations, prosecutions, and judicial reviews carried out by Turkish authorities. By scrutinizing the

evolving nature of these policies, the report seeks to determine if there has been any softening in the legal and judicial approach to individuals associated with the movement.

7. Furthermore, this report will examine the risks and potential human rights violations that individuals affiliated with the Gülen Movement, or those perceived as such by the Turkish government, may face should their asylum applications be rejected and they are subsequently deported to Türkiye. This section of the report will focus on the specific legal and extrajudicial consequences of deportation, considering the well-documented pattern of persecution that members of the movement have faced within Türkiye.

8. The findings and analysis presented in this report were prepared at the request of Attorney Engin Arslan, who represents multiple asylum seekers currently facing deportation risks. It draws upon a variety of sources, including open-source information, international human rights reports, relevant court rulings, and detailed investigations into the ongoing prosecutions and persecutions targeting the Gülen Movement in Türkiye. This multi-faceted approach ensures that the report presents a thorough and objective account of the issues at hand, reflecting both legal and humanitarian concerns.

9. In terms of methodology, the report is structured around the questions directed by the Council of State to the IND, aiming to provide clear and comprehensive responses to these inquiries.

A- QUESTION 1

10. The first question posed to the IND by the Council of State is:

How do you define (alleged) Gülen supporters whom you have classified as a risk group in your letter dated November 28, 2023, and as a risk profile in paragraph C/34.3.2 of the Vc 2000, within the meaning of paragraph C2/2.4 of the Vc 2000?

Does this also include individuals who, like the foreign nationals in the mentioned cases, have, for example, studied at a Gülen-affiliated institution or are otherwise linked to the Gülen movement, such as by having engaged in volunteer work for the movement or having a family member who is a member of the Gülen movement? If not, I request further clarification on the criteria you use to consider someone an (alleged) Gülen supporter and whether it is necessary for that person to already be wanted or prosecuted in connection with a possible affiliation with the Gülen movement.

1. Criteria Instead of Criminal Evidence

11. The Turkish government's crackdown on the Gülen movement, which began in 2014, escalated into an unprecedented wave of detentions and arrests following the coup attempt on July 15, 2016, with 300,000 people detained within a very short period. Individuals suspected of being linked to or associated with the Gülen Movement were dismissed from their jobs, detained, and arrested based on lists prepared by Turkish intelligence agencies rather than concrete legal evidence.

12. These detentions initially targeted judges and prosecutors even before the soldiers allegedly involved in the coup attempt. On July 16, 2016—less than 12 hours after the coup attempt began—2,745 judges and prosecutors were dismissed and taken into custody.² This

2 <https://www.reuters.com/article/world/Türkiye-orders-2-745-judges-and-prosecutors-to-be-detained-after-coup-ntv-idUSKCN0ZW11Z/>

number later rose to 5,112 with subsequent dismissals, ultimately amounting to 38% of the judiciary at the time. Among those dismissed were individuals who had passed away before the coup attempt, as well as others who had been abroad for an extended period. For instance, former Balıkesir/Bandırma prosecutor Ahmet Biçer, who had died six months before the failed coup attempt, was officially dismissed on July 16, 2016, as if he were still in office, and police were dispatched to his last known residence to take him into custody.³ Furthermore, under normal circumstances, it would have been impossible for the Council of Judges and Prosecutors (HSYK) to complete all the required legal procedures in a single night. These actions constituted a blatant violation of the Turkish Constitution (Law No. 2709) as well as Laws No. 6087 and 2802.⁴

13. These facts clearly indicate that Turkish authorities had preemptively labeled certain judges and prosecutors and had already compiled lists of those to be dismissed. In fact, Mehmet Yılmaz, the then-President of the Council of Judges and Prosecutors, admitted in an interview with *Karar* newspaper that these lists had been in preparation for three years.⁵

14. The criteria used to determine whether an individual was a member or supporter of the Gülen Movement further illustrate the arbitrary nature of the crackdown. As outlined by the esteemed officials of IND, the Gülen Movement does not issue identity cards or membership numbers to its followers. As a result, Turkish judicial authorities and security institutions established certain criteria, widely disseminated by the media, to create a public perception that individuals associated with the movement could potentially be members of an armed terrorist organization, even if they had committed no crimes. Some security officials expanded these criteria further, leading to the development of the so-called “FETÖMETRE,” a software program designed to detect alleged links to the movement. The *FETÖMETRE* criteria, in addition to those referenced in reports by the Finnish Immigration Office and the response letter of the esteemed IND officials, included dozens of indicators related to an individual’s education, family background, professional life, social relations, and financial history. These ranged from completing postgraduate or doctoral studies abroad to something as arbitrary as giving two names to children.

15. The use of profiling and intelligence reports as a basis for dismissals was later confirmed by Erhan Afyoncu, the rector of the National Defense University, which was established

3 <https://www.turkishminute.com/2016/10/24/judicial-board-suspends-prosecutor-passed-away-may/>

4 At the date of the suspension and dismissal decisions in question, in order for a judge-prosecutor to be suspended from his/her profession according to Turkish law
a- First of all, the 3rd Chamber of the HSYK should make a ‘decision to request permission for an investigation’ and the Minister of Justice, who is the president of the HSYK, should approve this decision,
b- The HSYK Inspection Board conducts an investigation and prepares a report on the judge-prosecutor for whom an investigation permit has been granted,
c- If the 3rd Chamber of the HCJP discusses the report of the inspection board and deems the allegations to be justified, it will issue a ‘decision on permission for investigation’ and send the file to the 2nd Chamber of the HCJP after the approval of the Minister of Justice,
d- In the event that the 2nd Chamber of the HSYK deems the allegations grave, serious and urgent in the light of the evidence, the relevant judge-prosecutor shall be ‘suspended from duty’,
e- After receiving the defence of the relevant judge-prosecutor, it was required to take a decision on dismissal.

In short, it is not possible for the HSYK to fulfil all these legal procedures on the night of the so-called coup attempt.

5 https://t24.com.tr/haber/hsyk-2-daire-baskani-elimizdeki-feto-listesi-bir-gecede-yapilmadi-3-yildir-calisiyorduk,360895#google_vignette

following the closure of military academies after July 15, 2016. In an interview with CNN Türk on February 17, 2025, Afyoncu stated that the overwhelming majority of personnel dismissed from the Turkish Armed Forces in 2016 were removed based on intelligence reports prepared by the Turkish National Intelligence Organization (MIT) and data generated by the *FETÖMETRE* system.^{6 7}

16. In the aftermath of the coup attempt, prosecutors’ offices and courts, which initially initiated judicial proceedings based on profiling lists provided by intelligence units, later adopted a set of criteria to charge individuals under Article 314 of the Turkish Penal Code for alleged membership in the Gülen Movement. However, these criteria were never officially disclosed, further raising concerns about the arbitrary and politically motivated nature of the prosecutions.

2. Venice Commission Report

17. These concerns were also raised by the Venice Commission rapporteurs, who were informed that the dismissals were based on an evaluation of various criteria. These included making monetary contributions to Bank Asya and other companies associated with the so-called “parallel state,” being a manager or member of a trade union or association linked to Gülen Movement, and using the ByLock messenger application or other similar encrypted messaging programs. In addition, the dismissals may be based on police or secret service reports about relevant individuals, analysis of social media contacts, donations, web-sites visited, and even on the fact of residence in student dormitories belonging to the “parallel state” structures or sending children to the schools associated with Gülen Movement. Information received from colleagues from work or neighbours and even continuous subscription to Gülenist periodicals are also mentioned amongst those many criteria which are used to put names on the “dismissals lists”. According to the Venice Commission rapporteurs, these are extraordinary measures, based on a new criterion the connections to the Gülenist network and other organisations defined in Türkiye as “terrorist”. Furthermore, those dismissals do not follow a normal disciplinary procedure. The question is whether this

6 <https://nordicmonitor.com/2025/02/erdogans-ally-reveals-2016-military-purge-dismissals-were-based-on-profiling-not-coup-involvement/>

7 **The Fetömetre** operates on an arbitrary point-based system, assigning numerical values to over 290 different criteria, many of which have no concrete or logical connection to criminal activity. Factors such as opening a bank account, attending specific universities or having a relative accused of terrorism all contribute to an individual’s score. More disturbingly, the system also penalizes personal beliefs and lifestyle choices. For example, expressing opposition to abortion, regarding the birth of a disabled child as natural or even having strong religious views outside state-approved norms can increase a person’s “risk score.” These criteria reflect not a security measure but a deeply invasive and ideological attempt to police personal morality. **The technical flaws of the Fetömetre** make its use even more dangerous. The methodology behind the algorithm remains undisclosed, making it impossible to verify the reliability of its assessments. Data from financial transactions, social media activity, family history and even health records are compiled without any legal basis. The report notes that the system has processed the personal information of at least 810,000 people, with no due process or independent review. In many cases, individuals with no known links to any political movement were flagged and subjected to harsh professional and legal consequences based solely on algorithmic suspicion. **Beyond targeting individuals, the Fetömetre also punishes family members and social circles.** Having a relative who was dismissed from a public institution, studied at a university closed by decree or simply made a donation to a now-banned organization is enough to warrant suspicion. This guilt-by-association approach is a blatant violation of fundamental legal principles, including the right to individual responsibility and the presumption of innocence.

way of purging the State apparatus is compatible with standards derived from the Turkish Constitution and from international law.⁸

3. Most Commonly-Used Criteria

18. Although the wording varies, the report issued by Italian Federation for Human Rights in July 2023⁹ finds on the basis of a detailed analysis of **118 indictments** that there are **18 most commonly-used criteria**, which are written on the list below. The list also presents a data analysis on the frequency that each of these criteria has been used/deployed in the 118 indictments to charge the suspects for membership in an armed terrorist organization:

1. Using or downloading the Bylock messaging application (78 indictments)
2. Being a depositor at Bank Asya or having had a Bank Asya bank/credit card or using Bank Asya payment terminal (64 indictments)
3. Anonymous tips / denunciations or secret witness statements (50 indictments)
4. Being a shareholder, manager, or employee in companies and other legal entities—such as schools, universities, hospitals, media outlets, and publishing houses—that were dissolved or seized under the state of emergency due to alleged links to the Gülen Movement (32 indictments)
5. Attending the religious gatherings (conversations) known as “sohbet” organised by members of Gülen Movement (28 indictments)
6. Being an executive or a member of an association that was closed or dissolved under the state of emergency due to alleged links to the Gülen Movement (25 indictments)
7. Being an executive or a member of a trade union that has been closed/dissolved under the state of emergency for its alleged Gülen Movement links (16 indictments)
8. Subscribing to periodicals that were dissolved or seized under the state of emergency due to alleged links to the Gülen Movement, such as Zaman daily and Sızıntı magazine (19 indictments)
9. Possessing books, CDs or DVDs printed by publishing houses that were closed/dissolved/seized under the state of emergency due to alleged Gülen Movement links, or possessing copies of newspapers, and magazines that were closed/dissolved/seized under the state of emergency due to alleged Gülen Movement links (19 indictments)
10. Being a resident or student in those schools, universities and dormitories that were closed under the state of emergency as a result of alleged Gülen Movement links, or sending children to those educational institutions (17 indictments)
11. Analysis of social media activity and the websites visited, i.e., following certain accounts, sharing articles criticizing the AKP government (8 indictments)
12. Donations made to relief organizations with alleged Gülen Movement links, i.e., Kimse Yok Mu (8 indictments)
13. Staying at hotels in the provinces of Ankara, Afyon and Nevşehir including Asya Thermal Resort Hotel which has been seized for Gülen Movement links (9 indictments)
14. Cancelling their subscription to DIGITURK, a digital tv platform, as a result of its decision to end the broadcasting of seven television channels allegedly linked to the Gülen Movement (6 indictments)

8 [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-ad\(2016\)037-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-ad(2016)037-e)

9 <https://fidu.it/wp-content/uploads/FIDU-Report-Turkut-Dent-Yildiz.pdf>

15. Participating in protests held in response to the Government’s takeover of Zaman newspaper and Samanyolu TV or making press statement to protest the Government (6 indictments)
16. Expressing support for the opposition parties or criticizing government for human rights violations (2 indictments)
17. Possessing 1 USD banknote (7 indictments)
18. Travelling abroad (14 indictments)

19. The esteemed IND officials, in their letter, acknowledge that one or more of the factors they list may serve as an indication that the individual in question is a Gülenist or that this belief may be attributed to them. Indeed, these criteria, **none of which can be considered as criminal elements of being a member of armed terrorist organisation**, may be sufficient for Turkish judicial authorities to initiate an investigation against an individual or to impose a prison sentence as a result of such an investigation.

4. Family Relations as a Mean of Persecution

20. The IND letter states that *“the situation of a family member who is not a high-level Gülenist would not lead to the individual being identified as a Gülenist.”* However, in recent investigations conducted by the police in Türkiye under the pretext of “restructuring,” both technical and physical surveillance have been carried out on the children of individuals previously investigated for alleged membership in the Gülen Movement. As a result, these children have been detained alongside their families. (The most notable of these investigations is the case known to the public as the ‘Teenage Girls’ Case.’ A detailed response to this issue is provided in question 3 of the Council of State’s inquiry. Parag 177-190)

5. Social and Legal Discrimination and Pressure

21. As a result of the investigations against Gülen Movement, children of individuals who have been investigated on the grounds of being members or supporters of the Gülen Movement are subjected to social and legal discrimination, even if they themselves have not embraced Gülenist teachings. In all schools, the week marking the start of the academic year is dedicated to commemorating **July 15**, during which efforts are made to instill in students the perception that members of the **Gülen Movement** are traitors and terrorists. Children whose family members have been subjected to FETÖ investigations are negatively affected by this propaganda and are sometimes subjected to humiliation, bullying and mobbing by their friends and teachers. Children are also subjected to discrimination in their professional lives due to the **SGK 37 code** reflected in official records related to their families, leading to what can be described as civil death. (A detailed information on SGK Code/37 is also provided in question 2 of the Council of State’s inquiry.)

22. Some children, whose families are imprisoned or dismissed from their jobs due to allegations of Gülenist Membership, have committed suicide as a result of the severe social and legal discrimination and hate speech directed against them in their environment.

- **Bahadır Odabaşı** died after he allegedly threw himself from the 10th floor of his apartment building on January 18, 2022, due to depression caused by the situation of

his father, a former teacher who was fired from his job by an emergency decree and arrested on terrorism-related charges after a coup attempt on July 15, 2016.¹⁰

- **Onur Selim Y.**, a 20-year-old university student living and studying in the northeastern Turkish province of Erzurum, has died by hanging himself from a pipe on January 17, 2024. The report said his father, a biology teacher identified only by the initials T.Y., spent 11 months in pretrial detention and has been sentenced to more than six years in prison on charges of links to the Gülen movement, a faith-based group accused by the government of “terrorist” activities. His mother was also dismissed from her job with the education ministry on similar grounds over her labor union membership.¹¹
- **Nahit Emre Güney**, a 26-year-old university student who received psychological treatment following the arrest of his father, died on October 11, 2022, after he jumped from the observation deck of Galata Tower, an Istanbul tourist destination, due to depression caused by the imprisonment of his father in a post-coup purge. Emre Güney, who was studying law at Istanbul University, was the son of Haşım Güney, a **former member of the Council of State** who was imprisoned in July 2016 after a failed coup took place in Türkiye.¹²

23. There are also countless examples of legal and social discrimination against the children of Gülenist Families who are the victims of Emergency Decrees and persecution:

- **Ahmet Burhan Ataç**, an 8-year-old cancer patient, passed away on May 7, 2020, after being denied the opportunity to receive treatment in Germany. His mother, Zekiye Ataç, was refused a passport, delaying his travel for critical medical care. Ahmet’s health deteriorated after both his parents were arrested, and his tragic story gained widespread public attention. The bureaucratic obstacles preventing his treatment sparked outrage and criticism.¹³
- **Rüveyda Tekgöz**, a girl with autism, was denied social assistance on the grounds that her father was a subject of the state of emergency decree.¹⁴
- The daughters of the Kaçmaz family, who were abducted from Pakistan and forcibly brought to Türkiye, were denied recognition and prevented from continuing their education.¹⁵
- **Nurefşan Ketenci**, who was born with Cat Meow Syndrome (Cri du Chat), which is seen in one in 50 thousand people in the world, was expelled from the rehabilitation center where she was studying because her father was a subject of the state of emergency decree.¹⁶

10 <https://www.turkishminute.com/2022/01/18/eople-die-by-suicide-over-Türkiyes-post-coup-purge-since-2016/>

11 <https://stockholmcf.org/20-year-old-son-of-purge-victims-dies-by-suicide/>

12 <https://stockholmcf.org/student-jumps-to-his-death-from-galata-tower-over-fathers-imprisonment/>

13 <https://brokenchalk.org/ahmet-burhan-atac-the-story-of-the-child-who-got-killed-collectively/>

14 <https://boldapp.de/2021/11/12/babasi-khkli-olan-otizmli-ruveydanin-engelli-ayligi-mucadelesi/>

15 <https://kronos35.news/tr/pakistanli-yetkililer-sucunuz-yok-biliyoruz-ama-erdogan-cok-baski-yapiyor-dedi/>

16 <https://boldmedya.com/2021/07/25/babasi-khk-ile-kapatilan-kurumda-calisti-diye-egitim-hakki-engellenen-nurefsan-vefat-etti/>

- Many students were denied state scholarships on the grounds that their parents were on the lists of the state of emergency decrees.¹⁷
- When the Air Force Academy was closed down, the students were given their diplomas through Istanbul Technical University, but on the diplomas it was written “**This diploma was issued with the Decree Law No. 669**”. Due to the Decree Law mentioned here, it has become impossible for them to enter business life and use these diplomas.¹⁸

24. As revealed in the abovementioned examples, almost all of the rights of Children who are the victims of persecution against the members of Gülen Movement and Children of those, which are included in the United Nations Convention on the Rights of the Child, have been violated. These violations have been addressed with a (new) legal approach. However, it is obvious that the violations of rights are far beyond what the bodies and souls of children can bear. Therefore, it is essential to address the issue with the data of sociology, psychology and pedagogy, and the IND's adoption of the criterion ‘*having a high-level Gülenist family member*’ as the sole basis for classifying an individual as a ‘Gülenist’ on the basis of close family members, without taking into account the aforementioned social reality—that individuals may fear experiencing the same fate as their families due to the legal and social persecution they endure—represents a practice that warrants reconsideration. The term “*high-level Gülenist family*” is not only vague, but as the well-publicized case of the daughters and similar cases, which we will discuss in detail below, indicate, first and second degree relatives (family members) of members of the Gülen movement at all levels are in danger and can be investigated at any time.

B- QUESTION 2

25. The second question posed to the IND by the Council of State is:

Referring to the AAB 2023, you stated on page 4 of the decision note dated August 11, 2023, regarding Türkiye’s country policy, that there is insufficient verifiable information to substantiate a decline in the criminal prosecution of (alleged) Gülen supporters. Given this lack of concrete data, could you explain—based on country information—why you nevertheless assume that the situation for Gülen supporters in Türkiye has changed?

26. According to the findings of AAB 2023 to which the esteemed IND officials referred, while the situation remains concerning, it is no longer the case that the circumstances of the previous period persist.’ The IND officials, in their response letter, arrive at this positive conclusion solely based on the decrease in the number of investigations and arrests of Gülenists. To support this positive conclusion, the IND officials provided some figures in their letters regarding the investigations against Gülen Movement in Türkiye. However, these figures are not up-to-date. Therefore, we would like to present the most current statistics concerning the investigations and prosecutions related to the Gülen Movement.

17 <http://m.haberdar.com/genel/ysk-da-ilk-100-e-giren-ogrenciyi-vakif-universitesi-babasi-khk-li-diye-burslukaydetmedi-h211132.html>

18 Justice for Victims Platform, Social Costs of the State of Emergency in its 3rd Year Report, https://www.academia.edu/44609212/3_Y%C4%B1l%C4%B1nda_OHALin_Toplumsal_Maliyetleri_Raporu_Updated_

1. The Recent Numbers of Legal Proceedings Against Gülen Movement

27. The Turkish Government has pursued the policy of persecution for nearly ten years through mass arrests, detentions, and unjust prosecutions of Gülen Movement members under abusive interpretation and implementation of anti-terror legislation, which the United Nations Working Group on Arbitrary Detention has indicated on many occasions that it may constitute as crimes against humanity. (§785)¹⁹.

28. According to the statement made by the Minister of Justice, Yılmaz TUNÇ, **by July 2024**,

- the number of persons prosecuted on FETÖ charges is **705,172**,
- the number of persons convicted is **125,456**,
- the number of persons who had the decision of non-prosecution is **357,000**,
- the number of persons acquitted is **104,000**,
- the number of persons whose sentences were postponed is **28,000**.
- the number of persons who are under investigation for FETÖ allegations is **61,796**
- and the number of persons who are under trial in the first instance is **23,052**²⁰

29. In the wake of the failed coup attempt, 300,000 people were criminally investigated and this number has risen to **705,172 by July 12, 2024**.²¹ Among the 705,172 individuals mentioned by the Minister of Justice, there are judges, prosecutors, bureaucrats at all levels, doctors, academics, teachers, soldiers, police officers, businesspeople, workers and civil servants, housewives, as well as people from all segments of society, ranging from 14-year-old children to 85-year-old elderly individuals, all of whom have never committed a crime before. There is no historical precedent for such a large-scale terrorism investigation in modern history.

1.1. Caseload in the Court of Cassation, the Counsel of State and Constitutional Court

30. The Turkish Court of Cassation has published statistics regarding the number of pending cases before its criminal and civil chambers. As can be understood from the table published on the website of the Court, the number of cases pending before the **3rd Criminal Chamber of the Court of Cassation**, which handles terrorism-related offenses, is **67,961**. (This number was 63,643 last year.) In other words, **more than 4,000 new cases have been added**.²² These cases involve people who have been sentenced at first instance whose cases will soon be finalized and most of whom will be sent to prison. Indeed, when considering ongoing investigations in prosecutors' offices, and trials at the first-instance courts and appellate courts, this number is at least **120,000**. This means that many people convicted in these pending cases are currently facing the possibility of imprisonment.

31. These figures do not include the dismissal files and the exact number of which is unknown. **According to the Minister of Justice, 120,000 individuals have been dismissed from public service**, and as a result of applications made to the established State of Emergency

19 <https://www.ohchr.org/sites/default/files/documents/issues/detention-wg/opinions/session96/A-HRC-WGAD-2023-3-AEV.pdf>

20 <https://www.aa.com.tr/tr/15-temmuz-darbe-girisimi/adalet-bakani-tunc-demokrasiye-mudahale-olmasin-diye-hem-yargimiz-hem-yasamamiz-gerekli-tedbirleri-almaya-devam-ediyor/3273261>

21 <https://www.adalet.gov.tr/adalet-bakani-yilmaz-tunc-15-temmuzu-degerlendirdi>

22 https://www.yargitay.gov.tr/documents/2024_YARGITAY_%C4%B0%C5%9E_CETVEL%C4%B0-1738825670.pdf

Commission, approximately 20,000 individuals have been reinstated to their positions.²³ However, it is not entirely clear how many public servants were dismissed by decisions taken at the lower level, i.e. by the relevant administrative entities or judicial bodies under Decree Law no. 667, and how many were mentioned directly in the lists appended to the subsequent decree laws.²⁴ According to Amnesty International, the number of purged people by decrees and administrative entities is 130,000 by 2018.²⁵ At present, tens of thousands of cases are pending before the administrative and regional administrative courts, and, according to the statistics of the Council of State last year, **27,150 cases were pending** before the 5th Chamber of the Council of State.²⁶ The number of files in this chamber represents **24.1% of the total number of files in the Council of State.**²⁷

32. Considering the caseload of the Constitutional Court with **98,540**,²⁸ the amount of the cases in the ECtHR similar to Yalçinkaya case will be gigantic. **The European Court of Human Rights (ECHR) has already communicated 4,000 cases to the Turkish Government, similar in nature to the Yalçinkaya decision, and has stated that it will find a violation under Article 7 in all of these cases without even requesting a defense from the Government.**²⁹

33. As can be seen from the above data, contrary to the IND's response, there has been no decrease in the severity of criminal prosecutions, but rather an increase in the number of files pending before the Court of Cassation. Similarly, the number of individual application files pending before the Constitutional Court is increasing every year.

1.2. Caseload in the ECtHR

34. According to the latest statistics published by the European Court of Human Rights, there are 60,350 cases pending before the Court, of which 21,613 are against Türkiye. This figure corresponds to 35.8% of the total. The total number of cases from the 43 Council of Europe member countries, excluding Russia, Ukraine, and Romania, is 2,000 fewer than the number of cases from Türkiye. The number of applications filed against the Netherlands is 186, against Germany is 136, against Spain is 276, and against France is 509.³⁰

35. In addition according to the ECtHR's data on violations of the European Convention on Human Rights (ECHR) by article and state, at least one violation was found to have been committed in 67 of the 73 adjudicated cases from Türkiye.

1.3. The State of Emergency Inquiry Commission (OHAL Komisyonu)

36. In their response letters, esteemed IND officials state that *“15% of the individuals dismissed under the state of emergency decrees have been reinstated by The State of Emergency Inquiry*

23 <https://www.adalet.gov.tr/adalet-bakani-yilmaz-tunc-15-temmuzu-degerlendirdi>

24 [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-ad\(2016\)037-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-ad(2016)037-e)

25 <https://www.amnesty.org/en/latest/press-release/2018/10/almost-130000-purged-sector-workers-still-awaiting-justice-in-Turkiye/>

26 <https://www.danistay.gov.tr/assets/images/yayinlar/dergi/2025-01-15-10-14-7669293.pdf>

27 <https://www.danistay.gov.tr/assets/images/yayinlar/dergi/2025-01-15-10-30-4888003.pdf>

28 <https://www.anayasa.gov.tr/tr/haberler/faaliyetler/bireysel-basvuru-istatistikleri-23-eylul-2012-31-aralik-2024/>

29 <https://www.drgokhangunes.com/uncategorized/tek-listede-aihmin-hukumete-teblig-ettigi-1-000-dosya/>

30 <https://www.echr.coe.int/documents/d/echr/stats-pending-2025-bil>

Commission (OHAL Komisyonu), suggesting that the situation in Türkiye is beginning to return to normal.”

37. During the State of Emergency, the Government adopted a number of “atypical” emergency measures under more than 30 executive decrees seriously limiting and, in some cases, totally waiving numerous fundamental rights and freedoms by relying on exceptional powers under the Constitution. 120,000 public sector workers were dismissed and legal entities including newspapers, television companies, associations and foundations were closed down without individualized reasoning or evidence to support these actions. For a long time, the lack of a clear avenue for appeal of these decisions left those affected in obscurity. Following the adoption of the Decree Law No. 685, establishing the State of Emergency Inquiry Commission (“the Commission”), tens of thousands of people who were dismissed and the entities closed under the emergency decree laws have been forced to apply to the Commission before having recourse to a judicial remedy.

38. A year after the operation of the Commission, the **Türkiye Human Rights Litigation Support Project (TLSP)**, started to carry out a research study to assess whether the Commission offered an effective remedy to challenge measures adopted during the state of emergency or whether it stood as yet another obstacle for victims to overcome in order to access justice in Türkiye.

39. In the light of the data, the study on the **State of Emergency Inquiry Commission** reached the following conclusions:

- The Commission which was established as an *ad hoc* remedy does not have structural and practical safeguards ensuring its independence and impartiality and fails in capacity to provide a fair and effective process in the review of emergency measures.
- Applicants are forced to prove that they have no links with any proscribed groups or organisations without any prior knowledge about accusations or evidence against them.
- The situation is exacerbated by the lack of transparency and denial of meaningful participation in proceedings before the Commission.
- In the assessment of a person’s alleged link with a proscribed group, the Commission uses a very low evidential threshold, criminalizing everyday life practices without requiring proof of any disciplinary or criminal wrongdoing.
- Among others, the Commission mainly **relies on intelligence information, confidential witness statements or unverifiable information obtained from so-called “social circles”** without any possibility given to the applicants to challenge them.
- Finally, having rejected the vast majority of the applications in the proceedings short of fundamental due process guarantees, and with many more applications still pending before it, the Commission has demonstrably failed to meet with the standards of the right to an effective remedy under international law.³¹

40. The State of Emergency Inquiry Commission, on the other hand, has not made any decisions for the last 2 years as its duty period expired on January 22, 2023. Moreover, as can

31 <https://www.Turkiyelitigationssupport.com/blog/2019/10/15/access-to-justice-in-Turkiye-a-review-of-the-state-of-emergency-inquiry-commissionnbnsp>

be understood from the above report, the Commission has rejected the vast majority of the applications in this process, which was carried out without basic fair trial guarantees. Since there is no transparency, it is not known according to which criteria those that were accepted were made. Therefore, based on the State of Emergency Commission's 14.1% acceptance decisions between 2017 and 2022, it is not possible to say that there has been a softening towards the service movement in Türkiye and that normalization has begun. Moreover, the 85.9% of the applicants who were rejected were delayed by 1-5 years in seeking their rights by applying to the courts and in exhausting domestic remedies due to their application to the commission. Many argue that the purpose of the commission was to delay the applicants' ability to apply to the ECtHR through individual application.³²

2. International Reports on Türkiye, 2024-2025

41. In their letters, the esteemed IND officials state that *‘in particular, the pressures and policies imposed by the government in Türkiye following the coup attempt may have changed over time, and these changes can be verified through international observations, reports reflecting the situation within the country, and various human rights reports.’*

42. In fact, the pressure and persecution directed at members of the Gülen Movement in Türkiye over the past 8.5 years have been reported annually by international organizations. As it can be understood from the international reports below, there is no lessening or softening in the Turkish government's policy of oppression against the Gülen movement, and this oppression continues to increase to the extent that it constitutes a crime against humanity.

2.1. The Ministry of Foreign Affairs of the Netherlands, General Report on Turkey, February 2025³³

43. *The General Report on Türkiye*, prepared by the Country of Origin Unit of the Ministry of Foreign Affairs of the Netherlands, provides detailed information on the situation in Türkiye regarding politics, human rights, social issues, and other relevant topics. It was released on February 24, 2025.

44. According to the annual report, The Turkish government considers the Gülen Movement a terrorist organization and refers to it as the Fethullahist Terrorist Organization (FETÖ). On October 20, 2024, Gülen passed away in exile in Pennsylvania at the age of 83.

45. Turkish officials immediately stated that their fight against the Gülen Movement would continue resolutely. On October 21, 2024, **Turkey's Foreign Minister Hakan Fidan** announced that *“the Turkish government would not ease its fight against the Gülen Movement.”* On the same day, the Ministry of Defense called on Gülen's followers to surrender to the Turkish

³²

https://x.com/KeremALTIPARMAK/status/1220300019196100608?ref_src=twsrc%5Etfw%7Ctwcamp%5Etw%7Ctwterm%5E1220300019196100608%7Ctwgr%5E312bb4eec6260ce2ced4c159c94b57a997344a7c%7Ctwcon%5Es1_c10&ref_url=https%3A%2F%2Ftr.euronews.com%2F2023%2F01%2F20%2Fohal-inceleme-komisyonu-tum-basvurulari-karara-bagladi-istatistiklerle-kabul-ve-ret-orani

³³

<https://www.rijksoverheid.nl/documenten/ambtsberichten/2025/02/24/algemeen-ambtsbericht-turkije-februari-2025#:~:text=Dit%20Algemeen%20Ambtsbericht%20beschrijft%20de,terugkeer%20van%20afgewezen%20Turkse%20asielzoekers>

government. In early November 2024, President Erdoğan attended the summit of the Turkic States Organization in Bishkek, Kyrgyzstan, where he stated, *"Our fight against all forms of terrorism, including FETÖ, will continue without interruption."*

46. The annual report also stated the following information on the current situation of the Member of Gülen Movement in Türkiye;

- **No official statement has yet been made regarding the number of Gülenists arrested in 2024.** However, the decrease in the number of investigations has not prevented Turkish authorities from continuing their prosecution of (alleged) Gülenists.
- **The continued arrests of Gülenist suspects can be understood not only from media reports but also from data on the Turkish Ministry of Interior's website.** According to this data, between January 10 and October 23, 2024, 27 operations were conducted, resulting in the arrest of 1,824 individuals. **Most of the suspects had either used the ByLock application or communicated through phone booths.**
- In this context, a source noted that the **Gülenists being tracked came from all segments of society, ranging from village guards to academics, small business owners to corporate executives, and clerks to prosecutors.** However, previous reports had specifically indicated that (alleged) Gülenists in the security and judicial sectors attracted the negative attention of Turkish authorities. **This situation remained unchanged during the reporting period, with particular focus on Gülenist officers, gendarmes, police officers, judges, and prosecutors.**
- In the operations carried out between January 10 and October 23, 2024, most of those arrested were police officers, military personnel, and judicial staff. Other suspects were categorized under what was referred to as the "actual structure" or "remaining category" in English. This "remaining category" included family members, friends, colleagues, and/or relatives of detained Gülenists. These individuals were accused of assisting the restructuring of the Gülen Movement by providing financial or food aid.
- The previous report had stated that **people could be easily accused of being involved with the Gülen Movement. This dynamic continued during the reporting period.** For example, a source reported that **a group of women and their daughters were arrested for communicating with a woman associated with the Gülen Movement. According to the source, these women and their adult daughters remained in prison, while their underage daughters were released after interrogation.**
- Furthermore, not only Gülenists but also opposition members, trade union activists, journalists, and academics who criticized the government could be labeled as Gülenists and treated accordingly by Turkish authorities. During the reporting period, for instance, it was reported that criminal lawyer **Dilek Ekmekçi** was arrested for alleged membership in the Gülen Movement after she criticized the state institutions regarding child sexual abuse cases. This dynamic had also been observed in previous reporting periods.

- In previous reporting periods, Turkish authorities had used **various criteria to track (alleged) Gülenists, such as holding a bank account at Bank Asya or downloading and using the ByLock application. These criteria remained in effect during the reporting period.** The international human rights organization Human Rights Watch (HRW) emphasized that **Turkish authorities did not apply these criteria consistently in practice.** HRW described the **prosecution of (suspected) Gülenists as "highly arbitrary and unpredictable."** A source confirmed the arbitrary nature of these prosecutions, stating that some people who subscribed to *Zaman* newspaper were arrested and imprisoned, while others were not, without any clear distinction between the two cases.
- The previous report indicated that the judicial use of ByLock and Bank Asya-related criteria had been tightened. The Constitutional Court (AYM) and the Court of Cassation had issued rulings clarifying under what conditions these criteria could be used to establish a connection with the Gülen Movement. **However, according to a source, it was unclear to what extent these rulings were implemented in practice. Some lower courts ignored the decisions of higher courts, leading to a complex situation in the judicial sector.**

(The Yalçinkaya Case)

- During this period, the **Yalçinkaya case drew attention.** Yalçinkaya, a former teacher, was arrested in 2016 and sentenced in 2017 to six years and three months in prison for membership in the Gülen Movement. **His conviction was largely based on his use of the ByLock application.** On September 26, 2023, the European Court of Human Rights (ECtHR) ruled that Yalçinkaya had not received a fair trial. **However, Turkish authorities ignored the ECtHR ruling. Despite having completed his sentence, Yalçinkaya remained subject to a travel ban.**
- **Due to Turkey's disregard for the ECtHR's Yalçinkaya ruling, there were concerns that thousands of other ByLock users would also be unable to assert their rights.**

(Dismissals During the State of Emergency: 2016–2018)

- Individuals who were forcibly dismissed during the state of emergency continued to face various challenges and obstacles. During the emergency period, thousands of judges and prosecutors were dismissed for their (alleged) ties to the Gülen Movement. Some of them successfully challenged their dismissals in court. During this period, the **Turkish Council of State ruled that 450 judges and prosecutors who had been dismissed at that time should be reinstated. President Erdoğan publicly described this decision as "unacceptable."** Following this, the Council of Judges and Prosecutors (HSK) launched a new investigation into 387 judges and prosecutors.
- A March 2022 report had noted that when an individual was dismissed for (alleged) terrorism ties, this was recorded in the database of the Social Security Institution (SGK). This record made it difficult for dismissed individuals to find new employment, as most employers refused to hire anyone with such a record. **This practice remained in**

effect during the reporting period. A source reported the case of a **former prosecutor** who had been dismissed due to (alleged) Gülen links. After his dismissal, he aimed to pursue an academic career, but each time a university was about to hire him, the process was halted due to his SGK record.

- Yalçinkaya, the convicted Gülenist teacher who had completed his sentence, was unable to practice his profession. Due to the dismissal record in the SGK, he was unable to find other employment and had to rely on financial support from his siblings in France.

(Targeting of Gülenists' Families)

- A previous report had stated that family members of high-ranking Gülenists were subject to negative attention from Turkish authorities. This situation persisted during the reporting period. Turkish authorities arrested the 78-year-old mother of Akın İpek, a prominent Gülenist businessman who had fled abroad.
- **Family members of (alleged) Gülenists faced difficulties in social interactions and the labor market.** A source had heard that family members of (alleged) Gülenists were denied access to certain social services. Another source cited the example of the son of a dismissed judge who was unable to obtain a government position due to his father's past.

(Pursuit of Gülenists Abroad)

- Previous reports had noted that Turkish authorities' efforts against the Gülen Movement were not confined to Turkey's borders. The National Intelligence Organization (MIT), sometimes in cooperation with foreign security services, had brought Gülenist suspects back to Turkey from abroad. During the reporting period, Turkish authorities continued their efforts to repatriate Gülenists abroad. The United Nations Committee Against Torture (CAT) concluded that this practice was "systematic."
- On October 18, 2024, Kenya extradited four Turkish citizens at Turkey's request. These individuals had obtained refugee status in Kenya and were affiliated with the Gülen Movement. The extradited individuals were Mustafa Genç, Öztürk Uzun, Alparslan Taşçı, and Hüseyin Yeşilsu. Genç was the director of a private school established by the Omeriye Foundation, a charity linked to the Gülen Movement. The Kenyan government confirmed the forced return of the four Turkish citizens in a written statement. Kenyan authorities only stated that they had granted Turkey's extradition request. The United Nations High Commissioner for Refugees (UNHCR) expressed "grave concern" about the fate of the deported individuals. A coalition of Kenyan NGOs, including the Kenyan branch of Amnesty International, condemned the extradition. The coalition described it as a violation of the principle of *non-refoulement*, which prohibits the forced return of refugees to their country of origin if they face the risk of persecution.

2.2. Human Right Watch: Türkiye, Events of 2025

47. In the latest report released by **Human Right Watch in 2025**, the arbitrary nature of the investigations against the members of Gülen Movement are repeated once again:

“Thousands of people face detention, investigations, and unfair trials on terrorism charges for alleged links with the movement led by deceased US-based cleric Fethullah Gülen, which the government deems a terrorist organization responsible for the July 15, 2016 attempted military coup. Many have faced prolonged and arbitrary imprisonment with no effective remedy after mass removal from civil service jobs and the judiciary. The justice minister announced in July that 13,251 remanded and convicted persons alleged to be members of the movement remained in prison.

*To date the **Turkish authorities have failed to implement a key ruling of the ECtHR finding** that the conviction on charges of “membership of a terrorist organization” of former teacher **Yüksel Yalçinkaya**, mainly for having a mobile phone application called ByLock allegedly used by Gülen followers, was an arbitrary application of the law that violated the principle of legality. The judgment also found violations of fair trial and freedom of association rights and ruled that Türkiye needed to implement general measures to address the violations. There were around 8,000 similar cases before the Strasbourg court at time of writing. In Yalçinkaya’s September retrial, a local court disregarded the ECtHR and convicted him again on the same charges.”³⁴*

2.3. United Nations Human Rights Committee, Observation Report on Türkiye, 2024

48. The same concerns are repeated in the Recent **Observation Report on Türkiye released by the United Nations Human Rights Committee on November 7, 2024**³⁵, regarding access to justice, the right to a fair trial, and the independence of the judiciary:

- *“The Committee is concerned about reports indicating that following the adoption of Law No. 6524 in 2014 and the constitutional amendments of 2017, the control of the executive over the judiciary dramatically increased, despite the provisions of article 138 of the Constitution and article 4 of Law No. 2802, about the independence of the judiciary. The reports indicate the lack of independence of the Council for Judges and Prosecutors of Türkiye from the executive and legislative branches. The Committee is also concerned by the very high number of lawyers that have been investigated, detained or remanded in custody, particularly during the State of emergency, on suspicion of “membership to an armed terrorist organization” under Article 314(2) of the Penal Code, simply for exercising their legal profession (arts. 2, 9 and 14).”(parag.39)*
- *“The Committee is concerned that following the attempted coup of 2016, **thousands of judges and prosecutors were summarily dismissed without due process guarantees, for their alleged link with the Gülen movement**. The Committee is also concerned by the arrests, prosecution and disciplinary measures against judges after a large-scale corruption investigation in 2013 that implicated high ranking government officials and their relatives. Following the mass dismissal of judges and prosecutors, thousands of new judges and prosecutors were recruited in a process reportedly controlled by the executive. While the process*

³⁴ <https://www.hrw.org/world-report/2025/country-chapters/turkiye>

³⁵ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FTUR%2FCO%2F2&Lang=en

of appointment is regulated in articles 7 and subsequent of Law No. 2802 on judges and prosecutors, the Committee received reports that the process lacked transparency and was based on political criteria. The Committee is also concerned about reports of forced reassignments or removals of judges without a clear and transparent criteria and as a form of disciplinary sanction” (arts. 2, 9 and 14).(parag.41)

- “While the Committee takes note of the provisions of the Criminal Code of Procedure regarding the rights of the persons involved in criminal proceedings, it is concerned about reports of systematic denial of the right to a fair trial in terrorism-related cases, including involving government critics, human rights defenders, peaceful protesters, and journalists.”
- “The Committee is concerned by the reported **lack of due process regarding the dismissal of tens of thousands of State officials, including civil servants, judges, doctors, military personnel, police officers and teachers and academics, due to their presumed links with the Gülen movement**, after their names appeared on lists appended to the emergency decree laws. The Committee is concerned that **these summary and mass dismissals were not based on an individualised investigation**, nor verifiable evidence and **were carried out without effective judicial oversight**. The Committee takes note of the establishment of the Commission of Inquiry on State of Emergency Measures, to review and decide on complaints about measures taken under the state of emergency and related decrees, as well as the State party’s assertion that the Commission provided individualized and well-reasoned decisions. However, it is concerned by reports indicating **the lack of independence of the Commission**, the lengthy review procedures, and the absence of sufficiently individualized criteria and proper means of defence. The Committee notes that the large majority of the claims filed with the Commission were rejected, and reports indicating that many decisions lacked justification or were based on unlawful grounds. The Committee is therefore concerned that **those dismissed have not had access to an independent, impartial and effective remedy**” (art. 14).(parag.45)

2.4. Freedom House 2024 Report

49. Freedom House's report "*Free Them All 2024, Visible and Invisible Bars*", published in 2024, states that the independence of the judiciary in Türkiye has been further weakened, and that hundreds of thousands of public employees have been dismissed by various decrees as a result of investigations against members of the Gülen Movement, without the right to a fair trial on the grounds of being affiliated with "FETÖ". The report also clearly underlines that Gülenists, like the signatories of the Academics for Peace petition, have been banned from working in the public sector, their passports have been cancelled, their right to health care has been taken away, their security and freedom of movement have been affected as a result of being publicly labelled as "FETÖ" supporters, and they may be re-arrested due to ongoing investigations against them.

2.5. Memorandum by Dunja Mijatovic, Council of Europe Commissioner for Human Rights, on Human Rights Violations in Türkiye, 5 March 2024

50. The Commissioner highlighted persistent issues in Türkiye’s criminal justice system, including abuse of pre-trial detention, violations of fundamental legal principles, and the need for urgent reform of the Penal Code and Anti-Terror Law in line with European standards. She urged authorities to neutralize the impact of emergency decrees, enhance access to justice, and

fully implement the Judicial Reform Strategy, particularly by improving compliance with Constitutional Court rulings. In subsequent interventions, she reiterated concerns over serious systemic flaws in the Turkish judiciary.³⁶

2.6. Türkiye, Individuals Associated with the Gülen Movement: The Finnish Immigration Service’s fact-finding mission to Ankara and Istanbul, 2– 6 October 2023 (Released in June 2024)³⁷

51. In a report released by Finnish Immigration Service in June 2024, the facts given in our notifications has been repeated by the officials Finnish Immigration Service’s Country Information Service.

52. In the very beginning of the reports, it is stated that the report by the **Finnish Immigration Service’s Country Information Service** has been compiled in accordance with the common EU guidelines for processing country of origin information as well as guidelines for fact-finding missions. The report makes use of the interviews conducted during the fact-finding mission. The report is based on independent research and analysis by the **Country Information Service**.

The highlights of the report are as follows:

- The report states that **there is no foreseeable criterion for whom such investigations may be carried out** and that the identity of those targeted and the group to which they belong may vary according to the political atmosphere in the country. (Page 8, 1/1.2)
- On the other hand, the report notes that individuals who have already been prosecuted, completed their sentences, or been acquitted are also being monitored by the government and may be subject to further investigation and detention in the future. (page 11-13, 1.2.2)
- The report found that the majority of investigations and detentions of members of the Gülen movement in Türkiye were carried out on the grounds of 'restructuring'. (page 14, 1.2.3)
- The report also states that the children of members of the Gülen movement, who were not at the age of criminal liability in 2016 when the 15 July coup attempt took place, are now being targeted for investigation and detention. (page 17, 1.2.4)
- The report further states that human rights defenders who oppose the human rights abuses suffered by detainees in so-called 'FETÖ' investigations are being labeled as terrorists or supporters of terrorism by the Turkish government and subjected to similar investigations. (page 18, 1.2.6)

³⁶ <https://rm.coe.int/memorandum-on-freedom-of-expression-and-of-the-media-human-rights-defe/1680aebf3d>

³⁷ [https://migri.fi/documents/5202425/5914056/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+\(2\).pdf/a14fa35f-a65a-9339-e331-fec99e9cd8c3/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+\(2\).pdf?t=1723630918594](https://migri.fi/documents/5202425/5914056/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+(2).pdf/a14fa35f-a65a-9339-e331-fec99e9cd8c3/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+(2).pdf?t=1723630918594)

- The report also states that the ByLock application, which is considered to be the strongest evidence in so-called ‘FETÖ’ investigations and which the ECtHR Yalçinkaya judgment clearly states that it cannot be used as evidence, is still being used by local courts as the basis for convictions. (page 24, 2.2)
- It is also highlighted in the report that people who were detained, imprisoned, or dismissed from their jobs within the scope of so-called ‘FETÖ’ investigations were left to civilian death and could not fully reintegrate into society. (page 31, 3.1)
- One of the most striking points in the report is the harsh treatment women face in detention centers or prisons. It is emphasized in the report that women are subjected to degrading treatment when arrested such as being strip searched. It is also emphasized that heavily pregnant women are constantly arrested and sent to prison despite a clear prohibition by the law. They are forced to give birth in hospitals while being guarded by prison officers and returned immediately back to prison once they have given birth. There have been instances where mothers have been forcibly separated from adopted children for their links to the Gülen movement. According to the Turkish legal expert, women have been ill-treated in custody. The Victims of the Emergency Decree Platform has information on **12 women who became pregnant while in custody and some of them had to give birth**. The women were also forced to other actions, such as performing oral sex with police officers. (page 44-45, 4.4)

53. The Finnish Immigration Service’s report reveals the fact that an enemy criminal law against the Gülen movement in Türkiye is being continued to be applied, which has clearly amounted to crimes against humanity.

2.6. Mandates of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism-Ref.: AL TUR 5/2024³⁸

54. Allegation letter of UN Special Rapporteurs³⁹ concerning the measures of systematic repression against volunteers or sympathizers of the Gülen Movement” (ALTUR5/2024)⁴⁰ issued on **October 7, 2024**. The recent allegation letter reveals the state of the ongoing persecution pursued by the Turkish government against the real and perceived members of the Gülen/Gülen movement including their family members.

55. The joint letter outlines the practices by the Turkish government that violate international human rights law, including mass arrests and detentions and unjust prosecutions under overly

38 <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=29351>

39 **Ben Saul**, Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism
Gabriella Citroni, Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances
Irene Khan, Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression
Gina Romero, Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of association
Mary Lawlor, Special Rapporteur on the Situation of Human Rights Defenders
Cecilia M. Bailliet, Independent Expert on Human Rights and International Solidarity
Ana Brian Nougères, Special Rapporteur on the Right to Privacy
Alice Jill Edwards, Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

40 <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=29351>

broad and ambiguous anti-terrorism laws, transnational abductions, misuse of terrorist ‘Grey Lists’, and surveillance abuses.

- 1- The Special rapporteurs expressed their concern that the Working Group on Arbitrary Detention has adopted 24 opinions⁴¹ related to the Gülen Movement since 2016 and has identified that such individuals are routinely detained based on their engagement in ordinary, legitimate activities, without any specification as to how such activities amounted to criminal acts or established links with the Gülen Movement. Indeed, the WGAD condemned the widespread practice of ‘guilt-by-association,’ which targets individuals based solely on their perceived political opinions or affiliations. In its last four opinions, the WGAD noted a pattern of targeting those with alleged links to the Gülen movement on a discriminatory basis and warned that under certain circumstances, such systematic imprisonment could constitute crimes against humanity.
- 2- The Special rapporteurs expressed their profound concerns about the lack of independent and effective investigations by Turkish authorities into the alleged abuses resulting from extraterritorial abductions and the forcible return of Turkish nationals. As noted in the letter, State-sponsored extraterritorial abductions and the forcible return without legal process of individuals from third countries may result in serious violations of the individuals’ rights to liberty, personal security, integrity, and fair trial and may also amount to enforced disappearance. The Turkish government has been accused of orchestrating abductions and forced returns of suspected Gülen Movement affiliates from abroad under vague and opaque bilateral security agreements. Victims reportedly endured secret detention, torture, and coercion, leading to confessions that were subsequently used in prosecutions. In its most recent Concluding Observations⁴² about Türkiye, the Human Rights Committee noted its concerns about the extraterritorial abduction and forcible transfer to Türkiye of more than 100 persons suspected of being affiliated with the Gülen movement without any judicial extradition procedure.
- 3- The UN Special Procedures mandate holders also condemned Türkiye’s utilization of public “grey lists,” which designate individuals—including journalists and human

41 Ali Ünal, A/HRC/WGAD/2023/3; Muhammet Şentürk, A/HRC/WGAD/2023/29; Alettin Duman, Tamer Tibik, A/HRC/WGAD/2022/8 ; Osman Karaca, A/HRC/WGAD/2020/84; Ahmet Dinçer Sakaoğlu, A/HRC/WGAD/2020/67; Levent Kart, A/HRC/WGAD/2020/66; Nermin Yasar, A/HRC/WGAD/2020/74; Arif Komiş, Ülkü Komiş and four minors, A/HRC/WGAD/2020/51; Kahraman Demirez, Mustafa Erdem, Hasan Hüseyin Günakan, Yusuf Karabina, Osman Karakaya and Cihan Özkan, A/HRC/WGAD/2020/47; Faruk Serdar Köse, A/HRC/WGAD/2020/30; Akif Oruc, A/HRC/WGAD/2020/29; Abdulmatip Kurt, A/HRC/WGAD/2020/2; Ercan Demir, A/HRC/WGAD/2019/79; Melike Göksan, Mehmet Fatih Göksan, A/HRC/WGAD/2019/53; Mustafa Ceyhan, A/HRC/WGAD/2019/10; Hamza Yaman, A/HRC/WGAD/2018/78; Muharrem Gençtürk, A/HRC/WGAD/2018/44; Ahmet Caliskan, A/HRC/WGAD/2018/43; Mestan Yayman, A/HRC/WGAD/2018/42; Mesut Kaçmaz, Meral Kaçmaz and two minors, A/HRC/WGAD/2018/11; 10 individuals associated with the newspaper Cumhuriyet, A/HRC/WGAD/2017/41; Kursat Çevik, A/HRC/WGAD/2017/38; Rebi Metin Görgeç, A/HRC/WGAD/2017/1.

42 CCPR/C/TUR/CO/2, para.25. See also the Concluding observations issued by the UN Committee Against Torture (CAT), CAT/C/TUR/CO/5, para.26: The CAT expressed its concern about Türkiye’s systematic practice of State-sponsored extraterritorial abductions and forcible returns of individuals supposedly associated with the Gülen/Gülen movement in coordination with authorities in Afghanistan, Albania, Azerbaijan, Cambodia, Gabon, Kazakhstan, Lebanon and Pakistan, as well as with authorities in Kosovo.

rights defenders—as terrorists without substantiated evidence or adherence to due process. These lists, which often display personal details and photographs, are accompanied by monetary rewards for information leading to arrests. This practice, according to the rapporteurs, jeopardizes lives, infringes upon fundamental freedoms, and fosters what has been described as a “hit man economy.”

- 4- **The misuse of surveillance powers has also drawn sharp criticism.** The rapporteurs raised their concerns as to the excessive powers of the National Intelligence Organization (MIT) and the absence of a framework for judicial authorization and review, and provisions preventing the accountability of the MIT for the misuse of its powers. **They expressed their concerns about the conviction of persons based on ByLock data, the probative value of which is highly questionable. These practices, as noted by the rapporteurs, lack procedural fairness, contravene international standards of due process, and constitute serious violations of privacy rights. The rapporteurs supported the analysis that the European Court of Human Rights (ECtHR) reached in *Yüksel Yalçınkaya v. Türkiye* (No. 15669/20) and advised the Turkish judiciary to order retrials in all cases in which ByLock evidence was relied upon, and to urgently implement safeguards to address the existing disparities in cases relying on ByLock data procured by MIT.**
- 5- The Special Rapporteurs highlighted that the designation of the Gülen Movement as a terrorist organization does not meet due process requirements or satisfy the model **definition of terrorism** advanced by the Special Rapporteur on counter-terrorism and human rights. They reiterated their general concerns raised previously in communication OL TUR 13/2020 that Anti-Terror Law No. 3713 and the Turkish Penal Code are drafted with overly broad language, permitting their systematic misapplication against political dissidents, journalists, and individuals suspected of affiliation with the Gülen Movement. They indicated that there is a trend in Türkiye where individuals and groups linked to the Gülen Movement face significant risks, including arbitrary detention, invasions of privacy, and threats to their safety.
- 6- UN Special Rapporteurs also expressed their concerns on the mass detentions in the “Kıskaç” Operations and addressed questions referring “Teenage Girls” Case:
“Between 14 July and 22 July 2024, 183 arrests occurred during a coordinated police operation across Türkiye codenamed “Kıskaç 21-22-23”. Many of the 3 arrests were carried out due to the suspicion of the individuals’ association with the Movement rather than a specific violation of the Turkish Penal Code. Among these arrests were 12 women detained on 17 July 2024 on the basis that their religious teachings were a pretext for Gülen Movement activities. On 17 July 2024, 14 detention warrants were issued against former soldiers on the basis that they had served in the military during the attempted coup d’état on 15 July 2016. The warrants were reportedly issued without evidence that established a personal or continued connection between the former soldiers and the Movement. Following the completion of “Kıskaç 21-22-23”, a representative of the Ministry of Interior shared his view on the social media platform “X” that Gülen Movement members are “traitors and the most notorious terrorists who must be eliminated”.

56. The Allegation Letter (ALTUR5/2024) issued by 7 UN Special Rapporteurs reveals, one more time, the fact that an enemy criminal law against the Gülen movement in Türkiye is being continued to be applied, which has clearly amounted to crimes against humanity.

57. United Nations Special Rapporteurs cautioned Turkish authorities, stating that “the designation of the **Gülen Movement as a terrorist organization does not appear to meet the requirements of due process or satisfy the criteria outlined in the model definition of terrorism** advanced by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism” (A/HRC/16/51, para. 28).

2.7. Mandates of the Special Rapporteur on the Situation of Human Rights Defenders- Ref.: AL TUR 7/2024⁴³

58. Allegation letter of UN Special Rapporteurs concerning on the human rights defenders (ALTUR7/2024) issued on **December 13, 2024**. The most recent allegation letter reveals the state of the ongoing persecution pursued by the Turkish government against the human rights defenders: Mr. Özgür Yılmaz, Mr. Behiç Aşçı, Mr. Engin Gökoğlu, Mr. Süleyman Gökten, Ms. Barkın Timtik, Mr. Selçuk Kozağaçlı, Ms. Oya Aslan, and bring to your attention the allegations of ill-treatment by prison authorities of Mr. Aytaç Ünsal and Mr. Turan Canpolat.

59. The UN Special Rapporteurs also concerns with the long-term prison sentences of more than ten years imposed against human rights defenders as a result of their affiliation with the **ÇHD**, as well as their work as human rights lawyers who represented clients of human rights violations, and alleged clients with links to terrorist organisations. They also express concern over the use of counter-terrorism legislation to criminalise **Mr. Canpolat**, who is serving a lengthy prison sentence, for supposed links to the **Gülen movement**. **The UN Special Rapporteurs further note that there appears to be an observable trend in Türkiye where individuals and groups who have been linked to the Gülen Movement experience significant risks to their safety and have been detained.** By exposing human rights violations, exercising their right to freedom of expression and association, which are rights protected under international human rights law and outlined in the annex below, the above-mentioned human rights defenders have been criminalised and given lengthy prison sentences.

1.8. Human Rights Council Working Group on Arbitrary Detention Opinions adopted by the Working Group on Arbitrary Detention at its 100th session, 26–30 August 2024 Opinion No. 33/2024 concerning Akin Öztürk (Türkiye)⁴⁴

60. In the past seven years, the Working Group has noted a significant increase in the number of cases brought to it concerning arbitrary detention in Türkiye. It expresses grave concern about the pattern that all these cases follow and recalls that, under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of fundamental rules of international law may constitute crimes against humanity. (Para.87)⁴⁵

61. According to the report, it is submitted that the judges of the Ankara Seventeenth Assize Court have continuously questioned hundreds of suspects on the basis of statements obtained through torture. Moreover, the court also failed to inform and refused to inform the relevant authorities about the defendants’ repeated complaints of torture. The sitting judges have an obligation to promptly inform the Office of the Prosecutor as soon as they are made aware of acts of torture, as stipulated in article 158/2 of the Code of Criminal Procedure. Despite having

43 <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=29546>

44 <https://digitallibrary.un.org/record/4071211?v=pdf>;

45 <https://www.drgokhangunes.com/wp-content/uploads/2025/02/Arbitrary-Detention-Working-Groups-Decision-on-Akin-Ozturk.pdf>

been informed about numerous incidents of torture, the trial judges have reportedly failed to submit a single notification to the Office of the Prosecutor.

62. Moreover, it is submitted that the trial court did not exclude statements and evidence acquired through torture from the case file. Instead, the judges of the Ankara Seventeenth Assize Court reportedly relied on these in the reasoned decision ordering Mr. Öztürk’s deprivation of liberty to be extended.

63. The Working Group is seriously concerned that the Government, in its late reply, has not disproved the source’s allegations regarding the use of witness statements obtained under duress in Mr. Öztürk’s conviction. The admission of evidence obtained through torture or ill-treatment is fundamentally incompatible with the core principles of a fair trial. Such a practice would not only violate legal and moral standards but would also undermine the credibility and reliability of the entire judicial process. Allowing such evidence in a criminal trial would represent a grave miscarriage of justice. Importantly, these principles apply not only when the defendant is the victim of ill-treatment but also when third parties are affected, ensuring that the integrity of justice is upheld in all cases.

64. As evidenced by the international reports mentioned above, there has been no softening or normalization in the Turkish government’s or judiciary’s stance towards members of the Gülen movement, and the persecution continues in a manner that constitutes crimes against humanity.

3. The Recent Situation in the Investigations Against Gülen Movement

65. In their response letters, IND officials state that *“when assessing the threat of prosecution and the risk of persecution faced by members of the Gülen Movement, it is clearly stated that the fear of an arbitrary and unclear situation and process should be taken into account.”*

3.1. Is there a Changing Trend in the Persecution of the (Alleged) Members of the Gülen movement?

66. According to the **Finnish Report**, based on The Turkish legal expert explanation, this decreasing trend is due to an unprecedented number of people having already been arrested. (p.7-8)⁴⁶ While the mathematical decline in the number of detentions of Gülen Movement members compared to the early years is understandable, it would be misleading to suggest that the immense persecution faced by this group has diminished solely based on the decrease in numbers. As a matter of fact, current investigations against the member of Gülen Movement have become more sophisticated and deterrent. So, the persecution of (alleged) Gülenists has become very intimidating and the number of investigations is constantly mounting within the scope of “restructuring”.

46

[https://migri.fi/documents/5202425/5914056/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+\(2\).pdf/a14fa35f-a65a-9339-e331-fec99e9cd8c3/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+\(2\).pdf?t=1723630918594](https://migri.fi/documents/5202425/5914056/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+(2).pdf/a14fa35f-a65a-9339-e331-fec99e9cd8c3/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+(2).pdf?t=1723630918594)

67. **Prof. Dr. Em. Johan Vande Lanote**⁴⁷ has the same point of view by stating, in his article “Is there a changing trend in the persecution of the (alleged) members of the Gülen movement?”, that:

*“After the massive persecution, the number of detentions by new judicial actions dropped. Per year some three to four thousand (3000 to 4000) persons are detained, based on the “accusation” of being linked with the Gülen movement. This diminution seems a logical evolution, as already a very important number of persons were prosecuted and because a very important number of persons left the country as refugee. However, this does not mean that the chances of persecution of those who were not yet victimized, are lower. There is no indication of such an evolution. On the contrary, in this context it must be noted that continuously new persecutions are started against persons who materially or mentally are supporting families of persons who are imprisoned. **This new form of persecution “against the restructuring of FETÖ” as it is catalogued by the authorities, has become more and more intensive.** Also, persons who were convicted and released after executing their sentence, are subjected to such kind of (second) prosecution.”*⁴⁸

68. When analyzing the investigation figures for 2016, 2017, and 2018, it may be claimed that the government's stance toward the Gülen movement has softened in recent years. However, as clearly indicated in the international reports referenced above, assessing the situation solely based on these numbers of Gülen-related investigations would result in a misleading conclusion.

69. To further elaborate, in an unprecedented manner, an exceptionally high number of individuals were detained, arrested, and dismissed from their positions within just one year following the events of July 15, 2016. Given that the government swiftly initiated judicial and administrative actions against nearly all individuals it had labeled as “FETÖ” members, a subsequent decline in investigation and prosecution figures over the years is entirely foreseeable. For instance, of the 13,000 judges and prosecutors serving as of July 15, 2016, approximately 5,000 were dismissed, detained, and arrested within a very short period, based on the government’s unlawful blacklisting. Consequently, the reduction in the number of dismissals and arrests in subsequent years should not be interpreted as an indication of a shift in government policy or a softening of its stance.

70. Therefore, when all the findings in our report are assessed collectively, it becomes evident that there has been no softening in the government's stance toward the Gülen movement. On the contrary, investigations and prosecutions have continued in a more sophisticated and systematic manner, escalating to the level of crimes against humanity.

⁴⁷ **Johan Vande Lanotte** has been a professor at Ghent University for almost 30 years, teaching constitutional law and human rights. He has been a member of parliament, a minister in the Belgian federal government, mayor of Ostend and president of the Flemish Socialist Party. He now works as a lawyer. In 2021 he organised the Türkiye Tribunal in Geneva and acted as lawyer for Yüksel Yalçınkaya in the Grand Chamber procedure. In other words, he is the lawyer who secured the most important violation judgement in the 63-year history of the ECtHR. He is therefore highly competent in the field of human rights. He closely follows developments in Türkiye and gives seminars and conferences.

⁴⁸ https://www.linkedin.com/posts/Türkiyetribunal_Türkiyes-unending-crackdown-on-the-g%C3%BClen-activity-7289971330920112128-NkDj/

3.2. Systematic Persecution Through Cyclical Prosecutions Against Members of Gülen Movement in Türkiye

71. In 2018 and beyond, some members of the Gülen Movement who had previously been arrested began to be released to stand trial without detention. Furthermore, as of 2020, some individuals who had served their sentences were also released. Particularly after 2020, restructuring investigations were initiated against the released members of the Gülen Movement, resulting in subsequent detentions and arrests. These individuals were accused of crimes such as membership in an armed terrorist organization and violations of the Law on the Prevention of Terrorism Financing.

72. The Turkish government and judiciary have perpetuated the persecution of individuals affiliated with the Gülen Movement by maintaining a continuous cycle through so-called "restructuring cases." This cycle operates as follows:

1. Unlawful Profiling and Arbitrary Arrests
2. Torture and Human Rights Violations in Prisons
3. Unfair Trials and Convictions Based on Arbitrary Charges
4. Civil Death and Continued Surveillance of Released Individuals
5. Recurrent Prosecutions, Restructuring Cases, and Re-Imprisonment
6. Cycle Repeats

3.2.1. Unlawful Profiling and Arbitrary Arrests

73. Individuals suspected of having ties to the Gülen Movement are subjected to criminal investigations based on unlawful surveillance and profiling, despite their actions not being legally classified as crimes. High-profile operations, extensively reported in the media, result in mass arrests and detentions. These individuals are stigmatized as traitors, coup plotters, or terrorists, thereby infringing upon their presumption of innocence.

3.2.2. Torture and Human Rights Violations in Prisons

74. Individuals who are arrested often face inhumane treatment, torture, and widespread violations of their fundamental human rights throughout their detention. Many detainees are subjected to physical and psychological abuse, including beatings, threats, and prolonged isolation, which can have severe and lasting effects on their well-being. Furthermore, they are frequently denied access to adequate legal representation, preventing them from effectively defending themselves in judicial proceedings. In many cases, detainees are held in overcrowded and unsanitary conditions, deprived of basic necessities such as proper food, clean water, and medical care. These harsh detention conditions, combined with the lack of due process and fair trial guarantees, contribute to a broader pattern of systematic human rights violations within the prison system.⁴⁹

75. In addition, the number of rulings given by the Constitutional Court concerning violations of the prohibition on torture and inhuman or degrading treatment has reached a staggering total of 1,103. **Alarmingly, 513 of these decisions were issued within just the year 2024.** Despite claims from government officials asserting that torture is nonexistent in Turkey, the reality stands in stark contrast. The rulings from Turkey's Constitutional Court (AYM)

⁴⁹ <https://justicesquare.org/turkish-prisons-report/>

unequivocally contradict these assertions, clearly indicating the widespread and systematic nature of torture and ill-treatment within the country.⁵⁰

3.2.3. Unfair Trials and Convictions Based on Arbitrary Charges

76. Due process rights are consistently infringed upon, with investigations and prosecutions leading to convictions on terrorism-related charges, despite the fact that the actions of the individuals do not meet the legal definition of a crime, in violation of the principle of "nullum crimen, nulla poena sine lege" (no crime and punishment without law).⁵¹

3.2.4. Continued Surveillance of Released Individuals

77. Individuals who are released from detention—whether through non-custodial trials or after fully serving their sentences—continue to face systematic social and legal discrimination, effectively subjecting them to a modern form of "civil death." Despite their formal release, these individuals remain under constant scrutiny by law enforcement and intelligence agencies, which employ both physical and technical surveillance methods to monitor their activities, movements, and interactions.⁵²

78. This ongoing surveillance not only violates their fundamental rights to privacy and freedom but also significantly hinders their reintegration into society. Many struggle to find employment, secure housing, or access essential public services, as they remain stigmatized due to their prior legal status. Additionally, the persistent monitoring fosters a climate of fear and intimidation, discouraging individuals from engaging in social, political, or professional activities that might attract further scrutiny.

79. The lack of clear legal safeguards against such prolonged surveillance raises serious concerns regarding due process, proportionality, and the rule of law. As a result, even after their formal release, these individuals continue to live under perpetual state control, unable to fully reclaim their rights and freedoms.⁵³

3.2.5. Recurrent Prosecutions, Restructuring Cases and Re-Imprisonment

80. Released members of the Gülen Movement become subjects of **repeated technical and physical surveillance** by law enforcement and intelligence agencies, leading to investigations known as 'restructuring cases' based on actions that do not constitute crimes under the law, which, in turn, result in further arrests, detentions, and convictions.

3.3. Operations Under The Name Of “Restructuring”

81. Particularly after 2020, Turkish authorities intensified their efforts to target released members of the Gülen Movement by launching a new wave of restructuring investigations. Unlike earlier waves of persecution, the criminal investigations conducted by Turkish authorities under the Erdoğan government have recently evolved into **more sophisticated, systematic, and highly deterrent operations** designed to instill greater fear and intimidation

50 <https://www.anayasa.gov.tr/tr/haberler/faaliyetler/bireysel-basvuru-istatistikleri-23-eylul-2012-31-aralik-2024/>

51 <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-228393%22%5D%7D>

52 <https://x.com/drgokhangunes/status/1875226498191200669>

53 <https://stockholmcf.org/turkish-lawyer-reveals-illegal-police-surveillance-of-former-prisoner/>

among the accused. These investigations have become more aggressive and far-reaching, employing advanced surveillance techniques, and harsher prosecutorial tactics compared to those carried out in the previous eight years.

82. The Turkish government's use of the "restructuring" concept has led to a classification of Gülen Movement members into three primary risk groups. These operations have targeted individuals based on their perceived affiliations rather than concrete evidence of criminal activity.

- Families of Convicted or Detained Individuals
- Previously Prosecuted Individuals and Their Families
- Individuals without Pending Criminal Cases

83. The use of the "restructuring" concept has facilitated the criminalization of individuals based on familial associations rather than proven involvement in illegal activities. This approach not only undermines fundamental legal principles such as individual criminal responsibility and *ne bis in idem* but also contributes to a broader pattern of systematic persecution. The increasing targeting of minors and young adults under these measures raises significant human rights concerns and calls for urgent international scrutiny.⁵⁴

84. Moreover, the sheer number of investigations initiated within the framework of “restructuring” continues to escalate at an alarming rate, demonstrating an ongoing and deliberate strategy to suppress perceived dissidents. This sustained legal crackdown effectively criminalizes past affiliations, revokes basic rights and freedoms, and ensures that individuals released from detention remain under constant legal and social pressure, preventing them from reintegrating into society.

85. According to **the esteemed officials of the IND**, “*while the majority of individuals affiliated with the **Gülen Movement** are expected to have completed their sentences by **July 2024**, the possibility of **retrials** remains. However, to date, no systematic implementation of such retrials has been observed.*”

86. However, numerous cases demonstrate that **individuals previously prosecuted in connection with the Gülen Movement and subsequently released pending trial** are being **subjected to renewed investigations** within the framework of "restructuring." Furthermore, released members of the Gülen Movement are placed under **both technical and physical surveillance** by **law enforcement and intelligence agencies**, leading to continued legal scrutiny and further criminal proceedings.⁵⁵

87. This **surveillance-driven investigative approach**, commonly referred to as "**restructuring cases**," is mainly based on **humanitarian activities** that, under normal legal circumstances, would not constitute criminal offenses. These activities include:

- Providing **financial or material assistance** to the **relatives of detainees and convicts**;
- Helping individuals **dismissed from their professions** through **emergency decrees (KHKs)** to **secure employment**;

54 <https://www.stichtingipn.nl/wp-content/uploads/2025/02/GEVAAR-VOOR-BURGERLIJKE-GENOCIDE-IN-TURKIJE.pdf>

55 <https://stockholmcf.org/turkish-lawyer-reveals-illegal-police-surveillance-of-former-prisoner/>

- Facilitating **student accommodation** and other **educational support initiatives**;
- Organizing **gatherings called “sohbet”**.⁶²

88. The **criminalization of these humanitarian and social support efforts** underscores the **arbitrary and expansive interpretation** of anti-terrorism laws in Türkiye, effectively allowing authorities to **pursue continuous legal action** against individuals with perceived affiliations to the Gülen Movement, even after their formal release. The indictments and court rulings in restructuring cases, as a matter of the fact, provide clear examples of how **humanitarian actions—neither legally nor morally considered crimes—are nonetheless treated as criminal offenses**. The following examples illustrate this problematic approach:

3.3.1. The Prosecution and Conviction of A.K. for Alleged Membership in an Armed Terrorist Organization

89. A.K., a 66-year-old retired laborer from the SEKA Paper Factory, was prosecuted and convicted on charges of membership in an armed terrorist organization. The initial investigation alleged that he had an account at Bank Asya and attended religious discussion meetings (sohbet) linked to FETÖ/PDY. Arrested on October 14, 2016, A.K. was released pending trial on July 4, 2017, but was later convicted by the Mersin 7th High Criminal Court on February 7, 2019, receiving a sentence of 7 years and 6 months.⁵⁶

90. While his appeal was pending, a second investigation accused him of attempting to reorganize the group’s structure in Silifke by collecting and distributing financial aid to imprisoned members and their families. Authorities further alleged that he met with other organization members at his workplace and used encrypted messaging applications to evade law enforcement. On October 17, 2019, A.K. was arrested again, and a new trial resulted in his conviction on March 6, 2020, with a 9-year prison sentence.⁵⁷ The court justified the second conviction by ruling that A.K. had committed a distinct offense after his initial sentencing, indicating full awareness of the organization's armed nature.

91. The Court of Cassation upheld both convictions on May 26, 2021, finalizing his total prison sentence at 16 years and 6 months.⁵⁸ The case raises critical concerns regarding legal certainty, as A.K. was effectively prosecuted twice for offenses classified under the same legal provision. The second conviction was particularly significant, as it was based on allegations of "reoffending" after a legal break, setting a precedent for separate prosecutions in similar cases.

3.3.2. Prosecution and Sentencing of M.Ö. and Others for Alleged Financing of a Terrorist Organization

92. M.Ö. was initially convicted by the Muğla 3rd Assize Court for membership in an armed terrorist organization based on accusations of affiliation with the Gülen Movement. While the specific allegations in this case remain unclear, the conviction reflected a broader pattern of prosecutions targeting individuals linked to the Gülen movement.

⁵⁶ T.C. MERSIN 7. ASSIZE COURT Docket No: 2019/89

⁵⁷ T.C. MERSIN 8. ASSIZE COURT Docket No: 2020/61

⁵⁸ T.C. YARGITAY 16. Criminal Chamber Docket No : 2021/1442 Decree No: 2021/3332; T.C. YARGITAY 16. Criminal Chamber Docket No : 2021/1442 Decree No: 2021/3333

93. After serving his sentence, M.Ö. became the subject of a second prosecution, this time before the Aydın 2nd High Criminal Court, on charges of financing a terrorist organization. The second case centered on allegations that M.Ö. had transferred money via ATM to the families of individuals detained in connection with Gülen-related investigations. The court interpreted these financial transactions as a form of organizational assistance rather than humanitarian aid, leading to his conviction. On this basis, the Aydın 2nd High Criminal Court sentenced him to 6 years and 10 months in prison.⁵⁹ The case underscores concerns about legal certainty and proportionality, as M.Ö. faced consecutive prosecutions under similar legal frameworks, with financial support to detainees' families being treated as criminal conduct.

3.3.3. Investigation of S.O. for Alleged Financing of a Terrorist Organization

94. According to the indictment issued by the Aydın Chief Public Prosecutor's Office on 23 December 2022 (Investigation No. 2022/13291, Basis No. 2022/9446, Indictment No. 2022/929), the defendant, S.O., who had been convicted of membership in FETÖ and sentenced to imprisonment, visited her husband in prison following her release. Her husband was also serving a sentence for FETÖ-related charges. During the visit, S.O. encountered the children of İ.E., her husband's cellmate, and learned that their mother, S.E., was also serving a sentence in another prison. With both parents incarcerated, the children were living with their uncle, M.E., who was struggling to support them financially. Deeply saddened by their situation, S.O. allegedly deposited 4,350 TL—remaining from the sale of a car—into M.E.'s account, intending to help cover the children's school expenses. As a result, a public lawsuit has been filed against S.O., seeking her punishment under Article 314/2 of the Turkish Penal Code, Article 5/1 of the Anti-Terrorism Law, and Articles 4/2, 53, 54, 58, and 63 of the Law on the Prevention of Financing of Terrorism.

3.3.4. Investigation Against 353 People for Allegedly Being a Member of FETÖ and Financing a Terrorist Organization

95. The latest mass detention targeting members of the Gülen/Gülen Movement took place simultaneously in 31 cities on February 21, 2025, resulting in the arrest of 353 individuals, including former public servants, during police raids. According to the pro-government daily *Sabah*, 197 of the detained suspects had previously been investigated and prosecuted in connection with FETÖ. On his personal Twitter account, the Minister of the Interior stated that this extensive operation targeted FETÖ's ongoing restructuring and the financing of terrorism, revealing that the Maydonoz Döner restaurant chain had provided employment and financial resources to individuals under investigation for FETÖ-related activities. The Minister further emphasized that the fight against FETÖ would continue with unwavering determination.⁶⁰

96. As will be seen in the “Clamp operations”, which we will explain in detail in the following sections, people who were previously under FETÖ investigation are being detained again and subjected to unlawful punishments for actions that do not constitute a crime according to the law.

3.3.5. Lack of Concrete Evidence for an "Armed" Organization in Restructuring Cases

97. Although these operations are conducted under the pretext of combating an armed terrorist organization, they proceed without consideration of the material and moral elements required

⁵⁹ T.C. AYDIN 2nd ASSIZE COURT CASE FILE NO: 2022/359 DECISION NO: 2024/84

⁶⁰ <https://x.com/AliYerlikaya/status/1892858456220324137>

to establish membership in an armed terrorist organization, as defined by the Turkish Penal Code. No action plan, strategic document, or evidence has been discovered to demonstrate that an armed organization was involved in committing crimes aligned with its intended objectives. Furthermore, no weapons—an essential element of an armed organization—have been found.

98. In restructuring investigations, the Anti-Terror Law is interpreted so broadly and arbitrarily that even everyday humanitarian activities such as studying together, tutoring, eating together, or even praying at the grave of a deceased Gülenist are considered acts of organizational restructuring and subject to surveillance.⁶¹

99. As the one of the recent examples, **37 persons** were detained in the operation against the member of Gülen Movement on January 7, 2025, with the accusations of providing financial support to the members of the Gülen Movement and their families who have been dismissed from public office/criminal proceedings and who are in prison for being a member of the Gülen movement.⁶² Despite the prosecution’s claim that these activities were conducted **within the framework of an "armed" terrorist organization**, the **investigations and prosecutions** thus far have failed to provide **any evidence** of elements that are **fundamental** to an armed group.

100. The indictments⁶³ and court rulings⁶⁴ issued within the scope of the restructuring include statements such as:

- "Meeting the needs of prisoners who are members of the organization and their families"
- "Hosting or visiting the relatives of prisoners who are members of the organization"
- "Finding accommodation for the relatives of prisoners who are members of the organization"
- "Bringing news from the prisons to families who cannot visit"
- "Creating groups on social media (e.g., WhatsApp) to share developments and news."

101. These expressions clearly demonstrate how matters that are not legally or morally criminal are being treated as crimes. The **core accusations** revolve around **financial assistance** provided to **impoverished individuals** who were already facing serious legal and economic hardship.

102. In Türkiye, on the other hand, there are many non-governmental organizations whose founding purpose is to provide material/spiritual assistance to convicts and detainees in prison. The Association for Solidarity with the Families of Prisoners and Detainees (TAYAD) and the Civil Society in the Penal System (CISST) are just two of these organizations. Again, the number of associations established to help those in need is higher than estimated. In

61 <https://www.turkishminute.com/2025/01/14/visiting-gravesites-seen-as-evidence-of-terrorist-ties-in-Türkiyes-war-on-gulen-movement/>

62 <https://www-tr724-com.cdn.ampproject.org/c/www.tr724.com/ankarada-nefret-operasyonunda-37-gozalti-suclama-cezaevindeki-khkli-mahpuslara-ve-ailelerine-yardim/amp>

63 Balıkesir Chief Public Prosecutor's Office indictment numbered 2023/1224; Ankara Chief Public Prosecutor's Office investigation numbered 2020/178626; Aydın Chief Public Prosecutor's Office indictment numbered 2022/929; Istanbul Chief Public Prosecutor's Office indictment numbered 2024/6636

64 Aydın 2nd Assize Court decision no. 2024/84; Denizli 3rd Assize Court decision no. 2023/111

Ankara alone, the number of associations established to “help those in need” is 319.⁶⁵ However, as can be seen from the above-mentioned examples of indictments and verdicts, providing aid to someone in prison on FETÖ charges or their families is considered as FETÖ's reorganization and “clamp operations” are carried out, as we will elaborate below.

4. Operations Against the Members of Gülen Movement Between 2023 and 2024

103. According to the information shared by the Turkish Minister of Interior Ali Yerlikaya, who was appointed to this position in July 2023, in his statement on June 13, 2024, on a TV show, between **June 4, 2023, and June 3, 2024, 5543 operation** was carried out against the members of Gülen Movement, and **8892 people were detained**.⁶⁶ Between **June 3, 2024, and February 21, 2025**, a total of **2,029** members of the Gülen Movement were detained in “Kıskaç” operations. Therefore, between **June 4, 2023 and February 21, 2025**, the total number of individuals detained in operations targeting the Gülen Movement amounts to... **10,921**.

104. Unfortunately, no exact number of targeted people can be given, as the persecution of alleged Gülenists is constantly going on.

4.1. Mass Detentions in the “Kıskaç” Operations (within the scope of Restructuring)

105. For over a year now, Turkish society has been introduced to operations called “Kıskaç”.⁶⁷ These operations, which Interior Minister Ali YERLİKAYA announces almost every week through hate speech on his X account, are largely carried out within the framework of 'restructuring.' These operations involve large-scale arrests, and most of the detained Gülenists are publicly exposed in the media. The latest of the Kıskaç operations, named “**Kıskaç 40**,” was announced by the Minister **on February 21, 2025**, and it was reported that **353 individuals** were arrested during the operation. The fact that the **40th Kıskaç operation** has been carried out indicates that the operations targeting the Gülen Movement have become so routine that both the national and international communities' attention to the situation has significantly weakened, and these operations have now become normalized. This can also be referred to as the '**banalization of evil**,'⁶⁸ which is an important indication that actions against humanity are still ongoing in Türkiye.

106. The figures of “Kıskaç” investigations against the members of the Gülen Movement, which were carried out simultaneously in many cities in from October 24, 2023 to 21 February, 2025 are as follows:

- Kıskaç 1 – 611 people, October 24, 2023⁶⁹
- Kıskaç 2 – No Information obtained⁷⁰

⁶⁵ <https://www.siviltoplum.gov.tr/illere-ve-faaliyet-alanlarına-gore-dernekler>

⁶⁶ <https://x.com/AliYerlikaya/status/1801229970003329297>

⁶⁷ “Kıskaç” (clamp) is the discreditable name which was produced by the Minister of Interior specially for the operations against the member of Gülen Movement.

⁶⁸ *The banality of evil* is a concept coined by philosopher and political theorist **Hannah Arendt** in her book *The Origins of Totalitarianism* (1951). Arendt used the term to describe the ordinary, often bureaucratic nature of evil as carried out by individuals who do not see themselves as malicious but simply follow orders or perform routine tasks without questioning the moral implications of their actions.

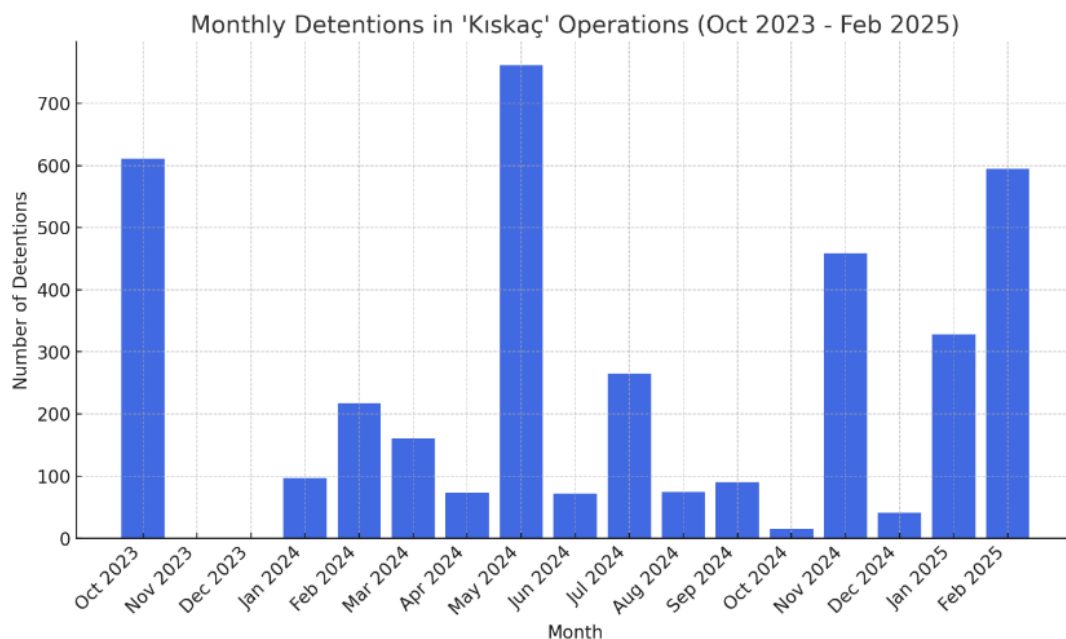
⁶⁹ <https://x.com/AliYerlikaya/status/1716736507128500236>

⁷⁰ <https://x.com/cemkucuk55/status/1744950846016589824>

- Kıskaç 3 – 38 people, January 10, 2024⁷¹
- Kıskaç 4 – 32 people, January 17, 2024⁷²
- Kıskaç 5 – 27 people, January 23, 2024⁷³
- Kıskaç 6 – 42 people, February 15, 2024⁷⁴
- Kıskaç 7 – 67 people, February 21, 2024⁷⁵
- Kıskaç 8 – 61 people, February 23, 2024⁷⁶
- Kıskaç 9 – 47 people, February 29, 2024⁷⁷
- Kıskaç 10 – **91 people**, March 9, 2024⁷⁸
- Kıskaç 11 – 70 people, March 29, 2024⁷⁹
- Kıskaç 12 – 60 people, April 18, 2024⁸⁰
- Kıskaç 13 – 13 people, April 24, 2024⁸¹
- Kıskaç 14 – 36 people, May 2, 2024⁸²
- Kıskaç 15 – **544 people**, May 14, 2024⁸³
- Kıskaç 16 – 46 people, May 21, 2024⁸⁴
- Kıskaç 17 – 45 people, May 24, 2024⁸⁵
- Kıskaç 18 – **90 people**, May 30, 2024⁸⁶
- Kıskaç 19 – 72 people, June 6, 2024⁸⁷
- Kıskaç 20 – **108 people**, July 4, 2024⁸⁸
- Kıskaç 21 – 10 people, July 14, 2024⁸⁹
- Kıskaç 22 – 74 people, July 15, 2024⁹⁰
- Kıskaç 23 – 73 people, July 22, 2024⁹¹
- Kıskaç 24 – 55 people, August 1, 2024⁹²
- Kıskaç 25 – 20 people, August 28, 2024⁹³
- Kıskaç 26 – 34 people, September 5, 2024⁹⁴
- Kıskaç 27 – 39 people, September 14, 2024⁹⁵

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- 71 https://x.com/ajans_muhbir/status/1747511266413871108
- 72 <https://x.com/AliYerlikaya/status/1749793685527498788>
- 73 <https://x.com/ahaber/status/1758019560064663940>
- 74 <https://x.com/AliYerlikaya/status/1760168600764285016>
- 75 <https://x.com/AliYerlikaya/status/1760960324751003968>
- 76 <https://x.com/AliYerlikaya/status/1760960324751003968>
- 77 <https://x.com/AliYerlikaya/status/1763122934724296810>
- 78 <https://x.com/AliYerlikaya/status/1766366192044822741>
- 79 <https://x.com/AliYerlikaya/status/1773583116352766162>
- 80 <https://x.com/AliYerlikaya/status/1780858768399401340>
- 81 <https://x.com/AliYerlikaya/status/1783029575976394804>
- 82 <https://x.com/AliYerlikaya/status/1786065898538684807>
- 83 <https://x.com/AliYerlikaya/status/1790280001750712556>
- 84 <https://x.com/AliYerlikaya/status/1792834190817231138>
- 85 <https://x.com/sabah/status/1793880859365474598>
- 86 <https://x.com/AliYerlikaya/status/1796044090628350145>
- 87 <https://x.com/AliYerlikaya/status/1798580531367457018>
- 88 <https://x.com/AliYerlikaya/status/1808870614725234789>
- 89 <https://x.com/AliYerlikaya/status/1812449782964584925>
- 90 <https://x.com/takvim/status/1812810592236732698>
- 91 <https://x.com/AliYerlikaya/status/1815393265887174858>
- 92 <https://x.com/AliYerlikaya/status/1818872268908355834>
- 93 <https://x.com/AliYerlikaya/status/1828654865213759900>
- 94 <https://x.com/AkdenizGercek/status/1831605090366713985>
- 95 <https://x.com/724gundemcom/status/1834839125666459819>

- Kıskaç 28 – 17 people, September 17, 2024⁹⁶
- Kıskaç 29 – 15 people, October 23, 2024⁹⁷
- Kıskaç 30 – **459 people**, November 19, 2024⁹⁸
- Kıskaç 31 – 41 people, December 18, 2024⁹⁹
- Kıskaç 32 – 37 people, January 7, 2025¹⁰⁰
- Kıskaç 33 – 63 people, January 8, 2025¹⁰¹
- Kıskaç 34 – 110 people, January 14, 2025¹⁰²
- Kıskaç 35 – 47 people, January 18, 2025¹⁰³
- Kıskaç 36 – 71 people, January 24, 2025¹⁰⁴
- Kıskaç 37 – 93 people, February 4, 2025¹⁰⁵
- Kıskaç 38 – 45 people, February 10, 2025¹⁰⁶
- Kıskaç 39 – **103 people**, February 15, 2025¹⁰⁷
- Kıskaç 40 – **353 people**, February 21, 2025¹⁰⁸



107. According to the above official statements of the Minister of Interior, **the total number of detainees in Kıskaç Operations is 3859**. However, as stated in the report published by the Ministry of Foreign Affairs, “there is no complete, precise, verifiable data on the current status of the

96 <https://x.com/anadolujansi/status/1836027323784548861>

97 <https://www.icisleri.gov.tr/kiskac-29-operasyonlari-ile-15-supheli-yakalandi>

98 <https://x.com/AliYerlikaya/status/1858764079688532393>

99 <https://x.com/AliYerlikaya/status/1869243806001865129>

100 <https://www-tr724-com.cdn.ampproject.org/c/www.tr724.com/ankarada-nefret-operasyonunda-37-gozalti-suclama-cezaevindeki-khkli-mahpuslara-ve-ailelerine-yardim/amp>

101 <https://x.com/AliYerlikaya/status/1876854205648163016>

102 <https://x.com/AliYerlikaya/status/1879112467084870036>

103 <https://x.com/AliYerlikaya/status/1880495287132635437>

104 <https://x.com/AliYerlikaya/status/1882649505402589518>

105 <https://x.com/AliYerlikaya/status/1886693710122877055>

106 <https://x.com/AliYerlikaya/status/1888819544065474597>

107 <https://stockholmcf.org/Türkiye-detains-103-in-operations-targeting-alleged-gulen-followers/>

108 <https://x.com/AliYerlikaya/status/1892858456220324137>

*investigations against the Gulenists.”*¹⁰⁹ For example, in a very recent operation on February 17, 2025, although not called a “ Kıskaç operation”, **17 actively working doctors were detained** on FETÖ-related charges solely **for preparing for the Medical Specialization Examination (TUS) at a study center allegedly linked to the Gülen Movement**. These figures do not include the number of detentions that are not referred to as Kıskaç operations, as in this case, or that we have not seen in open sources or that have escaped our attention. For this reason, civil society organizations such as Solidarity with Others, a Brussels-based civil society organization dedicated to defending and promoting human rights in Türkiye, publish weekly reports on human rights violations in Türkiye.

108. According to the latest report published by Solidarity with Others, **as of December 28**, the number of those detained in the Restructuring Operations against the Gülen Movement in **2024 alone was 4058**¹¹⁰, while this number, including doctors’ arrests, **reached 939 for 2025 as of February 21**. As can be seen, there has been no softening in the number of investigations and detentions in the last two years. On the contrary, there is an upward trend in the number of investigations and detentions in 2025. So far in 2025, 10 operations have been carried out in 52 days and 939 people have been detained. The figures for 2025, which are above the averages of the last 5 years, support the upward trend in terms of the number of investigations against the Gülen movement.

109. Nevertheless, the exact numbers of detained people can still not be revealed in the climate of fear and censorship created by the Erdoğan regime in Türkiye. Besides, **the Turkish Interior Minister**, on his X account, brazenly reiterates the Government’s firm position and persisting policy that the members or supporters of the Gülen Movement are the traitors and the most violent terrorists, who should be annihilated:

*“Even after the death of the leader of FETO, there is no room for any slackening in our fight against this treacherous terrorist organization. We will continue to fight until we completely eradicate this treacherous structure that attempted to strike a blow to our national will.”*¹¹¹

110. The Minister's accusatory words are directed at individuals who have no connection with the controversial coup attempt, the circumstances of which have not been identified through an independent and impartial judiciary so far. None of the arrested individuals were involved in the failed coup attempt or any criminal activity. The Minister's words fall into the category of hate speech and violate the presumption of innocence of those arrested.

111. The statistical data and explanations presented above clearly indicate that, contrary to the justifications put forward by the IND regarding its policy shift since July 2023 and the rationale submitted to the Council of State, there has been no discernible reduction or easing in the number of investigations targeting members of the Gülen Movement over the past two years. On the contrary, the data reveals a notable upward trajectory in such investigations in 2025.

109 <https://www.government.nl/documents/reports/2023/08/31/general-country-of-origin-information-report-on-turkiye-august-2023>

110 <https://www.solidaritywithothers.com/post/Türkiye-rights-monitor-issue-242>

111 <https://x.com/AliYerlikaya/status/1858764079688532393>

112. Moreover, investigations have become increasingly sophisticated compared to previous years, and while no FETÖ-related investigations targeting minors were observed in the past, the 2024 “Teenage Girls” case, detailed below, demonstrates that even underage girls have been subjected to detention.

4.2. No Visible Change of Legal Approach to Gülen Linked Cases

113. In their response letter, the esteemed IND officials cite, as an example of the changing situation for Gülen supporters, *‘the emergence of more favorable judicial rulings and stricter oversight practices, which means that the fear of serious harm for Gülenists has eased to some extent’*.

114. However, according to **Prof Dr. Em. Johan Vande Lanote**:

*“Our findings clearly contradict this opinion. The conclusion is clear and simple: until today there has been NO changes in the way the judiciary is deciding the cases of persons allegedly linked to the Gülen movement.”*¹¹²

115. Upon examining the restructuring operations, as detailed above with specific dates and figures, and the manner in which these operations were announced by the highest authority, Minister of Minister Ali Yerlikaya, it can be observed that **no policy change has occurred within the government or judicial bodies regarding members or supporters of the Gülen Movement**. This is because members of the Gülen Movement continue to be presented to the public by the Interior Minister, who is the top executor of the security policies of the Erdoğan regime, as **‘traitorous entities that must be eradicated.’**

116. As we will explain in detail in the following sections, the Courts of First Instance, the Court of Cassation and the Constitutional Court continue to view as criminal criteria legal acts that do not constitute the crime of membership of a terrorist organization or terrorist financing, which have been criticized in the judgments of the European Court of Human Rights and in the reports of other international organizations. Even after **Yalçınkaya v. Türkiye**, as pointed out by the esteemed officials of the IND, Turkish judges continue to rule contrary to the judgment of the Grand Chamber of the European Court of Human Rights in cases that come before them. (This will be addressed in question 4 below).

5. Transnational Repression

117. The effects of the extremely insecure legal environment in which the members of the Gülen Movement find themselves are now being felt beyond the borders of Türkiye. This is because members of the Gülen Movement, who face imprisonment as a result of unlawful and arbitrary investigations or prosecutions, and who have been forced to leave the country, are now being monitored outside of Türkiye as well.

118. According to **Human Rights Watch 2024 Report: “We Will Find You- A Global Look at How Governments Repress Nationals Abroad”**¹¹³, there are several cases in which Turkish authorities abducted Turkish nationals and removed them to Türkiye, bypassing legal

112 https://www.linkedin.com/posts/Türkiyetribunal_Türkiyes-unending-crackdown-on-the-g%C3%BClen-activity-7289971330920112128-NkDj/

113 <https://www.hrw.org/report/2024/02/22/we-will-find-you/global-look-how-governments-repress-nationals-abroad>

processes and court orders abroad, and that Türkiye’s official Anatolian Agency news agency has also regularly published information about individuals the Turkish National Intelligence Agency has brought back to Türkiye and detained pending trial.

5.1. Abductions and Forced Disappearance¹¹⁴

119. The systematic and planned operations targeting the Gülen Movement, involving abductions and forced disappearances both domestically and internationally, have become a state policy. This has been substantiated by statements made by the highest-ranking government ministers and bureaucrats. Through open-source materials and the statements of Turkish ministers and bureaucrats, partial access to conclusive data on the matter can be obtained. In this context, on July 12, 2022, then Minister of Justice Bekir Bozdağ stated in an interview with Anadolu Agency that, as of July 1, 2022, a total of **121 individuals had been abducted from 28 different countries between 2014 and 2022** as part of counter-terrorism operations targeting the Gülen Movement. These individuals were brought to Türkiye without extradition agreements or legal return procedures.¹¹⁵

120. The fact that kidnappings are carried out as a state policy was stated by the **then Vice President Fuat Oktay**, who made a presentation on the budget of the Presidency of the Republic during the discussions on the budgets of the Presidency and its affiliated organisations for the year 2023 in the Plan and Budget Commission of the Grand National Assembly of Türkiye (TBMM), and announced that **more than 100 members of the Gülen Movement were kidnapped**.¹¹⁶

121. Similarly, the current **Minister of Justice, Yılmaz Tunç**, has stated that 1,271 members of the Gülen Movement have been requested for extradition since the coup attempt on 15 July 2016 and that 126 suspects have been extradited to date.¹¹⁷ However, the persons who are said to have been extradited here are those who were mostly kidnapped and brought to Türkiye through unlawful methods and in violation of the functioning of international law.

122. These disappearances were frequently conducted by the National Intelligence Organization (MIT) and were characterized by abductions and subsequent torture in secret detention facilities. Cases of enforced disappearances have been documented and reported by various human rights organizations, yet the Turkish government has consistently denied these allegations.

114 As a foundation, we have published a detailed book documenting cases of abductions and enforced disappearances, highlighting patterns of abductions and their legal implications. This work aims to raise awareness, advocate for justice, and hold perpetrators accountable. <https://justicesquare.org/turkiyede-adam-kacirma-ve-kaybetme/>

115 “Bakan Bozdağ darbe girişiminde yaşadıklarını ve FETÖ’yle mücadeleyi AA’ya anlattı”, 12.07.2022, <https://www.aa.com.tr/tr/15-temmuz-darbe-girisimi/bakan-bozdag-darbe-girisiminde-yasadiklarini-ve-fetoyle-mucadeleyi-aaya-anlatti/2635243>

116 “MIT’in yurt dışından getirdiği FETÖ’cü sayısı açıklandı”, 25.11.2022, <https://www.sozcu.com.tr/son-dakika-mitin-yurt-disindan-getirdigi-fetocu-sayisi-aciklandi-wp7499978>

117 “Fight against FETÖ prevails 7 years after coup attempt in Türkiye”, Jul 13, 2023, <https://www.dailysabah.com/politics/fight-against-feto-prevails-7-years-after-coup-attempt-in-turkiye/news>

123. Abductions and disappearances against the Gülen Movement, which has become a state policy, continued without decline. In this context,

- A citizen named Koray Vural, also living in Tajikistan, was abducted and brought to Türkiye on 05.10.2023 by an MIT operation on the allegation that he was a member of the Gülen Movement.¹¹⁸
- The National Intelligence Organization (MIT) illegally abducted Mustafa Tan and Mustafa Bircan in Algeria on the allegation that they were members of the Gülen Movement and brought them to Türkiye on 27 December 2023.
- Turkish-American political scientist Prof. Dr. Ahmet T. Kuru was arrested on January 10, 2024 at the Kuala Lumpur Airport in Malaysia on charges of being a member of the Gülen Movement by an MIT operation and attempted to be taken to Türkiye, but the operation remained at the attempted stage due to the intervention of senior Malaysian officials.

124. There is also two major incident occurred in 2023;

- In April 2023, **Mehmet Cintosun** was abducted by the National Intelligence Organization (MIT) from Iraq and brought to Türkiye on the allegation that he was a member of the Gülen Movement.
- **Emsal Koç**, a resident of Tajikistan since 1994 and a teacher at a Tajik-Turkish high school for 11 years, was abducted and brought to Türkiye on June 2, 2023 by an MIT operation.¹¹⁹

125. Since 2016, **7 people abducted** on the allegation of being members of the Gülen Movement **have still not been heard** from: The names are as follows:

1. Sunay Elmas (January 27, 2016-Ankara)
2. Ayhan Oran (November 1, 2016-Ankara)
3. Turgut Çapan (March 31, 2017-Ankara)
4. Fatih Kılıç (May 14, 2017-Ankara)
5. Murat Okumuş (June 16, 2017-İzmir)
6. Fahri Mert (August 12, 2018-Izmir)
7. Yusuf Bilge Tunç (August 6, 2019-Ankara)

126. The **torture and ill-treatment practices during the enforced abductions and disappearances** in Türkiye have been publicized both nationally and internationally. Numerous credible reports and victim testimonies highlight the systemic use of torture in MIT

118 <https://www.hrw.org/world-report/2024/country-chapters/Türkiye#98722f>

119 <https://www.hrw.org/report/2024/02/22/we-will-find-you/global-look-how-governments-repress-nationals-abroad>

secret detention/torture facilities¹²⁰ such as in the cases of Orhan İnandı,¹²¹ Mustafa Özben,¹²² Yasin Ugan,¹²³ Önder Asan.¹²⁴

127. For the latest incident, **on October 18, 2024**, Mustafa Genç and his son Abdullah Genç, Hüseyin Yeşilsu, Necdet Seyitoğlu, Öztürk Uzun, Alparslan Taşçı and his wife Saadet Taşçı have been abducted simultaneously **in Nairobi, Kenya**, by unknown suspects on the allegation that they were members of the Gülen Movement.¹²⁵ The three of the abducted civilians were released while remaining were deported to Türkiye although they were under the protection of United Nations. **Öztürk UZUN**, one of the abducted people, is the husband of **Sevgi UZUN** who is an asylum seeker waiting for the family unification for 9 months in **The Netherlands**.¹²⁶ This case was raised in the Dutch Parliament (Tweede Kamer) through a parliamentary question submitted by D66 members Paternotte and Podt to the Minister of Migration and Asylum on November 22, 2024.¹²⁷

5.2. New Investigations Against Gülenists Abroad

5.2.1. The List of Wanted for Terrorism

128. The Ministry of Interior updates the list of those wanted on terrorism charges regularly and publishes it on the Ministry's website <http://www.terorarananlar.pol.tr/tarananlar>. The list includes journalists, human rights activists and lawyers. The list contains a total of **971 people** accused of being members of 19 different terrorist organisations. However, when the numbers are analysed, it can be seen that the majority of the list consists of names allegedly linked to the Gülen movement.¹²⁸

129. The Turkish government's reward system for information leading to the apprehension of individuals affiliated with the Gülen movement abroad has created a climate of fear and incentivized informants within diaspora communities. This policy effectively encourages expatriates to engage in surveillance and report on their fellow citizens, often leading to arbitrary investigations and potential legal actions based on politically motivated charges. As a result, critics and dissidents residing outside Türkiye are subjected to systematic monitoring,

120 Human Rights Review, “The Resurgence of Enforced Disappearances in the Aftermath of the July 15, 2016 Failed Coup Attempt in Türkiye: A Systematic Analysis of Human Rights Violations”, <https://link.springer.com/article/10.1007/s12142-023-00712-5>

121 HRW: “Türkiye/Kyrgyzstan: Rendition of Turkish-Kyrgyz Educator Risk of Further Arbitrary Detention and Unfair Trial”, July 7, 2021, <https://www.hrw.org/news/2021/07/07/Türkiye/kyrgyzstan-rendition-turkish-kyrgyz-educator>

122 “Zifiride 92 Gün: Mustafa Özben”, Documentary, <https://www.youtube.com/watch?v=K4PBRZ1m02M&t=2s>

123 Heymans, Johan: Abductions in Türkiye Today, September 2020, https://ccprcentre.org/files/documents/INT_CCPR_ICES_TUR_44931_E.pdf; Turkish Minute: “Civil servant abducted by Turkish intelligence forced to testify against opposition deputies while in detention”, November 30, 2021, <https://turkishminute.com/2021/11/30/vil-servant-abducted-by-turkish-intelligence-forced-to-testify-against-opposition-deputies-while-in-detention/>

124 Heymans, Johan: Abductions in Türkiye Today, July 2021, Türkiye Tribunal, p.147, https://Türkiyetribunal.org/wp-content/uploads/2021/11/AbductionsinTürkiye_Türkiye-Tribunal-Report_FINAL.pdf,

125 <https://x.com/BBCWorld/status/1847612950011363544>

126 <https://x.com/BasriDogan68/status/1847410179307884559>

127 <https://www.tweedekamer.nl/kamerstukken/kamervragen/detail?id=2024Z16546&did=2024D44095>

128 <http://www.terorarananlar.pol.tr/tarananlar>

violating their fundamental rights to privacy, security, and freedom of expression. The transnational reach of such practices raises serious concerns under international human rights law, particularly regarding the misuse of state mechanisms to suppress political opposition beyond national borders.

130. A Turkish man residing in the Netherlands, Murat Aktaş, called the Turkish Consulate General in Rotterdam to inform on his neighbor, 78-year-old **Necdet Başaran**, a critic of President Erdoğan affiliated with the Gülen movement, in hopes of claiming a reward offered by the Turkish government. According to confidential documents obtained by Nordic Monitor, Aktaş admitted to monitoring Başaran and provided information on his whereabouts. The consulate relayed the details to Türkiye’s Foreign Ministry, intelligence services, and law enforcement, leading to further surveillance of Başaran. A police report from December 2022 referenced intelligence tracking Başaran as early as 2018, indicating ongoing monitoring. This case exemplifies how Türkiye’s reward system has incentivized informants in diaspora communities to spy on government critics abroad.¹²⁹

5.2.2. Judicial and Intelligence Actions Against Individuals Abroad taken by the Turkish Government under the Name of ‘Terrorist Organisation's Restructuring Abroad’

131. Both judicial and intelligence work is ongoing by the Turkish Government under the name of ‘Terrorist Organisation's Restructuring Abroad’ against individuals who have somehow left Türkiye and settled in other countries. As a striking example for pursuing Turkish nationals abroad allegedly affiliated with the Gülen Movement was revealed, Ministry of Interior, Turkish National Police tried to collect information **about 441 individuals who were settled in different western countries** like Greece, Germany, Luxemburg, France, The Netherlands, Norway, Sweden, Belgium, The UK, the US and Canada to be used against those who are not under investigation: *“I request the Provincial Police Departments that have information about the legal proceedings to inform our Department in case of any developments regarding the issue, and the Ankara Police Department to carry out the necessary work in accordance with the instructions of the judicial authorities regarding the individuals who do not have any legal proceedings recorded regarding the intelligence information in question, and to inform our Counter-Terrorism Department of the results.”*¹³⁰

132. As demonstrated by the concrete examples above, individuals who seek asylum in other countries due to concerns of facing similar unlawful treatment—either because they work for organizations associated with the Gülen Movement, are members of the movement, or have family members implicated in “FETÖ” investigations—are at a heightened risk of arrest. This is especially true when their asylum applications are rejected, and they are subsequently deported to Türkiye. This occurs even in the absence of direct investigations against them or claims of decreased government pressure on Gülen Movement affiliates.

129 <https://nordicmonitor.com/2023/03/a-turk-informed-about-erdogan-critic-in-the-netherlands-to-claim-bounty-from-Türkiye/>

130 The Letter issued by Ministry of Interior, Turkish National Police on 02/10/2023/E-45599763-63044-2023092916532293312

6. Case Law on the Asylum Applications

133. The judgments of the District Courts of Den Haag and the ECtHR, referred to below, stated that Gülen supporters had a well-grounded fear of persecution if they returned to Türkiye.

6.1. The Hague District Court Decisions on the IND's Policy Changes Regarding Gülen Movement Members

134. The following rulings by the District Court of The Hague examine the IND's (Immigration and Naturalization Service) new asylum policy changes concerning members of the Gülen Movement and the legal basis for these changes.

6.1.1. August 15, 2024 Decision (ECLI:NL: RBDHA: 2024: 13599)¹³¹

135. In this case, the IND implemented a **specific policy change on December 1, 2023, concerning Gülen Movement members**, followed by a **general abolition of group policies on July 1, 2024**. The IND justified the December 1, 2023, change by arguing that **the prosecution of Gülen Movement members in Türkiye had decreased in intensity and that arbitrariness in such prosecutions was no longer as prevalent**.

136. However, the court found that the **IND selectively used country information and failed to sufficiently justify the policy change**. The country report cited by the IND stated that **verifiable information regarding the situation of Gülenists in Türkiye was scarce and fragmented**. While the report included statements suggesting that persecution had decreased in intensity compared to the immediate aftermath of the 2016 coup attempt, the **sources providing this information could not substantiate their claims with concrete data**. As a result, the court ruled that **December 1, 2023, policy change lacked a solid legal basis and required further justification**.

6.1.2. July 16, 2024 Decision (ECLI:NL: RBDHA: 2024: 15371)¹³²

137. In this case, the applicant **was expelled from a military academy by Decree 669 in 2016, had two brothers sentenced to long prison terms for alleged ties to the Gülen Movement, and was mentioned by a friend in a police interrogation**. The IND determined that the applicant **did not face a personal risk of persecution** since no charges had been filed against him, and his asylum application was rejected.

138. However, the court ruled that **arrests of alleged Gülenists still occur regularly on both small and large scales and that this group is considered at risk, meaning even minor indications (minor indications) are sufficient to establish a well-founded fear of persecution**. The court emphasized that **military students are commonly associated with the Gülen Movement** and that the applicant's direct family members had received severe sentences. The fact that the applicant's friend did not directly accuse him did not negate the connection established between the applicant and his convicted brother through phone records. The court concluded that **the IND had failed to sufficiently explain why the**

131 <https://uitspraken.rechtspraak.nl/details?id=ECLI:NL:RBDHA:2024:13599>

132 <https://uitspraken.rechtspraak.nl/details?id=ECLI:NL:RBDHA:2024:15371>

applicant's situation did not meet the minor indications threshold and that the asylum application required further assessment.

139. Taken together, these rulings demonstrate that the **Dutch courts do not find the IND's claims that persecution of Gülenists in Türkiye has decreased to be sufficiently supported by evidence.** Specifically:

- The IND **based its policy changes on incomplete and unverifiable country reports.**
- Persecution of Gülen Movement members **continues on a regular basis.**
- **For high-risk groups, even minor indications are sufficient for asylum eligibility,** and the IND failed to consider such indications adequately.

140. Examining these two rulings, **it is highlighted that the weak legal foundation of the IND's new policy and the need for a more detailed justification.**

6.2. ECHR: No Doubt on the reality of the risk for the member of Gülen Movement in Türkiye (A.R.E. v. Greece (application no. 15783/21))

141. In addition, in a very recent case named **A.R.E. v. Greece (application no. 15783/21)**, ECtHR decided in January 7, 2025, that “**Pushback**” of Turkish national to Türkiye without examining risks she faced on her return was in breach of Convention and emphasises that, “**according to various reports, the reality of the risks for alleged political opponents in Türkiye after the attempted coup in 2016 is beyond doubt.** These risks are also mentioned in the observations of some third-party interveners” (§279).¹³³

7. Freedom of Speech

142. Beyond legal persecution, the Erdoğan regime seeks to systematically erase Gülen-linked individuals both psychologically and socially. Affiliated or perceived as affiliated with the Gülen Movement, individuals are now deprived of their ability to freely express their opinions, visit loved ones, or engage in economic activities. In Türkiye, especially for those who have been subjected to a FETÖ investigation, openly expressing sympathy for the Gülen Movement or posting related content on social media almost invariably leads to imprisonment. As a result, individuals are compelled to live in fear of expressing their views, often going so far as to deny their own identities. The regime effectively demands that these individuals suppress their emotions and thoughts, compelling them into a state of social invisibility.

8. Hate Speech against Gülen Movement Members

8.1. No Positive Change of Socio-Politic Approach to Gülen-Linked Individuals

143. As of February 2025, the witch hunt initiated against the members of the Gülen Movement has reached its 8.5-year mark. During this period, 705,000 people have directly been affected, while nearly 2 million others have indirectly suffered from the arbitrary investigations and oppression led by the Erdoğan government. As mentioned above, the individuals subjected to these investigations were previously praised for their social activities, but following the July 15 coup attempt, they were transformed into a group demonized and declared enemies of the state under the leadership of the Erdoğan government. Today, individuals who have had any

133 [https://hudoc.echr.coe.int/#/{%22itemid%22:\[%22001-238636%22\]}](https://hudoc.echr.coe.int/#/{%22itemid%22:[%22001-238636%22]})

kind of association with the Gülen Movement are subjected to a social genocide, marked as “FETÖIST.”

144. In their rallies and official statements, the president and prominent politicians in the country have targeted members of the Movement with harsh insults such as “traitor, terrorist, scoundrel” and encouraged the public to take a tough stance against them. The systematic hate speech against members of the Gülen Movement has spread across a wide spectrum, from state institutions to media outlets, from civil society to the individual level. This hate speech is constantly repeated not only by pro-Government media and politicians, but also by opposition parties and many journalists. This has led to a deepening policy of discrimination and exclusion against members of the Gülen Movement in society. For a striking example, **Antalya Municipality** mayor **cancelled the 60th Antalya Golden Orange Film Festival**, and dismissed the festival director, following disputes over the screening of a documentary entitled *The Decree*. The film depicted public sector workers who had been summarily dismissed following the notorious coup attempt in 2016.¹³⁴

8.2. Challenging the Official Narrative of the Coup Attempt is Prohibited

145. The Turkish Constitutional Court’s decision (Application No. 2018/10550), published **on April 4, 2023**, illustrates the arbitrary and vague application of the “affiliation” criterion in cases involving FETÖ.

146. The case involved B.D., an Assistant Manager at Türkiye Ziraat Bankası, who posted critical messages on social media following the July 15, 2016 coup attempt.¹³⁵ His posts were interpreted by the bank’s management as potentially indicating affiliation with FETÖ/PDY, leading to his dismissal. B.D. argued that this termination violated his freedom of expression. The Constitutional Court, while acknowledging the absence of criminal content in his posts, upheld the dismissal, stating that,

“the applicant’s posts did not directly contain any criminal elements, however, during the sensitive period following July 15, his statements could have created the impression that he was affiliated with FETÖ/PDY, these statements could have damaged public trust in the institution, particularly because he worked at a state-owned bank, employment relationships are based on mutual trust, and in this case, the continuation of the employment relationship was no longer reasonable for the employer, thus, the court found the dismissal to be a proportionate intervention and ruled that freedom of expression had not been violated.”¹³⁶

147. This ruling legitimizes dismissal based solely on creating an “impression of affiliation,” despite the lack of direct evidence or organizational ties. The Court’s decision disregards the principle that freedom of expression must only be limited when it addresses a pressing social need and is proportionate, as outlined by the European Court of Human Rights. This precedent has a **chilling effect**, deterring individuals from expressing dissenting views for fear of punishment under the guise of affiliation with prohibited organizations.

134 <https://www.amnesty.org/en/location/europe-and-central-asia/western-central-and-south-eastern-europe/turkiye/report-turkiye/>

135 B.D. posted the following messages on his personal social media account on July 16, 2016: “-Oh Lord, grant insight to our people so they may see through this staged plot.” On the same day, he commented “-This is the real coup” under a news article titled “Breaking News: HSYK suspends 2,745 judges and prosecutors.”

136 <https://www.resmigazete.gov.tr/eskiler/2023/04/20230404-6.pdf>

148. One other example, **Prof. Nursen Mazıcı** raised questions about the nature of the controversial coup attempt during a live TV program, prompting her removal from the air and escorting out of the studio. Following her remarks, Türkiye's Higher Education Council announced an investigation into her statements regarding the incident.¹³⁷

8.3. The Contribution of the Presidency of Religious Affairs (DIB) to Hate Speech

149. Even the Presidency of Religious Affairs (DIB), one of the institutions that spread hate speech in Türkiye, has continuously and systematically targeted the Gülen Movement with hate speech in its Friday sermons, fatwas, symposiums, publications and all other activities. The central and provincial organizations of the Presidency of Religious Affairs have been conducting a systematic smear campaign against the Gülen Movement, especially through hate sermons read every year on the anniversaries of July 15. The DIB has portrayed the Gülen Movement and its members as a non-religious or apostate group. They have not hesitated to label them as “non-religious, hypocritical, seditious, den of mischief, traitor, exploiter, treacherous network, coup plotter etc. terrorist organization” in the mosque sermons of millions of people.¹³⁸

150. On the other hand, the Presidency of Religious Affairs has caused the most fundamental rights of people to be usurped with the fatwas it has issued during this process. In this context, with its fatwas stating that “... It is permissible for individuals or the state to usurp the property of others in case of need...”, it has caused the assets of the Gülen Movement and its members to be plundered, unlawfully seized and eventually distributed to other religious communities and sects that have become an element of the Erdoğan Regime. In particular, the assets of giant companies such as Boydak, Dumankaya, Akfel, Kaynak, Koza İpek or Naksan, which own some of Türkiye's largest companies, have been seized by the TMFS in the number of billions of liras and later transferred to regime supporters through the sales method.

8.4. Any Positive Remarks about Gülen Movement or Fethullah Gulen is Strictly Prohibited

151. All books, articles, or sermons written by Fethullah Gulen are strictly prohibited. Anyone found in possession of such materials in their homes, residences, workplaces, or elsewhere may face serious criminal charges. In other words, if the police discover these materials in someone's possession, they will be considered evidence of the person's affiliation with an armed terrorist organization, potentially resulting in a minimum sentence of 7.5 years in prison. There have been numerous instances where such material is considered conclusive evidence of membership in the armed terrorist organization.¹³⁹

152. **Kazım Güleçyüz**, the editor-in-chief of Türkiye's **Yeni Asya newspaper**, was arrested for disseminating terrorist propaganda simply because of conveying condolences for the late Fethullah Gülen. Interior Minister expressed on X that **“the cybercrime department of the Turkish National Police has identified and is investigating 177 social media users who have allegedly spread propaganda for “Fetö” or shared posts praising Gülen or his movement following the cleric’s death.”** Along with the criminal investigations, dozens of Turkish

137 <https://www.aa.com.tr/tr/turkiye/yokten-prof-dr-mazici-aciklamasi/737894>

138 <https://diyanet.gov.tr/es-es/Institucional/Detalle/29669/cuma-hutbesi-15-temmuz-ve-birlik-ruhu>

139 <https://www.state.gov/report/custom/e939cf0c2c/>

journalists and activists as well as some media outlets found their X accounts blocked in Türkiye because of their X postings about the death of Gülen.¹⁴⁰

8.5. Courts are Instrumentalized to Eliminate the Freedom of Expression

153. The provisions of the Criminal Code governing **freedom of expression** are interpreted so arbitrarily by the judiciary that almost every negative statement can be treated as either a direct violation of the law, as in the cases of insulting the president or inciting the public into hatred and enmity, or as evidence of a far more serious crime, such as membership in an armed terrorist organization or propaganda of such an organization. Political dissent and opposition are easily suppressed through the judicial system, which has no trouble turning even the most innocent and harmless statements made over the past decade into grounds for criminal conviction. This practice leaves no room for doubt that the entire judicial system is effectively under the control of the Erdogan government, serving as a tool to silence dissent and consolidate power.

154. Recently, the social media platform X **blocked access to at least 42 accounts** belonging to journalists and human rights activists living outside Türkiye, who had a large following and were freely sharing information that allowed people in Türkiye to access it. This action was taken following a request from the Turkish government, claiming that these individuals were affiliated with the Gülen movement and demanding the closure of their accounts. This situation can be seen as a violation of freedom of expression, as the freedom of thought and expression of individuals is threatened by censorship aimed at silencing them.¹⁴¹

9. Climate of Fear

155. Türkiye is currently experiencing a pervasive climate of fear, which is intensifying daily through the instrumentalization of the judiciary. This climate has progressively undermined the country's commitment to democracy, human rights, freedom of expression, and the advancement of scientific inquiry.

156. The erosion of trust in the justice system, coupled with the absence of judicial independence and impartiality, constitutes one of the primary factors contributing to the prevailing climate of fear. Specifically, judicial decisions influenced by political power and the lack of transparency in legal processes have resulted in the unjust arrest and conviction of individuals. Consequently, assessments by international organizations indicate that Türkiye ranks among the lowest globally in terms of the rule of law. According to the 2024 Global State of Democracy report by the International Institute for Democracy and Electoral Assistance (International IDEA), Türkiye ranks 145th out of 173 countries in the rule of law.¹⁴² Similarly, the 2024 World Rule of Law Index report places Türkiye 117th out of 142 countries.¹⁴³ In this regard, the country has regressed to a state reminiscent of the pre-1908 era in terms of the rule of law.

140 <https://www.turkishminute.com/2024/10/24/editor-chief-of-turkish-daily-arrested-for-gulen-condolence-message/>

141 <https://www.turkishminute.com/2025/02/07/x-blocks-access-to-at-least-42-journalist-activist-accounts-in-turkiye4/>

142 <https://tr.euronews.com/my-europe/2024/09/17/demokratik-degerler-2024-raporu-avrupada-demokrasi-zayifliyor>

143 <https://worldjusticeproject.org/rule-of-law-index/global/2024>

157. The German Federal Foreign Office, in its travel advisory for Türkiye published on February 16, 2025, stated that Türkiye has a broad definition of terrorism. It warned that merely making a social media post, liking, sharing, or commenting on a post—while constitutionally protected in Germany—could lead to criminal investigations in Türkiye.

158. Additionally, under the newly adopted "Disinformation Prevention Law," statements deemed by authorities to be false and considered a threat to national security, public order, or public health may constitute a criminal offense and be subject to prosecution. The advisory also highlighted that citizens could be arbitrarily detained and that even individuals who had previously entered and exited Türkiye without any issues might still face detention upon their return due to old or new allegations.¹⁴⁴

159. To understand how striking the atmosphere of fear in Türkiye is, Amnesty International (IAÖ) published a report titled “Braving the Storm: Defending human rights in a climate of fear in Türkiye”¹⁴⁵ by Amnesty International (IAO). This atmosphere of fear, which continues to grow today, poses a grave threat to the future of Türkiye as a democratic state of law and to the free world in its relationship with Türkiye. Commenting on the report, Gauri van Gulik, IOM Europe Director, said: “The imprisonment of journalists and activists may have made the headlines, but it is difficult to measure the deep-rooted impact of Türkiye's crackdown on society at large. But this does not change the reality: under the pretext of the state of emergency, the Turkish authorities are deliberately and systematically destroying civil society, imprisoning human rights defenders, closing associations and creating an overwhelming climate of fear.”¹⁴⁶

160. Employers are afraid to hire and employ people who have been dismissed from their jobs under the State of Emergency Decree Law. This leads to the civilian deaths of these people, most of whom are Gülen movement members.^{147 148 149}

161. Relatives, neighbors and friends are afraid to help these people who have been dismissed from their jobs by emergency decrees because they are afraid of being investigated and arrested. In fact, people who help them out of humanitarian considerations are accused of “FETÖ membership”, “knowingly and willingly aiding the organization without being a member” and “financing terrorism”. People who have already been subjected to a similar investigation or even completed their sentences are being unlawfully detained and arrested again under the name of “restructuring”.¹⁵⁰

162. Thus, individuals dismissed by emergency decrees, particularly members of the Gülen movement, are afraid to visit one another in their homes or even meet in a café for a cup of

144 <https://www.avrupa-postasi.com/almanyadan-turkiyeye-seyahat-uyarilari-keyfi-olarak-gozaltilar-mumkun>

145 <https://www.amnesty.org.tr/public/uploads/files/WEATHERING%20THE%20STORMD.pdf>

146 <https://www.amnesty.org.tr/icerik/turkiye-hukumetin-baskisi-korku-iklimi-yaratarak-sivil-toplum-alanini-daraltiyor>

147 <https://www.gazeteduvar.com.tr/khk-ve-kod-37-kabusu-isveren-duyunca-kaciyor-haber-1555160>

148 https://x.com/caapulcukiz/status/1294554639426347010?s=46&t=DN60JPQkk_1wpndH1oQWsQ

149 https://www.istanbulgercegi.com/khklilar-icin-ise-almayin-sosyal-yardim-yapmayin-gibi-gizli-emirler-veriliyor_220750.html

150 <https://serbestiyet.com/haberler/704-kisi-gozaltinda-gerekce-khklilara-ve-cezaevindekilere-yardim-parasi-toplamak-avukat-maziliguney-insani-mulahazalarla-yapilan-yardimlar-suc-olamaz-107470/>

coffee, as they may be subjected to technical and physical surveillance and unlawful practices under the guise of restructuring.

10. Civilian Death Code: SGK/37

163. Former members and sympathizers of the Gülen Movement, who once held prominent positions within the bureaucracy or achieved notable commercial success in their private enterprises, now face severe economic and social marginalization in an atmosphere of widespread fear and repression. Following the coup attempt, these individuals have experienced complete financial and professional disenfranchisement, leaving them struggling to rebuild their lives.

164. Even individuals who were dismissed from their positions by emergency decrees (KHKs) but were never subjected to criminal investigation, were acquitted, or have already served their sentences continue to face systemic discrimination. This is primarily due to their registration under Code/37 in their social security records, a designation that effectively functions as an indefinite professional blacklist.

165. While the emergency decrees explicitly prohibit those dismissed from holding public sector positions, either directly or indirectly, their employability in the private sector is also severely restricted. Employers in the private sector frequently hesitate to hire dismissed individuals due to concerns about potential government scrutiny, reputational damage, or operational difficulties. This is facilitated by the storage of dismissal records within the Social Security Institution (Sosyal Güvenlik Kurumu – SGK) database and the national e-Devlet information system, which prospective employers can access.

166. In the immediate aftermath of the coup attempt, over 130,000 employees were dismissed under emergency decrees. While the number of ongoing dismissals has declined since 2020, the long-term consequences for those affected remain significant, as they continue to face legal, social, and economic barriers to reintegration.¹⁵¹

167. The systematic exclusion of individuals dismissed under emergency decrees (KHKs) is further reinforced by the classification codes Code/37 and Code/38, which function as markers of stigmatization and discrimination. These codes, embedded in social security records, create insurmountable barriers to employment in the private sector, effectively prolonging the social and economic marginalization of those affected.

168. The presence of these designations in official databases perpetuates societal bias by implicitly branding individuals as “terrorists”, irrespective of the absence of any judicial conviction or legal finding against them. This classification not only hinders employment prospects but also subjects private employers to state-imposed pressures, including intimidation, municipal police inspections, and tax audits, if they choose to hire individuals blacklisted under these codes. In many instances, employers receive informal warnings—often conveyed by undercover police officers—advising them against hiring dismissed individuals.

151 Dutch Ministry of Foreign Affairs, General Country of Origin Information Report on Türkiye, August 2023; <https://www.government.nl/documents/reports/2023/08/31/general-country-of-origin-information-report-on-turkiye-august-2023>

Should they persist in providing employment, they risk criminal prosecution for aiding and abetting an armed terrorist organization, a charge that carries severe legal consequences.

169. The cumulative impact of these discriminatory policies extends beyond professional disenfranchisement, leading to social isolation and economic deprivation, effectively amounting to a state-imposed form of civil death. By denying individuals the means to sustain themselves, these practices heighten the risk of extreme poverty, starvation, and severe deprivation, further entrenching their exclusion from society.¹⁵²

11. Restrictions on Free Movement

170. In addition to permanent dismissals, the decrees revoked the passports of the victims, and the administrative authorities continue imposing arbitrary restrictions on the victims’ right to freedom of movement. Despite the Constitutional Court’s decision, dated 22/01/2022, repealing the law authorising administrative bodies to impose passport restrictions without a judicial decision, the said restrictions have not been not lifted, but continue to be imposed on the victims. Seven months after the Constitutional Court’s decision, the Ministry of Interior imposed administrative restrictions on 59,627 individuals, through a circular letter, dated 01/8/2022 and titled *Passport Administrative Decision Procedures*, blatantly ignoring the Constitutional Court’s annulment decision.

171. Tens of thousands of individuals, victimized by such practices had to initiate legal proceedings before administrative courts to lift the unlawfully imposed restrictions. Most of the cases are still pending. Despite the Constitutional Court’s ruling, the victims are deliberately compelled to deal with gruesome legal proceeding spanning over several years to challenge the Ministry’s brazenly unlawful actions restricting their right to freedom of movement.¹⁵³

C- QUESTION 3

172. The third question posed to the IND by the Council of State is:

Can you explain, based on country information, under what circumstances the Turkish authorities prosecute individuals for (alleged) ties to the Gülen movement? Can you also clarify the criteria used by the judiciary to determine whether a person should be convicted on such charges?

Can you also take into account to what extent the fact that a foreign national has studied at an institution linked by the Turkish authorities to the Gülen movement or has engaged in activities for that movement influences criminal prosecution or a conviction by the Turkish authorities?

Does the fact that a foreign national has previously had issues with the authorities due to links with a Gülen-affiliated institution or has family members who have been convicted as Gülenists influence their criminal prosecution and conviction by the Turkish authorities? If so, in what way?

152 <https://www.politikyol.com/yeneroglundan-kod-36-37-tepkisi/>

153 <https://x.com/sdtnl03/status/1663586326342451202?s=20>

173. As we noted in the detailed answer to Question 1 above, based on a detailed analysis of 118 indictments, there are 18 criteria most frequently used in investigations against the Gülen Movement.¹⁵⁴ In fact, these criteria have been applied by the Turkish judiciary to determine the individual's connection to the Gülen Movement, not to determine whether the material and moral elements of the offense of membership of an armed terrorist organization as prescribed by law have been established. If one or more of these criteria were present, the individual was automatically accepted as a member of the Gülen movement, and indictments were issued and sentences were given on the basis that the individual had automatically committed the crime of membership of an armed terrorist organization. As outlined in the previous section, the so-called “criteria” have been treated as constituting elements of the offense, rather than being merely evidentiary factors. This formed the basis for the European Court of Human Rights finding a violation under Article 7 of the Convention in the Yalçınkaya judgment, which we will discuss in detail in question 4 below.

174. Working at a local or international school associated with the Gülen Movement, sending children to a school associated with the Gülen Movement, engaging in activities on behalf of the Gülen Movement, having a family member under investigation by FETÖ are all sufficient grounds for a person to be connected and affiliated with the Gülen Movement, and these grounds are still sufficient grounds for a person to be dismissed, investigated, prosecuted and convicted by Turkish judicial authorities.

175. In Türkiye, especially after the July 15, 2016 coup attempt, the concepts of “connection” (irtibat) and “affiliation” (iltisak) have been used as the main justifications for dismissals from public office, arrests, and criminal penalties. In judicial decisions, “connection” has been defined as a person or institution’s relationship with a certain structure, group, or organization, whereas “affiliation” has been described as a deeper involvement, meaning that a person or institution is closely intertwined with a particular structure or organization and acts in coordination with it. However, these concepts do not have clear and definitive definitions in legal literature.

176. Criminal law professor İzzet Özgenç, in his assessment of the Turkish Constitutional Court’s June 24, 2021 decision, stated: *“These two concepts are incompatible with the principle of legal certainty. No one should be subjected to any deprivation of rights based on these terms, and in particular, the newly introduced term ‘affiliation’ does not exist in our legal literature.”*¹⁵⁵

177. Administrative law professor Metin Günday also argues that the phrase “*affiliated with terrorism*” is an empty State of Emergency (OHAL) concept, invented to enable the mass dismissal of individuals without any investigation or trial. Günday emphasizes that legal terms such as “membership in a terrorist organization,” “aiding and abetting terrorism,” and “terrorist propaganda” already exist in law. However, he argues that “connection” and

154 <https://fidu.it/wp-content/uploads/FIDU-Report-Turkut-Dent-Yildiz.pdf>

155 <https://www.tr724.com/prof-dr-izzet-ozgenc-hukuk-literaturunde-irtibat-ve-iltisak-diye-bir-kavram-yok/?utm>

"affiliation" were fabricated OHAL concepts designed to dismiss tens of thousands of public employees arbitrarily.¹⁵⁶

178. The Council of State's (Danıştay) 5th Chamber, in its February 2, 2022 decision,¹⁵⁷ ruled that being "connected" or "affiliated" with terrorist organizations or groups deemed a threat to national security demonstrates a loss of loyalty to the constitutional order and justifies dismissal from public office. However, this leads to broad and vague interpretations of these concepts, which may result in arbitrary applications.

179. In the most recent decision of the Constitutional Court, dated **October 9, 2024**, regarding **Yahya Turgut**, the Court rejected the application submitted by Yahya Turgut based on evidence examined in the Court of Cassation. Specifically, the applicant worked as a manager at a school affiliated with the Gülen Movement, which required an internal appointment, and facilitated the collection of money under the guise of 'sacrificial donations' and 'financial assistance' for the organization since 2014. The applicant also made speeches praising Gülen Movement and Fethullah Gülen at the school during the period when investigations against the Gülen Movement were ongoing (after December 2013). Additionally, the applicant organized and participated in a protest organized by teachers under the direction of the Gülen Movement in front of the Elâzığ Courthouse. Further evidence included the applicant following the social media accounts used by the Movement on digital materials seized from him. The court found this application inadmissible. With this decision, the Constitutional Court effectively classified actions previously determined not to constitute a crime under the *Yalçinkaya v. Türkiye* judgment—**such as legal activities falling under freedom of expression**—as criminal acts. It was determined that **Yahya Turgut** was aware of the ultimate goal of the Gülen Movement, later “FETÖ”, even after it became widely known, and that his organizational activities within the terrorist group hierarchy were consistent with the organization's goals.¹⁵⁸

1. Minors Targeted as a Result of Family Relations in Kıskaç (Restructuring) Cases

180. With regard to the “Restruction-Kıskaç” operations against the member of the Gülen movement listed above, it can be seen that individuals, school children and even primary school students, whose relatives have been dismissed from their jobs or detained and arrested because of their legal and routine activities in accordance with the ECHR decisions are also at risk.

181. As highlighted in **Human Rights Watch's World Report 2024**, schoolchildren were detained despite the **United Nations Committee on the Rights of the Child's**

156 <https://www.tr724.com/idare-hukukcusu-prof-dr-gunday-terorle-iltisakli-ifadesi-ici-bos-bir-ohal-kavrami/?utm>

157 Council of State Decision 5th Chamber 2016/58725 E. 2022/118 K. 02.02.2022 T.

158 <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2021/43694?Dil=tr>

recommendation that the Turkish government ‘ensure that children under 18 are not detained or prosecuted under anti-terrorism laws’.¹⁵⁹

182. However, A significant portion of the individuals affected by the so-called "restructuring" operations consists of adolescents aged 14-17 and young adults aged 18-24. At the time of the 2016 coup attempt, these individuals were between the ages of 6 and 16 and often had no direct involvement in or awareness of the allegations against the Gülen Movement. Their prosecution is primarily based on their familial ties to individuals associated with the movement. As of 2021, a total of 3,763 minors under the age of 18 had been convicted of terrorism-related offenses.¹⁶⁰

183. It is considered a criminal offence to take lessons from another person to prepare for exams or even to be in the same environment as the children of people who have been isolated from society and subjected to civil death. **Children as young as primary school age were subjected to months of physical surveillance** in the courses they attended, their communication via telephone was tapped as if they were terrorists, and everything they did was recorded. In this situation, hundreds of thousands of individuals and family members live with the psychological anxiety of being visited by the police every morning. Because, especially regarding the investigations against the members of the Gülen Movement examined above, it is not necessary to have committed an act of violence, which are essential elements of terrorism, to be arrested and punished for membership of a terrorist organisation. Being a relative of a Gulen-linked person who has been imprisoned or illegally dismissed from his job, or even receiving help from him, is enough to be accused of a criminal offence.

1.1. Teenage Girls" Case (Kız Çocuklar Davası)

184. *"You are judging girls of 14 years on terrorism charges! They have been asked by the judges in the court: 'Why did you go to study with your neighbor?'"* (A critic by Nacho Sanchez Amor, European Parliament Rapporteur on Türkiye, towards to the Turkish Delgation in the meeting on the Annual Report on Türkiye, 2024)¹⁶¹

185. The "Teenage Girls" case pertains to the arrest and prosecution of a group of young girls, predominantly high school and university students, in Türkiye, who were charged with terrorism-related offenses. This case is particularly notable due to the involvement of minors and the nature of the charges, which focused on their provision of educational support to children whose parents had been incarcerated. Authorities perceived this form of assistance as an act of support for a terrorist organization. The significance of this case lies in its illustration of a shift in the Turkish government's approach to such allegations, marking the first instance in which minors have been directly targeted in investigations of this nature.

159 <https://www.hrw.org/world-report/2024/country-chapters/Türkiye#98722f>

160 <https://adlisicil.adalet.gov.tr/Home/SayfaDetay/adalet-istatistikleri-yayin-arsivi>
<https://www.stichtingipn.nl/wp-content/uploads/2025/02/GEVAAR-VOOR-BURGERLIJKE-GENOCIDE-IN-TURKIJE.pdf>

161 https://x.com/Ozgurmedya_tr/status/1862168386563654080

1.1.1. Case Description

186. On May 6, 2024, as part of an investigation conducted by the Istanbul Chief Public Prosecutor's Office, 38 people, including teenage girls, were detained, and 29 of them were arrested. The accusations were providing educational coaching to children whose parents are imprisoned, thereby supporting the families.¹⁶² However, this operation differs from previous ones, as until that date, there had not been a direct investigation into minors in such circumstances. **In this latest incident, it was observed that even minors were now being directly targeted in terrorism investigations related to the Gulen Movement.**

187. Many high school and university students, most of whom are girls, were detained along with their mothers. Sixteen children under the age of 18 were held in a separate unit from their mothers at the police station and were subjected to psychological torture, being threatened by the police with statements such as *"we will make you vomit blood"*.¹⁶³

188. In the operation¹⁶⁴, which was urgently brought to the agenda by DEM Party MP Ömer Faruk Gergerlioğlu, **high school students** were interrogated for 16 hours and forced to give statements against their families. During the detention, **the children were not allowed to see their lawyers and were prevented from informing their relatives and were intimidated by the police officers to harm their families.**

189. When the details of the investigation are examined, it is seen that the children's phones were tapped and that they were remotely followed by the police during social activities such as meetings, picnics, and dinners they went to with their families. As a result of this **technical and physical surveillance**, during which conversations and activities related to daily life were recorded, the following absurd questions were asked to the students:

- a. *"... it has been detected that your and ... cell phones received signal from the same tower (using the cell tower belonging to the same address). Please give your statement on this matter."*
- b. *"It is considered that the interview and signal data confirm that you stayed in the same house with ..., Please give your statement on the subject."*
- c. *"... you mentioned a person named ..., ... you made a plan to meet... Please give your statement on the matter."*
- d. *"It is evaluated that you met with ..., left with ..., had lessons with ... Please give your statement on the subject."*
- e. *"It is understood that the conversations were about a trip abroad... Give your statement."*
- f. *"Why are you staying in another house when your family resides in Istanbul?"*
- g. *"...it has been established that you first went to ... hospital, then visited the house at ... and stayed at ... house. Please give your statement about this."*

162 <https://kronos36.news/tr/29-tutuklama-parkinson-hastasi-anne-kiziyla-birlikte-hapse-gonderildi/>

163 <https://www.turkishminute.com/2024/05/15/erdogan-crackdown-donot-spare-minors-teenagers-recount-trauma-of-police-custody/>

164 <https://x.com/gergerlioglueng/status/1788305041297641486>

- h. *"It was detected that you entered the address "... and then left with a black bag labelled Aker, the contents of which were unknown. What was the purpose of this visit and what was in the bag?"*
- i. *"Since the person named went to the address of ... one day before you, your going to the same address one day later was considered as an organizational meeting. Give your statement about this."*
- j. *(Upon your declaration that the contents of the bag were food, but another suspect described it as fruit) "... give your statement about the issues that contain contradictions."*
- k. *"It was found that you gave a white bag and ..., ... took something from inside your bag. Give your statement about this"*
- l. *"... it was found that you left the house at ..., then met with ..., ... then went to your family's residence and left there to meet with your friend Please give your statement on this matter."*

190. **Detained people were also accused of hugging each other as it was a secret way of exchanging a criminal asset.**¹⁶⁵ Obviously, it is seen that questions based on physical surveillance aim to portray routine activities of daily life as organizational activities and are based on questioning individuals' personal freedoms.

191. **29 of the detainees, including female university students** detained with their mothers, were arrested on the grounds some of them as follows:¹⁶⁶

- a. *R.G. for teaching English to 5 **primary school students**,*
- b. *H.A. on the grounds of providing English lessons to his/her middle school-aged daughter.*
- c. *N.E. on the grounds that he/she drove home the teacher who gave English lessons to his/her child,*
- d. *K.D. on the grounds that his/her daughter had invited her friends for dinner at her house,*
- e. *G.G. for making his/her daughter take English lessons in primary school,*
- f. *Z.T. on the grounds that he was an educational coach for students,*
- g. *H.K. (A university student) was arrested on the grounds that she and another friend were living in a house apart from their families.*

1.1.2. Hearings with Scandalous

192. The trial started on September 23, 2024, at the Istanbul 24th High Criminal Court. Testimonies of the defendants were taken on 23, 24 and 25 September. On Thursday 26 September, 15 girls aged between 13 and 17 who were forcibly taken to the police station are expected to be brought in by the police to testify.

193. On the first day of the hearing, the presiding judge questioned the children about their studies, the Iftar programme, bowling and a meeting at a shopping centre, based on

¹⁶⁵ <https://x.com/Hurriyet/status/1796217509118615887>

¹⁶⁶ <https://kronos36.news/tr/29-tutuklama-parkinson-hastasi-anne-kiziyla-birlikte-hapse-gonderildi/>

information from social media. Ömer Faruk Gergerlioğlu, an MP who attended the hearing on the first day, criticised the questions asked and the attitude of the court. On the second day of the hearing, MP Ömer Faruk Gergerlioğlu, who was sitting in the courtroom as a spectator when the hearing started, was forcibly removed from the courtroom by the police. It was announced that the presiding judge made this decision after being criticised on social media.

1.1.3. International Observation on the Case

194. The case of the Girls, which has been ignored by the Turkish public, is closely followed by some international human rights organizations and representatives of foreign countries. One of these representatives, **Prof. Dr. Antonio Stango, President of the Italian Federation for Human Rights**, told journalists following the case that he had not seen any evidence or questions about the alleged crime.¹⁶⁷

195. Afterwards, **The Italian Federation for Human Rights (FIDU)** published a report evaluating the first hearing of the Underage Girls Case from September 23-27, 2024. On 14 November 2024, the Interim Trial Monitoring Report, penned by FIDU President Prof. Dr. Antonio Stango, stated that **the charges in the case were based on ordinary lawful activities such as tutoring, socializing and communicating through popular messaging apps**. It said the indictment was based on vague police reports and intelligence notes without supporting evidence, criminalizing the use of digital platforms such as WhatsApp and Telegram, but without providing concrete content to support the allegation of criminal activity. Concern was expressed that children aged 13-17 were arrested in dawn raids, held without legal representation and forced under pressure to incriminate their peers and parents. It was noted that the presiding judge asked questions that lacked impartiality and implied guilt, that defense lawyers were prevented from presenting an effective defense, and that the conditions of the trial were inadequate. The detention of the defendants was prolonged without reasonable grounds.¹⁶⁸

196. **Andrea Barron**, a Washington, D.C.-based human rights expert specializing in support for survivors of torture, also traveled to Istanbul in September and again in February to observe the trial known as the "Teenage Girls' Trial." Barron condemned the charges brought against 41 defendants, including 15 high school students, who face accusations of terrorism for participating in routine social and religious activities, such as studying mathematics and science, reading the Quran, and providing financial assistance to one another.¹⁶⁹

197. The "Teenage Girls" case underscores the broader issue of the systematic targeting and suppression of political dissent in Türkiye, particularly among younger individuals. It highlights the perilous implications of equating ordinary social and educational activities with terrorism, fostering a chilling effect that undermines free expression and discourages peaceful social engagement. Furthermore, the case draws attention to the plight of minors who are being exploited as pawns in a politically motivated legal conflict, resulting in a flagrant

167 <https://kronos37.news/kiz-cocuklari-davasini-izleyen-italyan-insan-haklari-federasyonu-baskani-stango-davayi-italyan-parlamentosunda-gundeme-getirecegim/>

168 <https://fidu.it/language/en/turkiye-interim-trial-monitoring-report-on-the-girls-case/>

169 <https://www.turkishminute.com/2025/02/20/rights-advocate-decried-terrorism-charge-against-high-school-girls-for-associating-with-peers7/>

violation of their rights and freedoms. Consequently, the case has come to symbolize the erosion of civil liberties in Türkiye, as well as the escalating concerns regarding the independence and impartiality of its judiciary.

2. Other Investigations Against Teenagers For their Gülenist Family Relations

198. On May 30, 2024, as another example, **Esengül ARSLAN** was detained with 90 people in police raids (Kıskaç 18). Esengül ARSLAN (23), is a 3rd year student at Istanbul University, Cerrahpaşa Florence Nightingale Faculty of Nursing, and had to move to Istanbul after the catastrophic earthquake occurred on the 6th of February 2023 in Hatay. ARSLAN was detained in Istanbul within the scope of the Gülen Movement investigations **because the pocket money sent by her brother abroad** was considered as “terror financing”.¹⁷⁰

199. The latest operation against teenagers was carried out on **January 11, 2024**, in Kırklareli, during which **15 female university students**, most of whom have family members who have been prosecuted or imprisoned, and a pregnant woman were detained as they were staying together. This was considered a criminal action of restruction of student houses associated with the Gülen Movement.¹⁷¹

3. 706 Children are Currently Living with Their Mothers in Turkish Prisons

200. In the answer provided to Question 1 above, the indirect pressure and discrimination faced by the family members of individuals associated with the Gülen Movement due to the Gülen investigations were discussed. Furthermore, the young children of individuals who have been arrested and imprisoned due to the Gülen investigations are also compelled to enter prison due to the legal discrimination their families endure.

201. According to Article 16/4 of the Law No. 5275 on the Execution of Penal and Security Measures:

"The execution of the prison sentence is postponed for women who are pregnant or have given birth within the past year and six months."

202. However, even this explicit provision of the law is not applied to women affiliated with the Gülen Movement.

- **Büşra Tuna Çankaya**, a religious studies teacher sentenced to 6 years and 10 months in prison by the Antalya 2nd High Criminal Court for allegedly staying in a girls' dormitory linked to Gülen Movement and using ByLock, was arrested in Edirne on **January 5, 2025**, along with her **9-month-old son Bera** and her husband, Yasin Çankaya, a former police officer dismissed by state of emergency decree.¹⁷²

170 <https://stockholmcf.org/turkish-court-arrests-student-for-receiving-money-from-relatives-abroad/>

171 <https://www.tr724.com/kadinlara-ve-hamilelere-yine-gozalti/>

172 <https://www.solidaritywithothers.com/post/Türkiye-rights-monitor-issue-237>

- After **Sümeyye Tercanlioğlu** was arrested in Edirne on **October 7, 2024**, her sister began taking care of her son Enis. However, after three months without breast milk, the baby had to enter prison at his mother's request.¹⁷³
- Eda Nur Akkaya, who is 7 months pregnant and under investigation for alleged membership in the Gülen Movement, was arrested November, 11, 2023, in Edirne along with her husband.¹⁷⁴

203. According to the **Minister of Justice, Yılmaz Tunç**, **706 children are currently living with their mothers in Turkish prisons**. The minister also revealed the number of couples who are under arrest, saying that **498 people are currently imprisoned on terrorism-related charges along with their spouses**, which, according to rights groups, puts the children of these people under great emotional stress due to separation from both parents.¹⁷⁵ For example, A Turkish couple was arrested and sent to prison to serve sentences for conviction of links to the Gülen movement, leaving their six children (5 are quintuplet) in the care of relatives.¹⁷⁶

D- QUESTION 4

204. The last question posed to the IND by the Council of State is:

On page 4 of the decision memorandum, you stated, referring to a ruling by the Turkish Constitutional Court dated 12 April 2023 and a ruling by the Turkish Court of Cassation in 2021, that the criteria used by the Turkish authorities to assess whether someone is a Gülenist—and which could lead to negative attention—were more strictly reviewed by Turkish judges.

*In case numbers 202402148/1/V2 and 202404629/1/V2, the foreign nationals referred to a document from Justice Square. On pages 18-21 of this document, it is stated that in the ECtHR judgment of 26 September 2023, *Yüksel Yalçinkaya v. Türkiye*, ECLI:CE:ECHR:2023:09261UD001566920, the ECtHR was critical of the manner in which Gülen supporters are prosecuted. In this context, the ECtHR ordered Türkiye to release all individuals convicted based on this prosecution practice. On pages 20-21 of the Justice Square document, it is stated that the Turkish authorities have openly declared that they will disregard this ruling.*

Could you explain what this means for the assessment of asylum applications from foreign nationals who claim that, upon return to Türkiye, they will be associated with the Gülen movement and will therefore attract negative attention from the authorities?

1. Yalçinkaya V. Türkiye

205. Following the failed coup attempt of July 15, 2016, multitudes of applications were lodged with the ECtHR by individuals claiming to be the victims of the violations of their rights throughout the investigations and criminal proceedings launched against them. And to this date, the ECtHR has held that a total of 1,564 individuals, including **1,142 judges and**

173 <https://boldmedya.com/2024/01/04/annesi-yanina-aldi-6-aylik-enis-bebek-cezaevine-girdi/>

174 <https://boldmedya.com/2022/09/10/7-aylik-hamile-eda-nur-akkaya-tutuklandi/>

175 <https://www.turkishminute.com/2024/10/11/706-children-accompany-mother-turkish-prisons-justice-minister/>

176 <https://www.turkishminute.com/2023/10/04/turkish-court-send-parents-of-6-to-prison-on-gulen-charges-conviction/>

prosecutors, were unlawfully detained.¹⁷⁷ In addition, the number of cases currently pending before the ECtHR is **60,350** according to the latest statistics. Of this number, **35.8%**, or **21,600**, are from Türkiye alone.¹⁷⁸

206. *Yalçınkaya v. Türkiye* case (App. No: 15669/20), in which the ECHR seized the opportunity to rule over the merits of the case under Article 7, 6, and 11, was announced on September 26, 2023.¹⁷⁹

1.1. Case Description

207. Yüksel Yalçınkaya, a teacher at a public school, was dismissed from public service under Decree Law No. 672 on the grounds of alleged affiliation with a terrorist organization. The applicant was taken into custody on 6 September 2016 and subsequently arrested on 9 September 2016.

208. An indictment dated 6 January 2017 charged the applicant with membership in the “FETÖ/PDY” armed terrorist organization and requested his conviction under Article 314/2 of the Turkish Penal Code.

209. On 21 March 2017, at the first hearing, the Kayseri 2nd High Criminal Court convicted the applicant of membership in an armed terrorist organization and sentenced him to 6 years and 3 months in prison, citing the following grounds: use of the ByLock messaging application, membership in a trade union and an association affiliated with “FETÖ/PDY,” and depositing money in Bank Asya.

210. Following a retrial with a hearing, the Ankara Regional Court of Appeal dismissed the applicant's appeal on 9 October 2017. In addition to the evidence presented at the first-instance stage, the appeal court relied on historical traffic search (HTS) records obtained from the Information and Communication Technologies Authority (BTK) and a report prepared by a forensic IT expert. The report indicated that the applicant had connected to ByLock servers' IP addresses a total of 380 times on six different days.

211. On 30 October 2018, the Court of Cassation upheld the applicant's conviction. The Constitutional Court rejected the applicant's individual application on 26 November 2019, ruling that “the allegations regarding the violation of fundamental rights and freedoms are manifestly ill-founded and do not meet the other admissibility criteria set out in Law No. 6216 on the Establishment and Procedures of the Constitutional Court.” In its decision – comprising only four short paragraphs, with the first three summarizing the application and complaints – the Constitutional Court provided no further reasoning, merely referring to some of its previous decisions in parentheses.

177 <https://justicesquare.org/after-15-july-violation-judgements-against-Türkiye-by-the-ecthr/>

178 <https://www.echr.coe.int/documents/d/echr/stats-pending-month-2024-bil>
<https://www.echr.coe.int/documents/d/echr/annual-report-2024-eng>

179 <https://hudoc.echr.coe.int/?i=001-227636>

1.2. ECtHR Proceedings

212. Following the exhaustion of domestic remedies, an application was submitted to the European Court of Human Rights (ECtHR) on 17 March 2020. The case was communicated to the Government within a relatively short period of 11 months.

213. The ECtHR found many of the applicant's allegations to be serious and addressed multiple questions to the Government under Article 6 (right to a fair trial), Article 7 (no punishment without law), Article 8 (right to respect for private and family life), and Article 11 (freedom of assembly and association) of the European Convention on Human Rights (ECHR).

214. After the applicant submitted counterarguments to the Government's observations, the written procedure (replication and rejoinder) was completed. Taking into account the importance, scope, and potential implications of the issues raised in the application, the Second Section of the ECtHR decided on 3 May 2022 to relinquish jurisdiction in favor of the Grand Chamber under Article 30 of the Convention.

1.3. Grounds for Finding a Violation

215. The Grand Chamber of the European Court of Human Rights (ECtHR) found violations of the applicant's right to a fair trial (Article 6), the principle of no punishment without law (Article 7), and the right to freedom of assembly and association (Article 11). In its defense before the ECtHR, the government argued that the applicant's conviction was based on the ByLock application, with the applicant's Bank Asya account and membership in associations/unions presented as secondary, discretionary evidence in the case file.

1.3.1. Violation of the Principle of No Punishment Without Law (Article 7)

216. The applicant, Yüksel Yalçınkaya, argued that the actions for which he was convicted did not constitute a crime at the time they were carried out, and therefore, the principles of "no punishment without law" and "nullum crimen, nulla poena sine lege," as guaranteed by Article 7 of the Convention, were violated. The government, however, contended that it was not necessary for the actions themselves to be criminal in nature, as these actions were considered evidence of the applicant's "membership in an armed terrorist organization." In this context, the government argued before the ECtHR that, aside from ByLock, issues such as the Bank Asya account and association membership were not accepted as conclusive evidence by the courts, but rather as discretionary evidence in the case file. According to the government, when courts adjudicate on an individual's membership in the movement, they do not consider evidence other than ByLock as determinative. In short, the government maintained that ByLock alone constitutes sufficient (decisive) evidence for the conviction of a person for membership in an armed terrorist organization (§ 232).

217. The European Court of Human Rights (ECtHR) reiterates the fundamental principles of law, particularly those of criminal law. The Court first emphasizes that the principle outlined in Article 7 cannot be suspended by states under the context of 15 measures (state of emergency) (§ 237). According to the Court, it is not enough for a legal provision to be clear and foreseeable; the manner in which this provision is interpreted by judicial authorities must

also be clear and foreseeable (par. 239). A particularly notable statement from the Court, especially in the context of ByLock, is: “[...] a presumption of [a person’s guilt] should not have an effect that could prevent the individual from defending their innocence against the accusations” (§ 242).

218. The Court notes that the domestic courts failed to provide a reasonable explanation as to how the individual’s use of the ByLock application could demonstrate an intention to further the alleged objectives of a terrorist organization through the use of violence and force, as stated in legal provisions. The Court particularly emphasizes that the individual must be aware of the aims of the organization as outlined in the definition of the crime, thus highlighting the mental element of the offense (§§ 263, 264). It underscores that the offense of membership in a terrorist organization under domestic law can only be committed with specific intent. The Court reminds that the interpretation of ByLock by the domestic courts effectively turned the offense of membership in an armed terrorist organization into one of strict liability.

219. The ECtHR found that this broad and unforeseeable interpretation effectively created an automatic presumption of guilt based solely on ByLock usage, making it nearly impossible for the applicant to exonerate himself from the charges (para. 268).

220. In summary, the Court concluded that domestic courts imposed an almost strict liability standard on individuals accused of using ByLock. Rather than determining the material and subjective elements of the offense of membership in a terrorist organization as required by domestic law and Court of Cassation jurisprudence, they relied on assumptions to convict individuals. The Court held that such a broad and unforeseeable interpretation by domestic courts was incompatible with the purpose and objective of Article 7 of the Convention, which aims to provide effective safeguards against arbitrary prosecution, conviction, and punishment (para. 300).

1.3.2. Violation of the Right to a Fair Trial (Article 6 ECHR)

221. The ECtHR reaffirmed that it is primarily the role of domestic courts to determine the admissibility of evidence and whether a defendant is guilty. However, the key question remains whether the trial as a whole—including the manner in which the evidence was obtained—was fair (para. 310). The Court emphasized that the proceedings must be fair as a whole, including the collection and presentation of electronic evidence.

222. One of the most significant fair trial violations identified by the ECtHR was that the applicant was not given the opportunity to challenge the authenticity of ByLock data. The domestic courts failed to allow an effective challenge against prosecution evidence. The concerns regarding the reliability of ByLock data, including discrepancies in intelligence agency lists, inconsistencies between the number of prosecuted users and the number of downloads, were left unanswered.

223. The ECtHR held that, in accordance with the principle of equality of arms, the trial should have at least allowed the applicant to comment on all decrypted material concerning him. Furthermore, ByLock was available for public download via app stores and websites for nearly

two years until early 2016, undermining the Government’s claim that it was exclusively used by a particular group.

224. For these reasons, the ECtHR ruled that the criminal proceedings against the applicant did not meet the requirements of a fair trial and therefore violated Article 6(1) of the Convention.

1.3.3. Violation of Freedom of Association (Article 11 ECHR)

225. The Court found that even if the Government classified union and association membership as merely circumstantial evidence, its presence in the applicant’s case file was sufficient to establish that there had been an "interference" with the rights protected under Article 11.

226. In this context, determining whether the interference had a legal basis (i.e., whether it was based on a legal provision) is crucial.

227. The ECtHR found that union and association membership constituted entirely lawful activities, and no evidence was presented to prove otherwise. The Court concluded that Article 314(2) of the Turkish Criminal Code had been interpreted so broadly and arbitrarily that it criminalized the applicant’s lawful activities and the exercise of fundamental rights.

228. According to the ECtHR, the interpretation of these provisions was so arbitrary that the applicant was deprived of even the minimum level of safeguards necessary to protect his rights under Article 11. Consequently, the interference lacked a legal basis, making it unnecessary to further examine its legitimacy.

2. Binding Nature and Enforcement of Judgments (Article 46)

229. In this landmark decision, the Grand Chamber not only ruled that the trial of Yüksel Yalçınkaya violated Articles 6, 7, and 11 of the ECHR, but also highlighted the need for measures to prevent systemic violations stemming from broader issues. This ruling is significant not only for the specific application at hand, but also for the thousands of other cases currently pending or potentially forthcoming, as it points to the necessary steps to address and prevent such systematic breaches.

230. In this section, the European Court of Human Rights (ECtHR) emphasizes Türkiye’s obligation, under **Article 46 of the ECHR**, to comply with the Court’s judgments, including the duty to restore the situation as it was before the violation occurred. The Court clarified that while the specific method of execution falls under the supervision of the Committee of Ministers and should align with the findings and spirit of the judgment, it is ultimately Türkiye’s responsibility to determine how to implement the decision (§ 404). However, the Court also noted that, in certain cases, it may guide state parties on how to address systemic violations, although the final authority on such matters rests with the Committee of Ministers (§ 405). Furthermore, the Court highlighted that while it does not have the authority to order the retrial of a case, in some situations, reopening the trial may be the most appropriate and only option, which may also apply to violations of Article 7 (§§ 406-407). After outlining its

general approach to the enforcement of judgments, the Court specified both the individual measures necessary to remedy the specific violation of the applicant's rights and the broader measures that may be required in similar cases.

231. The Court emphasized that the essence of the violations of Articles 6 and 7 stemmed from the domestic courts' interpretation of ByLock. It pointed out that the situation leading to the violations of Articles 6 and 7 was not an isolated incident but rather a systemic issue that affects a large number of individuals and has the potential to affect many more. The Court noted that there were over 8,000 ongoing cases related to this matter and, given the number of individuals identified by the government as having used ByLock, the number of cases that could potentially arise could reach around 100,000 (§§ 114-115).

232. The Court's most striking and compelling paragraph on this matter is paragraph 418:

"418. Therefore, in order to avoid finding similar violations in numerous future cases, the Court believes that the shortcomings identified in the present judgment should be addressed by the Turkish authorities on a broader scale — that is, beyond the specific case of the present applicant — where relevant and feasible. Accordingly, under the obligations of the respondent State under Article 46 of the Convention, it is the responsibility of the competent authorities to draw the necessary conclusions from the present judgment and take appropriate general measures to address the systemic issues identified above, which led to the findings of violations."

233. In such a case, Türkiye has no room for maneuver and has no choice but to implement the measures indicated by the ECtHR.

3. Political Reactions on the Yalçinkaya Decision

234. After the announcement of Yalçinkaya Decision, worrying public statements made by top politicians and high-level jurists following the announcement of the Yüksel Yalçinkaya judgment, which publicly questioned the authority of the judgment, reinforce the perception that the Government is reluctant to ensure its proper, effective, and prompt implementation.

235. In a statement made on October 1, 2023, **President Recep Tayyip Erdoğan** said: *"The recent decisions of the European Court of Human Rights (ECtHR), a body of the Council of Europe, have been the final straw. Let the members and supporters of the terrorist organization, who have taken courage from this decision, not get their hopes up in vain; there will be no gain for the vile FETÖ members, who have already been condemned in the collective conscience, from this decision. Remember, once a traitor, always a traitor. Our nation has the wisdom not to be bitten twice by the same snake. It is impossible for us to respect or heed the decisions of institutions that align themselves with terrorist organizations."*¹⁸⁰

236. Minister of Justice also stated on September 28, 2023 that: *".. we do not believe that this decision will set a precedent. Our review is ongoing. **We particularly believe that this decision pertains only to that specific case**. Because each case has its own unique characteristics. Each person*

180 <https://tr.euronews.com/2023/10/01/erdogan-yeni-anayasa-cagrisi-yapti-aihm-ve-abyi-elestirdi>

on trial must be evaluated separately, especially in terms of the evidence collected. This is how it works in criminal law. Therefore, we do not believe that this decision will set a precedent.”¹⁸¹

237. The Former President of the Constitutional Court, Zühtü Arslan, made a statement on October 1, 2023, saying: “The decision of the Constitutional Court is already clear. Therefore, they [the European Court of Human Rights] made a different decision from ours.”¹⁸²

238. These statements raise serious concerns regarding the independence and impartiality of the judiciary in the execution of this judgment. Not surprisingly, these statements encourage the judiciary to disregard the judgment, resulting in its non-implementation by the courts. Since the announcement of the Yüksel Yalçınkaya judgment, criminal investigations and prosecutions have continued for the same acts and under circumstances similar to those addressed in the judgment. Neither the Court of Cassation nor the Constitutional Court has yet to evaluate the binding or guiding nature of the Yalçınkaya judgment. Courts at all levels have concluded cases using the same approach and procedures as if the European Court had not rendered the Yüksel Yalçınkaya judgment. Furthermore, the Government has not developed any solution for final cases in which defendants were convicted for their lawful acts in violation of Yalçınkaya judgment.

3. Non-Compliance of Domestic Courts with the Yalçınkaya Judgment

239. According to above-mentioned Article 46 of the ECHR, signatory states are obligated to abide by final judgments of the ECtHR in cases where they are parties. Additionally, Article 90 of the Turkish Constitution provides that international treaties concerning fundamental rights shall prevail over conflicting domestic laws. In principle, this framework necessitates the harmonization of domestic judicial decisions with the standards set by the ECtHR. However, Türkiye’s judicial response to the Yalçınkaya ruling raises concerns about de facto judicial resistance to supranational legal obligations.

3.1. First Instance Courts

240. Although the esteemed IND officials claimed that “there are positive improvements in the judgements delivered by the Turkish courts, especially in cases involving downloading and/or using a messaging programme (Bylock) on the phone, holding an account with a private bank (Bank Asya) and making bank transactions”, in fact, there are so many decisions collected by our Foundation through our social media followers showing that the approach of Turkish Judiciary is still not applied with the Yalçınkaya decision. (For Decisions please check the Communication Letters submitted by Our Foundation to the committee under Rule 9(2) of the Rules of the Committee of Ministers¹⁸³) For example:

1. The Istanbul 13th High Criminal Court convicted the accused on **May 8, 2024** for using ByLock, noting that the identified ByLock messages were related to obtaining medical reports and instructions for medication, consistent with the accused's profession as a doctor.¹⁸⁴

181 <https://www.adalet.gov.tr/adalet-bakani-tunc-gazetecilerin-sorulari-yanitladi>

182 <https://www.ntv.com.tr/turkiye/aym-baskani-arслан-aihm-kararina-katilmiyoruz-bizim-kararimiz-belli,yq2H8IDPxUyfREUrt6nHmg>

183 [https://hudoc.exec.coe.int/ENG#%7B%22execidentifier%22:%5B%22DH-DD\(2024\)1053E%22%5D%7D](https://hudoc.exec.coe.int/ENG#%7B%22execidentifier%22:%5B%22DH-DD(2024)1053E%22%5D%7D)

184 T.C. İSTANBUL13. ASSIZE COURT: DOCKET NO : 2022/103 File DECREE NO : 2024/106

2. The Batman 2nd High Criminal Court convicted the accused on **January 30, 2024** solely for having an account in Bank Asya. The court stated that although the accused's activities did not show continuity, diversity, and intensity to indicate inclusion in the hierarchical structure of the armed terrorist organization, they were considered actions serving the purpose of the organization, thus constituting the crime of aiding the armed terrorist organization. (Annex 10)¹⁸⁵
3. The Istanbul 24th High Criminal Court convicted the accused on **July 9, 2024** based on union membership and holding an account in Bank Asya. (Annex 15)¹⁸⁶
4. The İzmir 2nd High Criminal Court convicted the accused on **July 16, 2024** for using the ByLock application, even without determining the message contents. (Annex 18)¹⁸⁷
5. The Hatay 2nd High Criminal Court convicted several individuals on **July 18, 2024** for using the ByLock application and holding an account in Bank Asya, even without determining the message contents. (Annex 22)¹⁸⁸
6. The Hatay 2nd High Criminal Court convicted several individuals on **June 27, 2024** for using the ByLock application and holding an account in Bank Asya without determining the message contents. (Annex 26)¹⁸⁹
7. In a decision issued by the Ankara 15th High Criminal Court (ACM) on **June 28, 2024**, the accused was convicted based on the alleged use of the ByLock application and having an account in Bank Asya. (Annex 27)¹⁹⁰
8. In a decision issued by the Hatay 2nd High Criminal Court (ACM) on **June 27, 2024**, several individuals were convicted based on the alleged use of the ByLock application. (Annex 28)¹⁹¹

241. There are also dozens of similar decisions still given by first instance courts from across Türkiye as indications of the first instance courts' disregard for Yalçinkaya judgment. Regarding that all these first-instance court decisions were rendered recently, in the aftermath of the announcement of the Yüksel Yalçinkaya judgment on September 26, 2023, the practice of the first-instance courts, even after the Grand Chamber of the ECtHR's ruling on Yalçinkaya Case, has not changed at all. None of these decisions includes any assessment of the material and mental elements of the offense as required by the Yüksel Yalçinkaya judgment. Instead, they reflect the persisting systemic problematic practice of automatically sentencing individuals based on their alleged use of the ByLock application.

3.2. Regional Appeal Courts and Court of Cassation

242. The esteemed IND officials stated, in their response letter, that “*the Court of Cassation may quash first-instance court decisions when they fail to apply the criteria established by the Court of Cassation, thereby ensuring a uniform practice.*”

243. However, it can be observed from the sample decisions that both the regional courts and **the Court of Cassation are focusing solely on whether the person really used Bylock**. It asks

185 T.C. BATMAN 2. ASSIZE COURT: DOCKET NO : 2023/41 File DECREE NO : 2024/33

186 T.C. İSTANBUL 24. ASSIZE COURT: DOCKET NO : 2024/40 File DECREE NO : 2024/212

187 T.C. İZMİR 2. ASSIZE COURT: DOCKET NO : 2024/42 File DECREE NO : 2024/211

188 T.C. İZMİR 2. ASSIZE COURT: DOCKET NO : 2024/42 File DECREE NO : 2024/211

189 T.C. HATAY 2. ASSIZE COURT: DOCKET NO : 2024/38 File DECREE NO : 2024/196

190 T.C. ANKARA 15. ASSIZE COURT: DOCKET NO : 2023/305 File DECREE NO : 2024/305

191 T.C. HATAY 2. ASSIZE COURT: DOCKET NO : 2024/38 File DECREE NO : 2024/196

first-instance courts to make a further examination by interrogating the persons seen on the contact list as identified in the findings and evaluation report. There are numerous examples presented above show the practice of the Court of Cassation contrary to what the IND officials claims. **In many cases, as can be seen from the decisions presented in this report, first instance courts convicted the defendants even after making this further investigation although the witnesses denied their connection with the defendants through the Bylock application.** (See Yalçinkaya case in the Kayseri 2nd High Court below parag.243-248)

244. While IND officials acknowledge that *“possession of the ByLock application still constitutes grounds for arrest under Turkish law, they point out that evidence related to the ByLock application has almost never been used as incriminating evidence by Turkish courts following the European Court of Human Rights’ judgment in Yalçinkaya v. Türkiye.”* This presents a clear contradiction, as the continued arrests based on the ByLock application¹⁹², despite the fact that it is not used as evidence by the courts, indicates that there has been no positive shift in the Turkish courts’ perspective on this application. Moreover, as evidenced by the recent decisions mentioned above, the ByLock continues to be consistently utilized as evidence by both the first-instance courts and the Court of Cassation and is regarded as the strongest proof of membership of an armed terrorist organization.

245. The following decisions given by the Court of Cassation demonstrate that the practice of similar to that in the Yüksel Yalçinkaya case has not changed at all:

1. The Istanbul 25th High Criminal Court convicted a person accused of using the ByLock program, stating that it was not necessary for individuals within the ByLock network to communicate with each other. (Annex 1) **The 3rd Criminal Chamber of the Court of Cassation upheld this ruling on February 7, 2024**, without further evaluation.¹⁹³
2. The Manisa 3rd High Criminal Court convicted the accused based on messages that included topics such as organizing a picnic, collecting donations, sacrifices, and scholarships, **having a 555 TL (around 14 EURO) account in Bank Asya**, and being a member of the Active Educators Union since February 17, 2012, until resignation on June 30, 2016. **The 3rd Criminal Chamber of the Court of Cassation upheld this ruling on April 3, 2024**, without further evaluation.¹⁹⁴
3. The Istanbul 14th High Criminal Court convicted the accused on May 17, 2023 **for having an account in Bank Asya** and being a member of the Aktif-Sen association. The court considered the increase of 16,244.2 TL in the account balance at Bank Asya between December 31, 2013, and December 24, 2014. **The Istanbul Regional Court of Appeal upheld this ruling on May 14, 2024.**¹⁹⁵

192 <https://stockholmcf.org/Türkiye-detains-103-in-operations-targeting-alleged-gulen-followers/>

193 T.C. COURT OF CASSATION 3rd CRIMINAL CHAMBER: Case No: 2023/4307 Decision No: 2024/2544

194 T.C. MANİSA 3. ASSIZE COURT: DOCKET NO : 2017/112 File DECREE NO : 2018/835

T.C. COURT OF CASSATION 3rd CRIMINAL CHAMBER: Case No: 2022/1052 Decision No: 2024/5055

195 T.C. İSTANBUL 14. ASSIZE COURT: DOCKET NO : 2022/103 File DECREE NO : 2023/196

T.C. İSTANBUL REGIONAL COURT OF APPEAL 2nd CRIMINAL CHAMBER: Case No: 2023/874 Decision No: 2024/653

4. The Antalya 8th High Criminal Court convicted the accused on March 15, 2018, for using the **ByLock** application and being a member of an association, despite the absence of message contents. It appears that the people on the accused's ByLock friend's list were not heard as witnesses. **The 3rd Criminal Chamber of the Court of Cassation February 14, 2024 upheld this ruling.**¹⁹⁶
5. The Antalya 10th High Criminal Court convicted the accused for using ByLock and holding an account in Bank Asya.¹⁹⁷ The 3rd Criminal Chamber of the Court of Cassation upheld this ruling on **March 20, 2024**, without further evaluation.¹⁹⁸
6. The Izmir 15th High Criminal Court convicted the accused on May 10, 2024, for depositing money into **Bank Asya** and being a member of an association. The previous trial had been overturned by the Court of Cassation for not discussing whether the accused's actions constituted aiding the organization. The retrial resulted in the accused being **convicted for membership in TSİAD and depositing 10,000 TL into Bank Asya** on January 13, 2014, after taking out a loan from Şekerbank.¹⁹⁹
7. The Istanbul 14th High Criminal Court convicted the accused on May 17, 2023 for having an account in Bank Asya and being a member of the Aktif-Sen association. (Annex 30)²⁰⁰ The court considered the increase of 16,244.2 TL in the account balance at Bank Asya between December 31, 2013, and December 24, 2014. The Istanbul Regional Court of Appeal upheld this ruling on **May 14, 2024.**²⁰¹
8. The conviction of the defendant E.K., rendered by the Konya 7th High Criminal Court on 19.06.2019 under case number 2018/264 and decision number 2019/182, **was upheld by the 3rd Criminal Chamber of the Court of Cassation on September 26, 2024.** The conviction was based on findings that the defendant frequently communicated via the phone number 0507 (...) (..)80, which he had been using for many years, with individuals under investigation for membership in the FETÖ/PDY terrorist organization and attended meetings on 11 occasions.²⁰²
9. The conviction of the defendant M.Ç., rendered by the Aksaray 2nd High Criminal Court on 01.02.2018 under case number 2017/210 and decision number 2018/25, **was upheld by the 3rd Criminal Chamber of the Court of Cassation on October 2, 2024.** The conviction was based on findings that the defendant was a teacher in a Gülen linked Study Centre, worked as Zaman newspaper distributor, had a Bank Asya account and attended religious meetings.²⁰³
10. The conviction of the defendant E.K., rendered by the İstanbul 28th High Criminal Court on 03.07.2018 under case number 2017/109 and decision number 2018/122, **was upheld by the 3rd Criminal Chamber of the Court of Cassation on September 17,**

196 T.C. ANTALYA 8. ASSIZE COURT: DOCKET NO : 2017/262 File DECREE NO : 2018/106
T.C. COURT OF CASSATION 3rd CRIMINAL CHAMBER: Case No: 2021/19290 Decision No: 2024/2017

197 T.C. ANTALYA 10. ASSIZE COURT: DOCKET NO : 2017/436 File DECREE NO : 2018/262

198 T.C. COURT OF CASSATION 3rd CRIMINAL CHAMBER: Case No: 2022/100 Decision No: 2024/4352

199 T.C. İZMİR 15. ASSIZE COURT: DOCKET NO : 2024/140 File DECREE NO : 2024/301

200 T.C. İSTANBUL 14. ASSIZE COURT: DOCKET NO : 2022/103 File DECREE NO : 2023/196

201 T.C. İSTANBUL REGIONAL COURT OF APPEAL 2nd CRIMINAL CHAMBER: File no : 2023/874 Decree No: 2024/653

202 T.C. YARGITAY 3rd Criminal Chamber Docket No: 2022/4727 Decision No: 2024/10772

203 T.C. YARGITAY 3rd Criminal Chamber Docket No: 2022/3410 Decision No: 2024/11120

2024. The conviction was based on findings that the defendant attended religious meetings.²⁰⁴

246. As can be seen in the latest decisions above, the courts at all levels continue to fail to provide any justification for withholding the ByLock data from the defendants despite their requests and they do not even respond to their requests asking for data at least allegedly relating to them. **This persistent stance of the judiciary continues to deprive the defendants of the opportunity to present counter-arguments, challenge the validity of the reasons, or dispute whether all efforts had been made to strike a fair balance between the competing interests and to protect their defense rights.**

247. No court has had the opportunity to review the raw data of ByLock Server in the past eight years, including since the announcement of the Yüksel Yalçinkaya ruling, nor have they shown any interest in requesting access to the impugned data. Any of the concerns raised by the defendants regarding the reliability of the ByLock evidence—such as the inconsistencies between different ByLock user lists issued by the MİT (National Intelligence Organisation), as well as the discrepancy between the number of identified users and those ultimately prosecuted, and the number of downloads—have likewise not been addressed by the domestic courts. **The domestic courts continue to fail to consider that the ByLock data had already been processed and used not only for intelligence purposes but also as criminal evidence to initiate investigations and arrests, including that of the applicant, before the magistrate's court's order for their examination.**

248. To make a fair assessment on the change of legal approach on Turkish courts regarding the cases against the member of Gülen Movement, the esteemed **IND officials should assess reasoned judgments** from the first-instance courts in the same cases. Additionally, it should investigate the outcomes of cases that were quashed by the Court of Cassation, **as in many instances, defendants are reconvicted by first-instance courts for the same offense by circumventing the Court of Cassation's quashing decision.** Interestingly, although the esteemed IND officials stated that there are several quashing decisions rendered for procedural reasons, **there is not a single acquittal decision from the first-instance courts following retrials conducted after the Court of Cassation's quashing decisions.** Nor is there any decisions from the regional courts of appeal in favor of the defendants.²⁰⁵

3.3. Non-Compliance of Yalçinkaya Decision in the Retrial of Yüksel Yalçinkaya in the First Instance Court

249. Due to these statutory requirements, the retrial of Mr. Yüksel Yalçinkaya commenced on **28 November 2023** at the same Kayseri 2nd Assize Court, which had previously convicted the applicant. The court started the retrial by asking relevant authorities for information such as the applicant's Bylock Evaluation and Determination Report, and the Bank Asya transaction statements of the applicant, already assessed in the Grand Chamber judgment. The Kayseri court also requested **whether it was possible to obtain the raw data related to the content of ByLock, and, if possible, decided to ask for it to be sent to the court.**

204 T.C. YARGITAY 3rd Criminal Chamber Docket No: 2022/861 Decision No: 2024/9935

205 [https://hudoc.exec.coe.int/ENG#{%22execidentifier%22:\[%22DH-DD\(2024\)1053E%22\]}](https://hudoc.exec.coe.int/ENG#{%22execidentifier%22:[%22DH-DD(2024)1053E%22]})

250. Before the second hearing, held on 2 April 2024, the Department of Anti-Smuggling and Organized Crime (KOM) responded to the court's requests for accessing the raw data by stating that: **“Since the raw data is not readable, it cannot be processed or separated based on User ID. Providing the entirety of the raw data to any suspect or defendant is also not possible, as it would contain information related to all suspects associated with ByLock.”** In fact, the reply given by KOM was already known to the Grand Chamber, as noted in **paragraph 121 of the judgment**, where the Court summarized the Analysis Report on Intra-Organisational Communication Application, prepared by KOM and submitted by the Government during the Grand Chamber proceedings. But this did not affect the Court's finding of violation of Article 6 of the Convention.

251. The ECtHR's finding of a violation of Article 6 was based, among many other factors (See §§ 331-335), **on the applicant's inability to directly challenge the ByLock data held by the prosecution**, as well as the **national courts' failure to adequately address the applicant's objections to the accuracy of this data with relevant and sufficient reasoning, despite its critical importance** (§ 337).

252. At the last hearing held on **12 September 2024**, the trial court heard two witnesses who were allegedly on the applicant's ByLock contact list. Both witnesses denied having been in contact with him through ByLock and provided no information regarding any organizational activity involving the applicant. **With regard to the ByLock data, the applicant's representative requested that the court ensure access to the raw data for independent examination and presented arguments questioning the accuracy and reliability of this data. However, the court rejected this request.**

253. At the end of the hearing, **the court concluded that there were no legal violations in the procedures carried out during the previous stage regarding the applicant and that the prior judgment was in accordance with the law and procedure.** Accordingly, **the Court REFUSED to implement the Yalçinkaya Ruling given by the Grand Chamber of ECtHR, and decided to repeat its previous decision dated 21/03/2017 and file numbered 2017/136-121.** The court also imposed a ban on Yalçinkaya from travelling abroad, despite the fact that he had completed his sentence in the previous trial.

254. This decision is open to appeal before the regional appellate court and the Court of Cassation. However, it has significant repercussions, sending a strong message to other first-instance courts that are obliged to implement the principles of the Yüksel Yalçinkaya judgment in similar cases. **The decision of the court in the applicant's case is the most striking proof of the judiciary's persistent inaction in implementing and complying with the Yüksel Yalçinkaya judgment.** Unlike the Kavala and Demirtaş judgments, which Türkiye has consistently refused to implement, the disregard of the Yüksel Yalçinkaya judgment by both the Turkish judiciary and the executive affects tens of thousands of people, with violations continuing daily.

4. Communication Letters issued by Stichting Justice Square with under Rule 9(2) of the Rules of the Committee of Ministers

255. Following the announcement of the *Yalçinkaya* judgment, local courts in Türkiye have systematically failed to implement its findings, leading to ongoing violations of fundamental

rights. In response, our foundation has submitted multiple applications to the Committee of Ministers under **Article 9(2) of the European Convention on Human Rights (ECHR)**, highlighting the persistent non-compliance and urging supervisory measures.²⁰⁶

256. In the latest Communication Letter issued by our foundation under Rule 9(2) of the Rules of the Committee of Ministers concerning the execution of the judgment of the European Court of Human Rights in the case of *Yüksel Yalçinkaya v. Türkiye* (Application no. 15669/20), it is evident that the Turkish Government has not taken any legislative steps to align judicial practices with the *Yüksel Yalçinkaya* judgment. Contrary to the Government's assertions, **there has been no change in the jurisprudence or judicial practice to meet the requirements of the *Yüksel Yalçinkaya* judgment.**

257. Thus, our foundation has reported numerous domestic court decisions, in the communication letter, to the Committee of Ministers of the Council of Europe as part of its application regarding the failure to implement the *Yalçinkaya* judgment. These decisions demonstrate that Turkish courts continue to treat ByLock usage as the primary and decisive evidence for terrorism-related convictions, disregarding the European Court of Human Rights' binding ruling. The submission to the Committee of Ministers highlights this systematic non-compliance and urges appropriate measures to ensure adherence to the European Convention on Human Rights.²⁰⁷

258. The persistent non-compliance of *Yalçinkaya* Ruling is also monitored by the following NGOs around Europe:

- ASEDEL (Association européenne pour la défense des droits et des libertés)
07/05/2024²⁰⁸

206 **1483rd meeting (December 2023)** (DH) - Rule 9.2 - Communication from an NGO ('Stichting Justice Square') (02/11/2023) in the case of *Yüksel Yalcinkaya v. Türkiye* (Application No. 15669/20) [anglais uniquement] [https://hudoc.exec.coe.int/ENG?i=DH-DD\(2023\)1389E](https://hudoc.exec.coe.int/ENG?i=DH-DD(2023)1389E)

1492nd meeting (March 2024) (DH) - Rule 9.2 - Communication from an NGO (Stichting Justice Square) (13/02/2024) concerning the case of *Yüksel Yalcinkaya v. Türkiye* (Application No. 15669/20) [anglais uniquement] [https://hudoc.exec.coe.int/ENG?i=DH-DD\(2024\)217E](https://hudoc.exec.coe.int/ENG?i=DH-DD(2024)217E)

1507th meeting (September 2024) (DH) - Rule 9.2 - Communication from NGOs (Justice Square Foundation, Italian Federation for Human Rights, Statewatch, Cross Border Jurists Association, The Arrested Lawyers Initiative, Solidarity with OTHERS) (09/07/2024) concerning the case of *Yüksel Yalcinkaya v. Türkiye* (Application No. 15669/20) [https://hudoc.exec.coe.int/ENG?i=DH-DD\(2024\)832E](https://hudoc.exec.coe.int/ENG?i=DH-DD(2024)832E)

1514th meeting (December 2024) (DH) - Rule 9.2 - Communication from NGOs (Justice Square Foundation, Italian Federation for Human Rights, Cross Border Jurists Association, The Arrested Lawyers Initiative, Solidarity with OTHERS) (13/09/2024) concerning the case of *Yüksel Yalcinkaya v. Türkiye* (Application No. 15669/20) [https://hudoc.exec.coe.int/ENG?i=DH-DD\(2024\)1075E](https://hudoc.exec.coe.int/ENG?i=DH-DD(2024)1075E)

1521st meeting (March 2025) (DH) - Rule 9.2 - Communication from NGOs (Justice Square Foundation, Italian Federation for Human Rights, Cross Border Jurists Association, The Arrested Lawyers Initiative, Solidarity with OTHERS, Human Rights Solidarity, Human Rights Defenders) (16/12/2024) in the case of *Yüksel Yalcinkaya v. Türkiye* (Application No. 15669/20) [https://hudoc.exec.coe.int/ENG?i=DH-DD\(2025\)12E](https://hudoc.exec.coe.int/ENG?i=DH-DD(2025)12E)

207 **1507th meeting (September 2024)** (DH) - Rule 9.2 - Communication from NGOs (Justice Square Foundation, Italian Federation for Human Rights, Cross Border Jurists Association, The Arrested Lawyers Initiative, Solidarity with OTHERS) (09/09/2024) concerning the case of *Yüksel Yalcinkaya v. Türkiye* (Application No. 15669/20) [https://hudoc.exec.coe.int/ENG#%7B%22execidentifier%22:%5B%22DH-DD\(2024\)1053E%22%5D%7D](https://hudoc.exec.coe.int/ENG#%7B%22execidentifier%22:%5B%22DH-DD(2024)1053E%22%5D%7D)

208 1501st meeting (June 2024) (DH) - Rule 9.2 - Communication from an NGO (ASEDEL (Association européenne pour la défense des droits et des libertés)) (07/05/2024) concerning the case of *Yüksel Yalcinkaya*

- Italian Federation for Human Rights (FIDU - Federazione Italiana Diritti Umani)
- Statewatch, The United Kingdom
- Cross Border Jurists Association, Germany
- The Arrested Lawyers Initiative, Belgium
- Solidarity with OTHERS, Belgium
- Human Rights Solidarity, The United Kingdom
- Weltanwalte e.V. Association, Germany 18/09/2024²⁰⁹
- Broken Chalk, The Netherlands, 09/09/2024²¹⁰

5. Reopening of Cases by Trial Courts under Article 311 § 1 of the Code of Criminal Procedure Categorically Rejected by Trial Courts

259. Following the judgment of the Grand Chamber in Yalçinkaya case, a large number of individuals in similar situations filed requests for the "reopening of criminal proceedings" before the competent assize courts in accordance with Article 90 of the Turkish **Constitution**, **Article 46 of the ECHR**, and **Article 311 § 1 of the Code of Criminal Procedure**.

260. As of today, this remedy has not been used in any case, neither ex officio nor upon the request of the convicted persons. In contrast, applications of individuals who were sentenced within the persisting systemic problematic practice based on their alleged use of the ByLock application were rejected by all jurisdiction authorities.

1. The İzmir 13rd High Criminal Court rejected the retrial application of M.S. and stated that: “.. the request for a retrial can only be made in cases where a violation of rights has been identified by the European Court of Human Rights (ECHR) concerning the applicant. In other words, *even if individuals have been convicted for the same reason, the request for a retrial under Article 311/f of the CMK will not be accepted for those who have not applied to the ECHR.*”²¹¹
2. The 3rd Chamber of the Court of Cassation also rejected the retrial application of M.S. and stated that: “Although the defense counsel of the convicted individual requested a retrial pursuant to Article 311 of the Criminal Procedure Code (CMK) based on the violation judgments in the Yalçinkaya/Türkiye case by the Grand Chamber of the European Court of Human Rights (ECHR), .. the violation decisions in question do not relate to the defendant’s

v. Türkiye (Application No. 15669/20) [https://hudoc.exec.coe.int/ENG#%7B%22execidentifier%22:%5B%22DH-DD\(2024\)583E%22%7D](https://hudoc.exec.coe.int/ENG#%7B%22execidentifier%22:%5B%22DH-DD(2024)583E%22%7D)

209 1st meeting (March 2025) (DH) - Rule 9.2 - Communication from an NGO (ASSEDEL (Association européenne pour la défense des droits et des libertés)) (14/01/2025) in the case of Yuksel Yalcinkaya v. Türkiye (Application No. 15669/20) [anglais uniquement] [DH-DD(2025)84] [https://hudoc.exec.coe.int/ENG#%7B%22execidentifier%22:%5B%22DH-DD\(2025\)84E%22%7D](https://hudoc.exec.coe.int/ENG#%7B%22execidentifier%22:%5B%22DH-DD(2025)84E%22%7D)

210 1514th meeting (December 2024) (DH) - Rule 9.2 - Communication from an NGO (Weltanwalte e.V. Association) (18/09/2024) concerning the case of Yuksel Yalcinkaya v. Türkiye (Application No. 15669/20) [anglais uniquement] [DH-DD(2024)1086] [https://hudoc.exec.coe.int/ENG#%7B%22execidentifier%22:%5B%22DH-DD\(2024\)1086E%22%7D](https://hudoc.exec.coe.int/ENG#%7B%22execidentifier%22:%5B%22DH-DD(2024)1086E%22%7D)

211 1507th meeting (September 2024) (DH) - Rule 9.2 - Communication from an NGO (Broken Chalk) (09/09/2024) concerning the case of Yuksel Yalcinkaya v. Türkiye (Application No. 15669/20) [anglais uniquement] [DH-DD(2024)1052] [https://hudoc.exec.coe.int/ENG#%7B%22execidentifier%22:%5B%22DH-DD\(2024\)1052E%22%7D](https://hudoc.exec.coe.int/ENG#%7B%22execidentifier%22:%5B%22DH-DD(2024)1052E%22%7D)

212 T.C. İZMİR 13. ASSIZE COURT: DOCKET NO : 2018/93 DECREE NO : 2018/379

trial. There is no violation judgment regarding the conviction imposed on the defendant. Therefore, the application of Article 311(f) of the CMK is not possible.”²¹²

3. The Constitutional Court also rejects the application of individuals who were sentenced within the persisting systemic problematic practice based on their alleged use of the ByLock.²¹³

261. The decisions of the first instance courts, the Court of Cassation and the Constitutional Court mentioned above indicate that there is no difference between the decisions of the Turkish judiciary before and after the Yalçinkaya ruling. The continued resistance within the Turkish judiciary to applying the Yüksel Yalçinkaya decision to similar cases is also reported by international human rights organizations. (See Human Rights Watch The World 2025 Report and Finnish Immigration Report on Türkiye)²¹⁴

6. No Authoritative or Guiding Decisions by the Constitutional Court Since the Yüksel Yalçinkaya Judgment

262. Although nearly one and half year has passed since the announcement of the Yüksel Yalçinkaya judgment, the Constitutional Court has not issued any guiding decisions in cases similar to Yüksel Yalçinkaya in line with the Court’s judgment. Instead, it has maintained its previous stance in comparable cases.

263. Following the Yüksel Yalçinkaya judgment, the Constitutional Court has rejected applications related to 'automatic' convictions where the elements of the crime were not demonstrated, and some of the criteria accepted were not present.

264. The Constitutional Court dismissed an application on August 12, 2024, despite parallels with the **Yüksel Yalçinkaya** case, where the European Court of Human Rights ruled on similar issues. The applicant argued that their conviction for terrorist organization membership lacked legal basis and justification, violating the principles of **no punishment without law** and **the right to a fair trial** under Turkish law. However, the Court rejected these claims, contradicting the ECtHR's precedent.²¹⁵

265. In other words, the **Constitutional Court's stance**, which had previously deemed the Yalçinkaya application inadmissible, **continued as if the European Court of Human Rights had not found a violation under Article 7 in the Yalçinkaya case for the same reasons, and the Constitutional Court found all allegations of the violation, including the right to a fair trial and the principle of "no punishment without law," inadmissible.**²¹⁶

266. In the most recent decision of the Constitutional Court, dated **October 9, 2024**, regarding **Yahya Turgut**, the Court rejected the application based on evidence examined in the Court of

213 T.C. COURT OF CASSATION 3rd CRIMINAL CHAMBER (FIRST INSTANCE): DOCKET NO : 2017/44 File DECREE NO : 2019/54

214 REPUBLIC of TURKIYE, CONSTITUTIONAL COURT SECOND SECTION THIRD COMMISSION Application Number: 2024/14113 Decision Date: 9/12/2024; REPUBLIC of TURKIYE, CONSTITUTIONAL COURT SECOND SECTION THIRD COMMISSION Application Number: 2023/103289 Decision Date: 9/12/2024

215 Parag.31, Parag.36

216 Constitutional Court’s decision dated August 12, 2024, with application number 2024/23796

217 The Constitutional Court's decision dated March 27, 2024, with application number 2023/4910.

Cassation. With this decision, the Constitutional Court effectively classified actions previously determined not to constitute a crime under the *Yalçınkaya v. Türkiye* judgment—such as legal activities falling under freedom of expression—as criminal acts.²¹⁷

267. In another recent decision of the Constitutional Court, dated **October 31, 2024**, regarding **Ramazan Fener**, the Constitutional Court failed to establish how the applicant knew of or intended to achieve the alleged ultimate objective of the attempted coup, which was purportedly planned a decade prior. In terrorism trials, the elements of the offense, particularly the mental or intent element, must be definitively demonstrated; however, this was not done in the applicant’s case. Despite the absence of any statement from witnesses testifying against the applicant regarding their knowledge of the alleged final goal, and in the absence of supporting evidence, the applicant was convicted based on presumptions such as the assumption that they “could have known” or “should have known.” Furthermore, the actions attributed to the applicant occurred prior to the acquittal of Fethullah Gülen. Both the mental and material elements of the crime were not clearly established. The specific, ongoing, and intensive organizational activities that would constitute part of the material element were neither explained nor substantiated. Similar to the *Yalçınkaya* case, the evidence potentially related to the crime was used in place of demonstrating the crime’s constituent elements, and the existence of these elements was argued without proper justification.²¹⁸

268. Consequently, in no similar case of persons prosecuted in Türkiye is the existence of the elements of the crime examined, and legal and routine activities that do not in any way constitute the essential elements of the crime—namely, force and violence—are used as grounds for punishment. The range of so-called “criteria” that, despite not being elements of the crime, are treated as such is so broad that there is practically no one in the country who could not be punished based on them. This is precisely why the ECtHR has stated that this emerging judicial practice violates the principle of “no crime without law” and is the source of a systemic problem.

E- FINAL ASSESSMENT AND KEY FINDINGS

1. Systematic Persecution and Civilian Death Through Cyclical Prosecutions, Atmosphere of Fear and Hate Speech Against Members of the Gülen Movement in Türkiye

269. In the aftermath of the 2016 coup attempt, Türkiye experienced a profound and widespread atmosphere of repression, which resulted in the systematic targeting of thousands of individuals suspected of affiliation with the Gülen Movement. This repressive climate extended beyond legal measures such as investigations and arrests, encompassing a broader societal context marked by social exclusion and stigmatization. The repression further escalated into a pervasive climate of fear, fueled by severe economic hardships, public smear campaigns, and intense psychological pressures. These factors collectively contributed to an environment where individuals not only faced legal persecution but were also subjected to ongoing societal marginalization and coercive forces, effectively undermining their personal and professional lives.

218 <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2021/43694?Dil=tr>

219 <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2021/50390>

270. Recently, a new wave of repression has taken shape through large-scale restructuring operations, referred to as “Kıskaç” (Clamp). These operations primarily target individuals previously investigated in relation to Gülen Movement, subjecting them to renewed scrutiny and legal action. Under this intensified crackdown, individuals are being investigated and arrested for acts that would traditionally be viewed as ordinary social or educational activities, such as providing mutual financial assistance, studying together, or engaging in basic forms of solidarity. In this context, individuals blacklisted by the state can face recurrent charges at any point in their lives, perpetuating a cycle of legal and social instability. Alarmingly, even children of those linked to the Gülen Movement are not spared, with minors being detained without substantial evidence to substantiate any criminal wrongdoing. The arrest of a 14-year-old child stands as a stark and tragic example of the regime’s indiscriminate and harsh approach, targeting individuals regardless of their age or the lack of concrete legal justification.

271. Beyond legal persecution, the Erdoğan regime has sought to eliminate the presence of individuals affiliated with the Gülen Movement on both psychological and social levels. Those identified, or merely perceived, as members of the movement are increasingly denied the freedom to express their views, maintain personal relationships, or participate in economic life. In Türkiye, individuals who have been subjected to a FETÖ investigation face the harsh reality that any public display of sympathy for the Gülen Movement—whether through social media posts or verbal expressions—inevitably leads to arrest. As a result, individuals live in constant fear of retribution for expressing their beliefs, often feeling compelled to disavow their identities. The regime imposes an expectation of emotional and intellectual suppression, forcing these individuals into a state of social invisibility, disconnected from public discourse and personal freedom.

272. In this environment of repression, religious figures have also contributed to the stigmatization of individuals associated with the Gülen Movement. They have been labeled as heretics, accused of straying from Islam, and in some extreme instances, their property and families have been declared “permissible” for others to harm. The use of hate speech in Friday sermons, specifically targeting the Gülen Movement, has exacerbated societal polarization and fueled widespread mistrust. This inflammatory rhetoric has led to ordinary citizens questioning each other’s loyalty, with accusations such as “Are you a FETÖ member?” undermining trust and damaging personal relationships, even within families.

273. The pervasive climate of surveillance has instilled a profound fear among members of the Gülen Movement, who are hesitant to even visit one another, let alone express their political or social views. Engaging in simple social activities, such as having tea at a café with a friend or meeting an old acquaintance, can become grounds for arrest. A denunciation letter, a past phone conversation, or even an unfounded rumor can disrupt their lives. In Türkiye, the absence of concrete evidence for arrests further exacerbates the situation, as mere accusations are often enough to lead to swift detention, unlawful imprisonment, and the denial of a fair trial.

274. In addition to domestic repression, international pressure has mounted in recent years, as Türkiye’s intelligence agencies have engaged in unlawful practices targeting members of the Gülen Movement abroad. These operations have included forced abductions, deportations, and illegal renditions in third countries. Such actions have been met with widespread

condemnation from human rights organizations and international legal bodies, underscoring the broader scope of risks faced by individuals associated with the movement, extending far beyond Türkiye’s borders. The persistence of these tactics further exacerbates the vulnerability of Gülen Movement members, emphasizing the transnational nature of the threats they encounter.

275. Following the passing of Fethullah Gülen in 2024, the pressures and narratives of hate directed toward members of the Gülen Movement have only grown more intense. **According to the Annual Report on Türkiye, 2025, issued by the Ministry of Foreign Affairs of the Netherlands**, prominent figures in the Turkish government, including the President, the Minister of Justice, and the Minister of Interior, have reaffirmed their commitment to intensifying the fight against FETÖ, further stoking divisive rhetoric. A notable incident exemplifies the extent of this repression: the arrest of a national newspaper’s editor-in-chief merely for posting a condolence message on social media, highlighting the alarming erosion of freedom of expression in the country.

276. In parallel with this ideological suppression, economic persecution has been another devastating facet of the broader oppression. The Social Security Institution’s “Code 37” policy effectively prohibits individuals suspected of affiliation with the Gülen Movement from seeking employment in the private sector, exacerbating their financial instability. The government’s use of blacklisting has condemned these individuals to a state of “civil death,” where the inability to secure work traps them in a cycle of poverty and despair. Moreover, this policy extends to the children of Gülen Movement members, who are also unable to access employment within public institutions due to their family’s stigmatization.

277. These systemic pressures have had a profound psychological impact on the affected individuals and their families. The constant surveillance, the persistent threat of arrest, and the exclusion from both social and economic spheres have precipitated a sharp increase in mental health issues among members of the movement. In particular, the incidence of suicides has risen significantly in recent years, with many feeling trapped by their circumstances and seeing no viable means of escape.

278. To sum up, a pervasive climate of fear now governs the lives of members of the Gülen Movement in Türkiye. They are systematically denied the freedom to express their opinions, communicate with one another, or even access basic economic opportunities. Unlawful operations, widespread disregard for the right to a fair trial, and pervasive surveillance tactics have resulted in profound violations of human rights. These actions not only undermine the rule of law but also amount to crimes against humanity, leaving lasting scars on Türkiye’s human rights record and intensifying the need for urgent international scrutiny and intervention.

2. Have Investigations Against Members of the Gülen Movement Decreased? Does a Decrease in the Number of Investigations Mean a Softening of Government Policy?

279. Upon reviewing the investigation figures for 2016, 2017, and 2018, one might initially perceive a potential shift in the Turkish government’s stance toward the Gülen Movement, suggesting a softening over time. However, as underscored by the international reports

referenced in this analysis, such an assessment, based solely on statistical trends, risks drawing an inaccurate conclusion.

280. To provide a clearer perspective, it is essential to consider the unprecedented scale of the government's response immediately following the July 15, 2016 coup attempt. Within a remarkably short period, an exceptionally high number of individuals were detained, arrested, and dismissed from their professional positions, particularly within the judiciary and law enforcement sectors. Given the rapid and sweeping actions taken against those labeled as “FETÖ” members, a decline in the frequency of investigations and prosecutions in the years that followed is entirely predictable. For example, of the 13,000 judges and prosecutors in office on July 15, 2016, roughly 5,000 were dismissed, detained, or arrested within a very brief timeframe based on the government's arbitrary and unlawful blacklisting. Consequently, any reduction in arrest and investigation figures post-2016 cannot reasonably be interpreted as a policy shift or relaxation on the part of the government.

281. Further examination of recent developments, particularly the ongoing “Clampdown” operations, reveals that there has been no reduction in the government's actions against members of the Gülen Movement. On the contrary, evidence suggests that investigations are becoming more sophisticated and targeted. Notably, statistical trends indicate an uptick in 2025, highlighting the persistence and intensification of these efforts. Moreover, the scope of these investigations has expanded to include minors, a notable shift from previous years. In 2024, as exemplified by the “Teenage Girls” case, underage individuals have now been subjected to detention, demonstrating the increasing breadth of state-led repression. This alarming shift in Gülen-Linked investigations was also reaffirmed by the Minister of Foreign Affairs of the Netherlands in its Annual Report on Türkiye, 2025, by stating that **“a group of women and their daughters were arrested for communicating with a woman associated with the Gülen Movement.”**²¹⁹

282. Therefore, a comprehensive review of the available data and findings reveals that the government has not softened its approach toward the Gülen Movement. Rather, investigations and prosecutions have evolved, becoming more complex and far-reaching. This ongoing repression, which has escalated to the level of crimes against humanity, suggests that the Turkish government's stance remains as harsh and uncompromising as ever.

3. Is the ECtHR Grand Chamber's Yalçınkaya Judgment Taken Into Account by the Turkish Judiciary?

283. Despite nearly 18 months having passed since the European Court of Human Rights issued its ruling in the Yalçınkaya case, there has been no significant movement within Türkiye's domestic legal system to implement the Court's findings. Neither the Constitutional Court, the Court of Cassation, nor the High Criminal Courts have issued rulings reflecting the changes recommended by the Grand Chamber. This delay is particularly concerning as the Constitutional Court has not addressed individual applications involving the ByLock allegation, even though it should have done so in light of the ECtHR's findings. By postponing

220 <https://www.rijksoverheid.nl/documenten/ambtsberichten/2025/02/24/algemeen-ambtsbericht-turkije-februari-2025#:~:text=Dit%20Algemeen%20Ambtsbericht%20beschrijft%20de,terugkeer%20van%20afgewezen%20T%20urkse%20asielzoekers>

its decisions, the Constitutional Court is preventing individuals whose rights have been violated from seeking redress through the European Court.

284. Similarly, the Court of Cassation continues to disregard the principles outlined in the Yalçinkaya judgment. The reversal decisions issued by the Court of Cassation fail to address the key points raised by the Grand Chamber, such as the necessity of presenting the raw ByLock data for judicial review and allowing the defendant to inspect the evidence, request independent examination, and challenge the findings. Furthermore, there has been no decision addressing whether the moral element of the alleged crimes has been adequately established in each case, as stipulated by the ECtHR.

285. The High Criminal Courts, particularly the **Kayseri 2nd High Criminal Court**, have also continued to ignore the Yalçinkaya judgment. In the retrial that followed the Grand Chamber’s violation decision, the **Kayseri 2nd High Criminal Court** failed to consider the ECtHR’s ruling and simply reaffirmed its previous decision, demonstrating a clear disregard for the Court’s guidance.

286. **As stated in the annual report of the Ministry of Foreign Affairs of the Netherlands (February 2025)**, the lack of implementation of the ECtHR’s Yalçinkaya judgment by Turkish judicial authorities reveals a persistent failure to uphold the principles of fair trial and legal certainty. This ongoing neglect further exacerbates the systemic violations of individuals’ rights, leaving the Turkish legal system in contravention of both domestic and international standards. The refusal to adhere to the criteria established by the Grand Chamber undermines the integrity of Türkiye’s judicial process and perpetuates injustices against those accused in connection with the Gülen Movement.

4. Potential Dangers Faced by a Member of the Gülen Movement if Their Asylum Application in Europe is Rejected and They Are Deported to Türkiye

287. If a person affiliated with the Gülen Movement applies for asylum in Europe but their request is denied due to the absence of a direct FETÖ-related investigation against them in Türkiye, their return could expose them to several serious risks, including:

4.1. Risk of Immediate Detention Upon Arrival

288. In Türkiye, investigations are often conducted under a veil of secrecy, which creates significant risks for individuals who may unknowingly be under investigation. The Turkish Criminal Procedure Code (CMK) enforces strict confidentiality from the initiation of an investigation until its conclusion. **Article 157 of the CMK** stipulates that the details of an investigation remain confidential until a non-prosecution decision is issued or an indictment is accepted. Consequently, an individual may be subject to an ongoing investigation without their knowledge, leaving them vulnerable to detention and arrest upon their return to Türkiye.

289. One of the key challenges individuals face in Türkiye’s legal system is the limited access to case files during the investigation phase. According to Article 153/1 of the CMK, suspects are not entitled to review the case file during this period. Although Article 153/4 grants defense counsel the right to examine the case file once an indictment is issued, the investigation phase typically remains shrouded in secrecy. Furthermore, prosecutors can request a restriction order to prevent access to the file if they believe it could compromise the investigation. In

FETÖ-related cases, this restriction is routinely applied, often resulting in individuals remaining unaware of the investigation against them until they are detained.

290. In practice, this means that many individuals learn of the investigation only after they have been arrested, with access to their case file still being denied under the pretext of maintaining confidentiality. For individuals who have left Türkiye, the situation becomes even more precarious. If they are unaware of the investigation or any associated charges, they may be detained upon their return, particularly if they are deported. The likelihood of immediate detention upon arrival at an airport is high for individuals who have not been informed of an investigation in advance, as the legal procedures ensure that their case remains hidden from public view until they are arrested.

291. Thus, this lack of transparency in the investigative process creates an environment where individuals, particularly those who are abroad, can face significant risks upon their return to Türkiye, including detention and arrest without prior warning. The secrecy surrounding these investigations and the restricted access to case files contribute to the uncertainty and danger that individuals affiliated with the Gülen Movement face when seeking to return to Türkiye.

4.2. Risk of a New Investigation Based on Denunciations

292. Even if an individual has not been formally investigated at the time of their return to Türkiye, they remain vulnerable to the initiation of new investigations based on external accusations. For example, someone familiar with the individual might report that they had “applied for asylum on FETÖ grounds.” This type of allegation, particularly in the context of the widespread suspicion surrounding those linked to the Gülen Movement, is highly likely to prompt authorities to initiate a fresh investigation. In practice, such accusations can swiftly lead to the individual’s arrest and detention, even in the absence of direct evidence of criminal activity.

4.3. Risk of Being Subjected to Torture or Ill-treatment

293. Despite official statements from government representatives denying the existence of torture in Turkey, the data reveals a starkly different reality. The rulings from the Constitutional Court (AYM) provide irrefutable evidence of widespread and systematic occurrences of torture and ill-treatment, directly contradicting the government’s claims. As previously noted, the Constitutional Court has issued **a total of 1,103 rulings concerning violations of the prohibition on torture and inhuman or degrading treatment**. Alarmingly, **513 of these decisions were rendered in 2024 alone**.²²⁰

294. Therefore, individuals who are subjected to new investigations for the reasons mentioned above face a significant risk of being subjected to torture or ill-treatment by Turkish authorities.

4.4. Social and Economic Marginalization

295. Individuals affiliated with the Gülen Movement face widespread public targeting in Türkiye, which results in their social ostracization and effectively condemns them to a form of civil death. Upon their return to Türkiye, these individuals are not only at risk of facing exclusion from their families but also from broader societal structures. Their ability to secure

220 <https://x.com/myeneroglu/status/1892894572029583377>

employment may be severely restricted, as their affiliations with the movement are often enough to disqualify them from many job opportunities, particularly in the public sector. Furthermore, their social security rights can be revoked, and they may find themselves denied access to essential services, which exacerbates their vulnerability.

296. This systematic exclusion, as mentioned in **in the annual report of the Ministry of Foreign Affairs of the Netherlands (February 2025)**, from both the workforce and social safety nets leaves them in a precarious position, where they are forced to navigate a harsh and unforgiving environment. The persecution they face extends beyond mere legal action, touching on nearly every aspect of their lives, from employment opportunities to social interactions and basic rights. Consequently, these individuals are subjected to a sustained pattern of human rights violations, further deepening the socio-political marginalization they experience.

4.5. Constant Surveillance and Loss of Privacy

297. Individuals associated with the Gülen Movement are subject to constant surveillance by Turkish security forces, even when abroad. Upon their return to Türkiye, they are likely to be closely monitored by both state institutions and private actors. Their communications could be intercepted, their movements tracked, and their every action scrutinized, often without their knowledge. This persistent surveillance severely restricts their freedom of movement and expression, undermining their basic rights to privacy and security.

298. The extensive monitoring they face creates an environment of constant fear and anxiety, making it virtually impossible for them to lead a normal life. This atmosphere of scrutiny is not only a violation of their personal freedom but also poses a grave threat to their physical safety, as the risk of arbitrary detention or harassment increases. The pervasive nature of this surveillance ultimately reinforces the broader system of repression, isolating individuals and further curtailing their ability to participate in society or express dissent.

4.6. Lack of Judicial Independence and Fair Trial Rights

299. Judicial independence and the right to a fair trial have been gravely compromised in Türkiye, particularly for individuals associated with the Gülen Movement. These individuals often face significant barriers to presenting a proper defense, as their statements and arguments are frequently dismissed or disregarded by the judiciary. In many instances, they may be wrongfully convicted without due process, as the legal proceedings are marred by political interference and systemic biases.

300. The presumption of innocence, a cornerstone of fair justice, is routinely overlooked in these cases. Individuals accused of being affiliated with the Gülen Movement are often treated as guilty from the outset, with judicial decisions being influenced by political considerations rather than the merits of the case. This politicization of the judiciary undermines the integrity of the legal system, erodes public trust in the courts, and leaves affected individuals vulnerable to arbitrary punishment. Consequently, many are deprived of their fundamental right to a fair and impartial trial.

301. The intervention by the President in matters of judicial appointments and the reversal of decisions made by higher judicial bodies, such as the Council of State, reflects a broader trend

of political pressure exerted on the judiciary. This situation raises significant concerns about the separation of powers, which is a cornerstone of democratic governance. When judicial decisions are subject to political interference or re-examination based on political opposition, it compromises the integrity and independence of the judiciary, potentially leading to biased or politically motivated rulings.

302. As stated in the **annual assessment report of the Dutch Ministry of Foreign Affairs**, the re-investigation initiated by the High Council of Judges and Prosecutors (HSK) regarding judges reinstated to their positions by the Council of State, due to opposition from the President, highlights the erosion of judicial independence in Turkey. This development demonstrates the increasing influence of political authority over the judiciary, undermining the fundamental principle of judicial autonomy that is essential for the proper functioning of the rule of law.

F- CONCLUSION

303. The investigations targeting the Gülen Movement, which the Turkish government tries to present as an 'atypical terrorist organization' before international courts, have been carried out with typical practices on hundreds of thousands of individuals, and they continue or are being initiated. The human rights violations occurring during these investigations are being documented and reported by international monitoring organizations. Lately, according to the report published **on November 29, 2024**, titled 'Opinions adopted by the Working Group on Arbitrary Detention at its 100th session, 26–30 August 2024': *“In the past seven years, the Working Group has noted a significant increase in the number of cases brought to it concerning arbitrary detention in Türkiye. It expresses grave concern about the pattern that all these cases follow and recalls that, under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of fundamental rules of international law may constitute crimes against humanity.”*²²¹

304. Individuals and their families investigated for alleged Gülen Movement ties face severe social and legal discrimination, including bullying, exclusion, and denial of basic rights such as education and healthcare. This persecution often leads to tragic outcomes like suicides and results in a form of civil death for many. Labeling individuals solely based on family connections without considering the broader context of ongoing persecution is an unjust approach that fails to address the widespread harm they endure.

305. The investigations and prosecutions against the Gülen Movement, which initially surged, slowed over time due to the overwhelming workload and the large number of individuals imprisoned. By the end of eight years, 702,000 individuals had been investigated. Despite a decrease in the number of investigations, this trend does not reflect a change in the Turkish government's stance toward the Gülen Movement. Rather, investigations have become more complex and invasive, now involving prolonged surveillance, phone tapping, and the targeting of family members, including minor children of Gülen Movement members. These developments suggest that while the frequency of investigations may have decreased, their scope and intensity have expanded. Despite the passage of 9 years, the fact that **at least 120,000**

221 <https://documents.un.org/doc/undoc/gen/g24/208/07/pdf/g2420807.pdf>

people are still facing the threat of imprisonment is the most significant indicator that nothing has changed in Turkey.

306. Aside from the investigation activities carried out against the Gülenists, no improvement is seen in their social status within society. In fact, Gülenists, who have been subject to numerous decree-law since July 15, 2016, are coded with the number 37 in the official Social Security System of the state. When Gülenists, who were previously dismissed from their jobs, try to make a new job application, they face difficulties due to this code appearing in their social insurance records, or they are forced to work under inhumane conditions without social insurance. Therefore, as indicated in the response letters from the valuable IND officials, *“the situation for Gülenists in Turkey remains alarming”*.

307. On the other hand, Gülenists who managed to leave the country without any investigation being initiated against them are also being monitored by the Turkish government. For those individuals, information is collected under the name of 'restructuring abroad,' and they are reported to the Turkish security forces, with preparations being made to open investigations against them in Turkey.

308. Investigations targeting the Gülen Movement have expanded beyond adults to include children, particularly in the context of 'restructuring' operations. Activities such as student coaching or social gatherings, intended to foster solidarity, are now monitored by Turkish authorities and deemed criminal under terrorist organization membership laws. One prominent example is the 'teenage girls case,' where children of alleged Gülenists were detained, subjected to psychological torture, and denied legal representation. This case highlights the growing risk faced by children of Gülenist families, with even basic actions like renting apartments for university students now viewed as terrorist activity, resulting in raids by anti-terrorism forces.

309. The judgment in *Yalçinkaya v. Turkey*, delivered on September 6, 2023, marked a historic violation ruling by the European Court of Human Rights (ECHR), highlighting widespread judicial shortcomings in Turkey regarding the allegations against Yüksel Yalçinkaya. The ECHR called for preventive measures, but since the ruling, Turkish judicial authorities have failed to implement the decision. Notably, **even in the Yalçinkaya retrial, Yalçinkaya's former conviction was repeated by the Kayseri 2nd High Criminal Court, disregarding the ECHR's judgment.** Despite claims from the IND about improved decision-making by Turkey's judiciary, particularly the Court of Cassation, the ruling's core requirements remain unaddressed. The Court still insists on investigating ByLock usage, and local courts continue to lack access to raw data held by the National Intelligence Organization (MIT), undermining the principle of equality in legal proceedings. Moreover, the Constitutional Court has not referred to the Yalçinkaya ruling, and requests for retrials by individuals sentenced similarly have been rejected.

310. In light of given information above, the asylum applications of individuals affiliated with the Gülen Movement presents a complex array of risks that extend beyond mere legal consequences. The deportation risks encompass social, economic, physical, and psychological harm, with potentially devastating impacts on the affected individuals and their families. The rejection of asylum applications from members of the Gülen Movement leaves them in a particularly precarious position, as it exposes them to an escalating risk of arbitrary detention,

systemic persecution, and deep social exclusion. Given the Turkish authorities’ ongoing and intensifying repression against perceived affiliates of the Gülen Movement, the act of deportation can reasonably be expected to result in severe human rights violations.

311. Expelling an individual who is at substantial risk of being subjected to persecution in their home country is fundamentally inconsistent with the European Convention on Human Rights (ECHR). Article 3 of the ECHR prohibits the expulsion or return of a person to a country where they face a real risk of torture or inhuman or degrading treatment or punishment. Therefore, any decision made by the Dutch authorities, or any other European state, to expel an individual connected to the Gülen Movement must be critically examined under this provision. Given the ongoing pattern of politically motivated prosecutions, unlawful detentions, and widespread mistreatment faced by individuals with alleged links to the Gülen Movement, it is clear that such expulsion would expose them to treatment that is in direct violation of their fundamental rights.

312. The risk of inhuman or degrading treatment upon deportation to Türkiye is not merely hypothetical but substantiated by a consistent pattern of state actions targeting those perceived as adversaries to the current Turkish government. Expelling a person under these circumstances disregards the reality of the situation, namely that the individual will likely face arbitrary detention, potential torture, and serious social and economic marginalization upon return. As a result, the expulsion of a person with suspected ties to the Gülen Movement—even if there is no verified investigation against him/her—could be incompatible with the principles set out in Article 3 of the ECHR. Such a decision, if made, would not only disregard the protection of human rights but would also represent an abdication of the fundamental values that underpin European asylum law.

313. It is, therefore, imperative for authorities to thoroughly assess the risks individuals face upon return and ensure that their deportation does not result in subjecting them to cruel, inhuman, or degrading treatment. Asylum seekers connected to the Gülen Movement must be granted refuge from a system that has demonstrated consistent and systemic violations of their rights. Failure to recognize the risks of persecution these individuals face would be tantamount to complicity in the inhumane treatment they are likely to suffer upon their return. Hence, European states, including the Netherlands, must align their asylum policies with the provisions of the ECHR and prioritize the protection of individuals at risk of severe and irreversible harm.