ASSESMENT ASSESSMENT OF THE THIRD-PARTY INTERVENTION SUBMITTED BY THE UNITED NATIONS SPECIAL RAPPORTEUR IN THE CASE OF YASAK V. TÜRKİYE

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JUSTICE SQUARE

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Summary

The United Nations (UN) Special Rapporteur, established pursuant to Human Rights Council Resolution 40/16, serves as an independent expert mandated to promote the protection of human rights and fundamental freedoms while countering terrorism. Within this framework, Professor Ben Saul monitors the compliance of national counter-terrorism practices with the principles of international human rights law, particularly addressing issues such as the prohibition of retroactive application of criminal penalties.

In this context, the Special Rapporteur submitted a third-party intervention in the case of *Yasak v. Türkiye* (no. 17389/20). This submission was prompted by the Grand Chamber of the European Court of Human Rights (ECtHR) raising concerns as to whether the applicant's conviction for membership in an armed terrorist organisation complied with the requirement of "foreseeability" under Article 7 of the European Convention on Human Rights (ECHR).

The Special Rapporteur's intervention aimed to provide the Court with an international legal perspective by analysing the human rights implications of vague definitions of terrorism offences and the retroactive application of criminal law (*Special Rapporteur's Opinion*, p. 6). The Opinion is structured around six main themes, examining its consistency with the jurisprudence of the ECtHR and offering reflections relevant to the *Yasak v. Türkiye* case, which is scheduled to be heard before the Grand Chamber on 7 May 2025.

1. Vague Definitions of Terrorism and the Classification of Terrorist Organisations

a. Special Rapporteur's Opinion

The Special Rapporteur highlighted that vague definitions of terrorism, the ambiguous categorisation of "terrorist organisations," and the uncertainty surrounding related offences (such as membership, support, financing, etc.) contribute significantly to the violation of human rights. He emphasised that the designation of an entity as "terrorist" must be necessary and proportionate in light of legitimate security objectives. In particular, where an organisation pursues mixed purposes—commercial, charitable, religious, or educational—greater caution must be exercised in its classification. If the entity's activities are predominantly lawful, and terrorist acts are isolated or beyond the organisation's control, the "terrorist" designation may not be justified; instead, individuals should be prosecuted on the basis of their own actions (§ 28).

b. **Evaluation of the Special Rapporteur's Opinion in Light of ECtHR Jurisprudence**

The European Court of Human Rights (ECtHR) consistently upholds the principle of legality in criminal law (Article 7 ECHR), requiring that criminal offences be defined in an accessible and foreseeable manner. For example, in *Kokkinakis v. Greece* (no. 14307/88, 25 May 1993), the Court underscored that the definition of an offence must be sufficiently clear and foreseeable (§ 52). Similarly, in *Cantoni v. France* (no. 17862/91, 15 November 1996), the Court held that laws must be precise enough to enable individuals to regulate their conduct accordingly.

In judgement *Yalçınkaya v. Türkiye* (GC) (no. 25764/17, 26 September 2023), the ECtHR found that prior to the attempted coup of 15 July 2016, the Gülen Movement had not been legally designated as an "armed terrorist organisation," and thus the accusation of membership in such an organisation was unforeseeable (§§ 252–253). The Court further held that ostensibly legal acts—such as using the ByLock messaging app, depositing money in Bank Asya, or working for a private tutoring centre—could not reasonably be construed as evidence of terrorist activity (§ 343).

Similarly, in *Parmak and Bakır v. Türkiye* (nos. 22429/07 and 25195/07, 3 December 2019), the ECtHR held that the applicants' convictions for membership in the Bolshevik Party (BPKK/T) violated Article 7 due to an overly expansive interpretation of the concepts of "force" and "violence," including "moral coercion" inferred from the organisation's rhetoric (§ 76). The Court found that such broad interpretations exceeded the permissible limits of judicial discretion and were inconsistent with the nature of the offence (§ 76).

Both judgments are consistent with the Special Rapporteur's critique that vague definitions of terrorism facilitate human rights violations and that greater scrutiny is needed when designating organisations with multifaceted purposes.

c. Assessment of the Yasak v. Türkiye Judgment in Light of the Special Rapporteur's Opinion and ECtHR Jurisprudence

In *Yasak v. Türkiye* (no. 17389/20, 27 August 2024), the acts attributed to the applicant took place between 2011 and 2014 (§ 150). As noted in *Yalçınkaya v. Türkiye*, this period predates the legal classification of the Gülen Movement as an "armed terrorist organisation." Although the Second Section of the European Court of Human Rights acknowledged this fact (§ 153), it nevertheless found the applicant's conviction to be foreseeable (§ 180). However, during this period, the Gülen Movement was broadly perceived as engaging in legitimate religious, social, and educational activities, and the attempted coup of 15 July 2016 had not yet occurred. By affirming the conviction, the Second Section contradicted the Special Rapporteur's position that organisations with mixed purposes warrant heightened scrutiny, and it failed to adequately address the critique regarding the vagueness of terrorism-related definitions.

Moreover, the applicant's alleged acts—such as "organising students" or "planning discussion programmes"—were religious and social in nature (§ 6). As the Special Rapporteur

emphasised, individuals engaged in such conduct should be investigated on the basis of their own actions; classifying the entire organisation as "terrorist" in such cases is disproportionate. This position is supported by the Court's judgment in *Parmak* and *Bakır*, where it held that convictions based solely on peaceful activities, in the absence of evidence of violent acts, violated Article 7 of the Convention (§§ 73–74).

The *Yasak* judgment disregards the fact that, during the 2011–2014 period, the Gülen Movement had not been recognised as an armed terrorist organisation. This omission has led to the retroactive application of criminal law (*Yasak v. Türkiye*, Altıparmak & Budak, 29 November 2024, *Strasbourg Observers*). The Court had avoided answering this question in *Yalçınkaya* and adopted the same approach in *Yasak*, asserting that the conviction was nevertheless foreseeable despite the absence of an official classification during the relevant period (§ 155).

Additionally, the Court's assessment of the applicant's role as a "regional student coordinator" relied heavily on the Turkish government's interpretation and failed to account for the broader socio-political context. At the time, the Gülen Movement was viewed as a respected religious and social movement within Turkish society (*Yasak v. Türkiye*, Gökçe Yasir, 25 October 2024, *Strasbourg Observers*). Until the corruption scandals of 2013, the Movement enjoyed widespread public legitimacy; in a media environment lacking independence, even opposition politicians and journalists appeared on platforms associated with the Movement (*Yasak v. Türkiye*, Gökçe). Against this background, interpreting the applicant's activities as constituting clandestine participation in a terrorist organisation was unforeseeable. Rather, such actions reflected a cautious posture in the face of the Erdoğan regime's increasingly authoritarian policies (*Yasak v. Türkiye*, Gökçe; Altıparmak & Budak; *ASSEDEL*, 2024).

The Court's failure to consider the 2008 acquittal of Fethullah Gülen in a criminal trial is also noteworthy, particularly with respect to the evaluation of *mens rea* (the mental element of criminal liability). The acts imputed to *Yasak* are essentially the same as those previously brought against Gülen, which ended in acquittal. By disregarding that acquittal, the Court undermined the principle of foreseeability (*ASSEDEL*, p. 41).

2. The Material Element of the Offence (*Actus Reus*)

a. Special Rapporteur's Opinion

The Special Rapporteur emphasised that for an individual to bear criminal responsibility, the material element (*actus reus*) must involve a direct and tangible contribution to a terrorist act. Innocuous contributions—such as human rights education or medical assistance—as well as minor or speculative actions, are insufficient (§ 29).

b. **Evaluation of the Special Rapporteur's Opinion in Light of ECtHR Jurisprudence**

The European Court of Human Rights (ECtHR) requires that criminal liability be clearly established and that the material elements of the offence be assessed on an individualised

basis. In *Groppera Radio AG v. Switzerland* (no. 10890/84, 28 March 1990), the Court emphasised that criminal sanctions must be proportionate and foreseeable (§ 68).

In *Yalçınkaya v. Türkiye*, the Court found that substituting the constituent elements of a crime with proxy indicators and automatically imposing penalties on that basis contravened Article 7 of the Convention.

Similarly, in *Parmak and Bakır v. Türkiye*, the ECtHR held that activities such as distributing leaflets and possessing publications did not amount to a direct contribution to a terrorist act, particularly in the absence of any evidence of violent conduct. The Court rejected convictions based on speculative evidence (§§ 73–74).

These judgments are consistent with the Special Rapporteur's assertion that innocent or speculative contributions cannot form a sufficient basis for criminal liability.

c. Assessment of the Yasak Judgment in Light of the Special Rapporteur's Opinion and ECtHR Jurisprudence

In the *Yasak* case, domestic courts relied on seemingly lawful activities—such as depositing money in Bank Asya and working at the Çorum Educational Services Joint Stock Company—to support the applicant's conviction (§§ 42–43). Additionally, based on witness testimonies, actions such as "using a code name," "providing student education," and "HTS (telephone) records" were deemed to satisfy the "continuity, diversity, and intensity" test, thereby constituting criminal acts (§ 163).

However, these actions are religious, social, or economic in nature and do not constitute a direct or material contribution to a terrorist act, such as causing death or serious bodily harm. The Second Section of the ECtHR nevertheless upheld the conviction, characterising these actions as "indirect, simple elements" (§ 167).

This reasoning conflicts with both the principle of direct contribution articulated in *Yalçınkaya* (§ 267 et seq.) and the rejection of convictions based on non-violent conduct in *Parmak and Bakır* (§§ 73–74). Furthermore, in *Yasak*, the Court considered allegations—such as "secretly obtaining exam questions"—that were not included in the applicant's file as evidence, indicating a misinterpretation of the facts and a failure to properly examine the material element (*Yasak v. Türkiye*, Altıparmak & Budak).

The ECtHR did not refer to any Turkish law criminalising "organising discussion groups" or "using code names," yet claimed that such conduct did not benefit from the presumption of legality (§ 164; *Yasak v. Türkiye*, Gökçe). This position disregards the principle that acts not expressly prohibited by law at the time of their commission should not be retroactively penalised.

Moreover, the witness statements relied upon in *Yasak* were obtained under the "effective remorse" provisions, which offer immunity or sentence reductions in exchange for

testimony, thereby casting serious doubt on their reliability. The Court's failure to critically examine these statements hindered a fair assessment of the material element (*Yasak v. Türkiye*, Gökçe; *ASSEDEL*, pp. 6–8).

Lastly, the Court's assertion that the applicant's actions did not benefit from the presumption of legality (§ 164) fails to explain why these same actions were not subject to criminal investigation between 2010 and 2014. This constitutes a retroactive application of criminal law, contrary to the foreseeability requirement articulated in *Yalçınkaya* (*Yasak v. Türkiye*, Altıparmak & Budak).

3. The Mental Element of the Offence (*Mens Rea*)

a. Special Rapporteur's Opinion

The Special Rapporteur asserted that for criminal liability to be established, the mental element (*mens rea*) must entail the individual's awareness of the organisation's ultimate (terrorist) purpose and an intentional desire to commit the offence. He explicitly rejected the use of lower mental thresholds or presumptions—such as "should have known"—as inadequate for attributing criminal responsibility (§ 30).

b. Evaluation of the Special Rapporteur's Opinion in Light of ECtHR Jurisprudence

The ECtHR requires that the mental element of a criminal offence be proven with clear and specific evidence. In *S.W. v. the United Kingdom* (no. 20166/92, 22 November 1995), the Court held that criminal intent must be established through concrete facts (§ 35).

In *Yalçınkaya v. Türkiye*, the Court emphasised that whether the individual possessed the requisite intent and knowledge of the organisation's terrorist aims must be assessed on an individualised basis rather than through generalised assumptions (§ 266). It further stated that the mere use of ByLock, for example, could not automatically demonstrate criminal intent(§ 267).

In *Parmak and Bakır v. Türkiye*, the Court found that there was no evidence to suggest that the applicants intended to further terrorist objectives, as their activities were limited to distributing leaflets and possessing publications, without any indication of violent intent (§ 74).

These judgments are consistent with the Special Rapporteur's view that a high threshold of intent must be established to ground criminal liability.

c. Assessment of the Yasak Judgment in Light of the Special Rapporteur's Opinion and ECtHR Jurisprudence

In the *Yasak* case, the government and the Second Section of the ECtHR assumed that the applicant, by holding a "senior position in the organisation's covert structure," must have

been aware of its ultimate aims (§ 171). However, this presumption was based on generalised assertions rather than specific evidence. The applicant's intent was not assessed through an individualised analysis. For instance, it was never demonstrated with concrete evidence that Yasak had knowledge of the attempted coup—alleged to be the organisation's ultimate goal—during the 2011–2014 period.

This approach is inconsistent with the Court's reasoning in *Yalçınkaya*, which emphasised individualised assessment (§ 266), and with *Parmak and Bakır*, where the Court rejected presumed intent in the absence of violent conduct (§ 74). Furthermore, in *Yasak*, the ECtHR's conclusion that the applicant acted "knowingly and willingly" was not supported by a substantive definition of the phrase nor by evidence demonstrating actual intent (*Yasak v. Türkiye*, Altıparmak & Budak). The claim that Yasak "knowingly" supported the recruitment of young individuals and infiltration of state institutions (§§ 164–165) disregards the broader socio-political context in Türkiye and the fact that, at the time, the Gülen Movement was perceived as a legitimate religious and civic group (*Yasak v. Türkiye*, Gökçe).

For example, in *Yasin Özdemir v. Türkiye*, the ECtHR held that social media posts praising the Gülen Movement in 2015 could not be criminalised on the basis of violent conduct that occurred after the 2016 attempted coup (§ 41). Just as Özdemir could not have foreseen the movement's alleged future aims, Yasak's actions between 2011 and 2014 cannot reasonably be interpreted as knowingly advancing such goals (*Yasak v. Türkiye*, Altıparmak & Budak). This directly supports the Special Rapporteur's rejection of low mental thresholds for establishing intent.

In addition, *ASSEDEL* criticised the Court's failure to apply Article 30 of the Turkish Penal Code, which concerns "mistake provisions." Under this article, an individual who is unaware of the material elements of an offence is deemed not to have acted with intent. Yasak's claim that he lacked knowledge of the organisation's alleged ultimate purpose should have been evaluated under this provision, but the ECtHR failed to adequately engage with this argument (*ASSEDEL*, p. 44).

4. Clandestine Activities and the Right to Freedom of Association

a. Special Rapporteur's Opinion

The Special Rapporteur stated that clandestine activities should not automatically be interpreted as indicative of a terrorist purpose. In states where freedom of expression, assembly, and association is restricted, secrecy may be adopted to avoid punitive repression. He further emphasised that occupying a leadership position within an organisation does not necessarily imply awareness of the group's alleged terrorist objectives (§ 31).

b. Evaluation of the Special Rapporteur's Opinion in Light of ECtHR Jurisprudence

The ECtHR has consistently taken a strong stance in protecting the freedoms of expression, assembly, and association (Articles 10 and 11 ECHR). For instance, in *United*

Communist Party of Turkey and Others v. Türkiye (no. 21237/93, 25 May 1998), the Court held that the dissolution of a political party constituted a disproportionate interference with these freedoms (§ 47).

In *Yalçınkaya v. Türkiye*, the Court noted that actions such as depositing money in Bank Asya or participating in associations and unions linked to the Gülen Movement were legal at the time and fell within the scope of rights protected by the Convention (§ 343). It also reiterated that an individual's knowledge of a group's terrorist aims must be assessed individually, not presumed based on general affiliations (§ 266).

Likewise, in *Parmak and Bakır v. Türkiye*, the Court found that activities such as organising meetings and distributing leaflets constituted expressions of political opinion and did not demonstrate terrorist intent; therefore, such acts could not justify a conviction (§§ 73–74).

c. **Assessment of the Yasak Judgment in Light of the Special Rapporteur's Opinion and ECtHR Jurisprudence**

In *Yasak*, domestic courts cited the applicant's alleged use of a code name and participation in covert activities as evidence of criminal conduct (§ 42). However, such activities may have been religious or social in nature, and in the context of Türkiye—where freedoms of expression and assembly are curtailed—could be interpreted as protective responses against state repression. The Second Section of the ECtHR's decision to associate these activities automatically with a terrorist purpose (§ 163) contradicts the Special Rapporteur's analysis and the reasoning in *Yalçınkaya* (§ 343) and *Parmak and Bakır* (§§ 73–74), which recognise the lawfulness of peaceful activities in the absence of violent intent.

Moreover, the allegation that Mr. Yasak had served as a "regional student coordinator" (§ 163) does not, within a decentralised structure, substantiate knowledge of terrorist aims. The ECtHR's assertion that these actions did not fall within the scope of rights protected under the Convention (§ 164) disregards the presumption of legality that applied at the time, thereby resulting in retroactive punishment (*Yasak v. Türkiye*, Altıparmak & Budak). The Court failed to engage with the possibility that covert activities may have emerged in response to increasing authoritarianism following the 2013 corruption scandals—a contextual element emphasised in decisions such as *Atilla Taş v. Türkiye* (§ 134) and *Başer and Özçelik v. Türkiye* (§ 203) (*Yasak v. Türkiye*, Gökçe; *ASSEDEL*, pp. 20–29).

In its judgment, the ECtHR placed excessive weight on the applicant's "alleged clandestine activities" while disregarding their potential religious or social character. It presumed guilt based on references to the Gülen Movement's "covert structure," but this presumption was not supported by concrete evidence (*ASSEDEL*, pp. 20–24).

5. Ambiguous Definitions in Turkish Law

a. Special Rapporteur's Opinion

The Special Rapporteur observed that the definitions of "terrorism" and "terrorist organisation" under Turkish law are excessively broad and vague, resulting in arbitrary enforcement practices and leading to violations of human rights (§ 32).

b. Evaluation of the Special Rapporteur's Opinion in Light of ECtHR Jurisprudence

The ECtHR has repeatedly held that legal ambiguity may give rise to violations of Article 7 ECHR. In *Rekvényi v. Hungary* (no. 25390/94, 20 May 1999), the Court found that vague legislation can restrict individual rights in unforeseeable ways (§ 34).

In *Yalçınkaya v. Türkiye*, the Court concluded that Article 314 of the Turkish Penal Code (concerning membership in an armed terrorist organisation) had been applied in an overly broad and vague manner. The automatic treatment of actions such as the use of ByLock as criminal evidence was found to be incompatible with the principle of legality (§ 268).

Similarly, in *Parmak and Bakır v. Türkiye*, the Court criticised the expansive interpretation of Article 7 of the Anti-Terror Law (Law No. 3713), especially the application of "moral coercion" in the absence of actual violence, and held that the convictions were based on vague legal definitions (§ 76).

These rulings align with the Special Rapporteur's critique regarding the lack of legal clarity in Turkish anti-terrorism legislation.

c. Assessment of the Yasak Judgment in Light of the Special Rapporteur's Opinion and ECtHR Jurisprudence

In *Yasak*, domestic courts interpreted Article 314 of the Turkish Penal Code expansively, treating acts such as "organising students" or "planning discussion programmes" as constituting a terrorist offence (§ 163). The Second Section of the ECtHR endorsed this interpretation as "foreseeable" (§ 177), which conflicts with the principle of avoiding arbitrary application, as affirmed in *Yalçınkaya* (§ 268) and *Parmak and Bakır* (§ 76).

Regarding the textual foreseeability of Article 314, the ECtHR in *Yasak* assumed that Turkish Court of Cassation jurisprudence had clarified its application. However, the existence of thousands of cases in which the "continuity, diversity, and intensity" test has been inconsistently applied by domestic courts suggests otherwise (*Yasak v. Türkiye*, Altıparmak & Budak). The ECtHR's practice of grouping large volumes of similar applications—such as *Berber and Others*, *Ateş and Others*—and referring them to the Government in batches of 200 applicants reflects the systemic unpredictability of Article 314. The Court's failure to address this in *Yasak* undermines the Special Rapporteur's critique and disregards human rights standards.

Furthermore, the ECtHR's excessive deference to the Turkish Government's counter-terrorism arguments and its unwillingness to critically examine the official narrative surrounding the 15 July 2016 coup attempt may risk legitimising the ongoing authoritarian policies in Türkiye (*Yasak v. Türkiye*, Gökçe). This reflects the Court's cautious approach in politically sensitive "red-line" cases involving Member States, driven perhaps by a desire to maintain the coherence of the Convention system and avoid non-compliance with its judgments (*Yasak v. Türkiye*, Gökçe).

ASSEDEL has similarly criticised the ECtHR's failure to recognise the systematic misuse of Article 314 in cases related to the Gülen Movement, arguing that such ambiguity has led to arbitrary convictions (*ASSEDEL*, pp. 16–20).

6. The Purpose of the Principle of Legality and the Protection of Human Rights

a. **Special Rapporteur's Opinion**

The Special Rapporteur stressed that the principle of legality aims to prevent arbitrariness and excessive state interference by safeguarding fundamental rights such as freedom of expression, media, association, assembly, and religion. He emphasised that vague terrorism-related offences risk criminalising the legitimate activities of civil society (§ 33).

b. Evaluation of the Special Rapporteur's Opinion in Light of ECtHR Jurisprudence

The ECtHR has consistently underlined the need to strike a balance between anti-terrorism laws and human rights. For example, in *Klass and Others v. Germany* (no. 5029/71, 6 September 1978), the Court held that security measures must not amount to a disproportionate interference with fundamental rights (§ 49).

c. **Assessment of the Yasak Judgment in Light of the Special Rapporteur's Opinion and ECtHR Jurisprudence**

In *Yasak*, the applicant's conviction was based on activities such as organising religious discussion programmes (§ 6), which fall within the scope of rights protected under Articles 9 (freedom of religion) and 11 (freedom of assembly) of the ECHR. The Second Section of the ECtHR failed to adequately consider these dimensions, which runs counter to the human rights protection principles affirmed in *Yalçınkaya* (§ 343) and *Parmak and Bakır* (§ 74).

Furthermore, the Court's conclusion that the applicant's actions did not constitute the exercise of Convention-protected rights (§ 164) overlooks the fact that such acts benefited from the presumption of legality during the 2011–2014 period. This retroactively transforms ordinary, lawful conduct into criminal offences, thereby legitimising the retroactive application of criminal law (*Yasak v. Türkiye*, Altıparmak & Budak).

The ECtHR's failure to thoroughly address the applicant's fair trial complaints under Article 6 ECHR also raises serious concerns. Yasak was unable to be physically present at his

final hearing and was denied the opportunity to challenge witness testimony in person — violations which call into question the overall fairness of the proceedings (*Yasak v. Türkiye*, Gökçe). Although Yasak argued that participating remotely hindered his ability to present an effective defence, the ECtHR accepted the domestic proceedings as fair without detailed analysis (§ 178; *Yasak v. Türkiye*, Gökçe). In addition, his participation via SEGBIS (audio-visual system) and the denial of private communication with his lawyer significantly restricted his right to defence (*ASSEDEL*, pp. 11–12).

This illustrates the Special Rapporteur's broader concern that vague terrorism offences are being used to criminalise legitimate civil society activities.

Conclusion

The observations presented by the UN Special Rapporteur in paragraphs 28 to 33 are largely consistent with the established case law of the European Court of Human Rights (ECtHR), particularly with the judgments in *Yüksel Yalçınkaya v. Türkiye* and *Parmak and Bakır v. Türkiye*. These approaches emphasise the principle of legality, the clarity of the material and mental elements of criminal offences, the protection of fundamental rights, and the need to avoid vague definitions of terrorism. However, the judgment in *Yasak v. Türkiye* significantly deviates from these principles:

- Yasak's conviction is based on acts committed during 2011–2014, a period in which the Gülen Movement had not been designated as an "armed terrorist organisation," making the conviction unforeseeable (paragraph 28).
- His acts did not amount to a direct contribution to terrorist activities and were instead of an innocent or speculative nature (paragraph 29).
- The applicant's intent was presumed through generalisations, without individualised assessment (paragraph 30).
- His alleged clandestine activities may have had religious or social purposes and do not automatically indicate a terrorist aim (paragraph 31).
- His conviction is the result of an arbitrary application of vague legal provisions under Turkish law (paragraph 32).
- The conviction disproportionately restricts freedoms of expression, religion, and assembly (paragraph 33).

The inconsistencies in the *Yasak* judgment mirror the criticisms expressed by the ECtHR in *Parmak and Bakır* regarding convictions based on non-violent acts and overly broad interpretations of "force" (§ 76). Unlike *Yalçınkaya*, *Yasak* permits the retroactive application of criminal law, thereby undermining the principles of foreseeability and legality (*Yasak v. Türkiye*, Altıparmak & Budak). This risks perpetuating the vague and inconsistent application of Article 314 of the Turkish Penal Code in thousands of similar cases through the "continuity, diversity, and intensity" test.

By legitimising a conviction despite the Gülen Movement not having been classified as a terrorist organisation at the time, the *Yasak* judgment ignores Türkiye's socio-political context and paves the way for the criminalisation of legitimate activities (*Yasak v. Türkiye*, Gökçe; Altıparmak & Budak). The ECtHR's excessive deference to the Turkish Government's counter-terrorism arguments and its reluctance to question the Erdoğan administration's official narrative concerning the 15 July 2016 coup attempt contributes to the perpetuation of authoritarian practices in Türkiye. This reflects the Court's broader tendency to exercise caution in politically sensitive matters involving Member States, possibly to preserve their adherence to the ECHR system and secure the implementation of its judgments (*Yasak v. Türkiye*, Gökçe).

Even more concerning is the fact that, after disregarding the *Yalçınkaya* Grand Chamber judgment for over a year, Turkish judicial authorities issued a new conviction against Yüksel Yalçınkaya using reasoning derived from *Yasak* (*Yasak v. Türkiye*, Altıparmak & Budak). The Turkish Government has openly declared its intention not to implement *Yalçınkaya*, and domestic courts, under political pressure, have disregarded it (*Yasak v. Türkiye*, Gökçe). This raises the serious risk that *Yasak* will become a precedent for legitimising convictions for membership in a terrorist organisation based on non-violent conduct, posing a grave threat to civil society (*ASSEDEL*, pp. 46–49).

The upcoming Grand Chamber hearing in *Yasak v. Türkiye*, scheduled for 7 May 2025, presents a critical opportunity to rectify these inconsistencies. It is expected that the Grand Chamber will reaffirm the principles established in *Yalçınkaya* and *Parmak and Bakır* and find a violation of Article 7 ECHR. Such a judgment would not only address the vague definitions of terrorism in Turkish law but also reinforce the ECtHR's mission to protect human rights, demonstrate a firm stance against authoritarian repression, establish an important precedent against arbitrary prosecutions, and safeguard the legitimate activities of civil society (*Yasak v. Türkiye*, Gökçe; Altıparmak & Budak; *ASSEDEL*, pp. 46–49).