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NGO Communication under Rule 9(2) concerning the execution of the Akgün group of cases (Application No. 19699/18 and related cases) and the Alparslan Altan group of cases (Application No. 12778/17) v. Türkiye

I. Introduction

1. This submission is made pursuant to Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments of the European Court of Human Rights (ECtHR).

2. It concerns the execution of the judgments in both the Akgün group of cases v. Türkiye and the Alparslan Altan group of cases v. Türkiye, currently under the supervision of the Committee of Ministers. This communication responds to the most recent Action Plan submitted by the Turkish authorities. *Akgün v. Türkiye* is the leading case within a group of 24 repetitive cases concerning violations of Article 5 of the Convention arising from unlawful and insufficiently reasoned detention practices, lack of effective judicial review, and restrictions on procedural safeguards in detention proceedings. The *Alparslan Altan* group concerns, inter alia, the extensive and unforeseeable interpretation of the concept of discovery *in flagrante delicto* in relation to members of the judiciary, resulting in the circumvention of statutory and constitutional safeguards protecting judicial independence and legal certainty in detention proceedings.

3. The submission aims to assist the Committee in assessing whether the measures relied upon by the authorities are capable of remedying the structural deficiencies identified by the Court, particularly under Article 5 §§ 1, 3 and 4 of the Convention.

4. It is respectfully submitted that the measures and reform initiatives presented by the authorities remain largely declaratory and fail to demonstrate any tangible or measurable improvement in judicial practice. They also fail to meet the requirements set out in the Committee's decision adopted at its 1475th meeting, held on 19–21 September 2023, which called for concrete and result-oriented measures.

5. In particular, the authorities have failed to demonstrate that the structural problems identified by the Court in the *Akgün group*, including the lack of individualized assessment, the reliance on stereotyped detention reasoning, the absence of effective procedural safeguards in detention proceedings, and restrictions on access to investigation files, have been effectively remedied in practice. Likewise, in the *Alparslan Altan group*, the authorities have failed to demonstrate that effective measures have been adopted to ensure respect for the principle of legal certainty and the procedural safeguards protecting members of the judiciary against arbitrary interference through an extensive interpretation of the concept of discovery *in flagrante delicto*.

6. While the authorities increasingly rely on broad judicial reform discourse, human-rights policy frameworks, and general political initiatives, the present case groups require targeted and execution-specific measures directly addressing the concrete deficiencies identified by the

Court. 7. Generic references to reform strategies or legislative frameworks cannot substitute for demonstrable compliance with Article 5 standards in judicial practice.

8. The present submission will first address the execution of the judgments in the Akgün group of cases and subsequently examine the deficiencies in the execution process concerning the Alparslan Altan group of cases.

II. As regards the Akgün Group of Cases

1. Core Issue Underlying the Akgün Group of Cases

9. At the outset, it should be recalled that the Government's interpretation of the Court's judgment in *Akgün v. Türkiye* reflects an unduly narrow reading of the violations identified by the Court.

10. The Government asserts in paragraph 291 of its action plan that *"in the Akgün case the Court considered that, in the absence of the other elements or information, the authorities' reference to a document which merely stated that the applicant was a user of the encrypted communication program (ByLock), which according to the domestic courts, had been exclusively used by the members of the "FETÖ/PDY" terrorist organisation, was not sufficient to indicate the existence of reasonable suspicion that the applicant had indeed used this program in a way that might constitute the offence with which he was charged."*

11. In the following paragraph of the action plan, the government contends that *"in Akgün, the Court considered that when ordering the applicant's pre-trial detention, in 2016, the Magistrate Judgeships had not had sufficient information on the nature of ByLock to conclude that this messaging application was used exclusively by members of the FETÖ/PDY organisation for the purposes of internal communication. The Court therefore held that there had been a violation of Article 5 § 1 of the Convention on account of the lack of reasonable suspicion, at the time of the applicant's initial pre-trial detention, that he had committed an offence."*

12. Building on this reading, the authorities further argue in paragraphs 295 and 296 of the Action plan that the Court's findings relate only to a specific and limited period of time and that the deficiencies identified by the Court were remedied once the domestic authorities had "improved their practice" after that initial period.

13. This reading is unduly narrow and fails to reflect the true nature of the Court's findings.

14. Contrary to the Government's position, the Court's finding of a violation under Article 5 § 1 was not limited to the alleged lack of sufficient information available to the domestic courts at a particular point in time regarding the nature of the ByLock application.

15. Rather, the core issue underlying the *Akgün* group of cases lies in the systemic failure of domestic courts to establish "reasonable suspicion" on the basis of concrete, verifiable and individualised evidence at the time of ordering pre-trial detention.

16. As clearly demonstrated in the Court's reasoning:

- The applicant's detention was based solely on the alleged use of ByLock, with no mention of any specific element. (§§ 164–166) The evidence relied upon consisted of a single, unsubstantiated document (appeared on the ByLock "red list"), lacking underlying data, methodological explanation, or indicia of reliability. It failed to specify the dates, frequency, or details of the alleged use, or to explain how such use could demonstrate membership of a terrorist organisation. (§§ 178-181)
- The domestic courts did not have sufficient information about the nature of ByLock to conclude that it was exclusively used by members of the Gülen Movement, nor did they rely on any other factual elements capable of justifying the suspicion (§ 174).
- The Court held that merely citing Article 100 of the CCP and making vague references to the case file could not justify plausible suspicion in the absence of an individualised assessment and verifiable facts. (§ 175)
- This defect was not cured by subsequent review, since the objection was dismissed without any meaningful scrutiny, and the Constitutional Court relied retrospectively on an indictment issued long after the applicant's detention.
- In those circumstances, the Court concluded that the mere assertion that the applicant was a ByLock user could not, on its own, establish plausible suspicion that he had committed the offence in question. (§181)

17. In this context, the Court's reasoning makes clear that the violation cannot be reduced to a temporary lack of information about the nature of ByLock. The core problem identified by the Court was a structural deficiency in judicial practice: the automatic and uncritical reliance on a single allegation of ByLock use, the absence of any meaningful judicial scrutiny of the reliability and evidentiary basis of that allegation, and the failure to conduct an individualised assessment capable of establishing plausible suspicion on the basis of concrete and verifiable facts.

18. Importantly, the structural nature of the problem identified by the Court is not confined to cases involving ByLock evidence. It is equally reflected in other cases examined under the Akgün group, such as *Çakar and Others v. Türkiye* (Applications nos. 2541/19 and 15 others). In that case, for example, the applicants' pre-trial detention was based on a wide range of alleged evidential elements, including witness statements, social media activity, alleged links with certain institutions, financial transactions, participation in meetings, and the use of ByLock. Despite this diversity of alleged evidence, the Court found a violation of Article 5 § 3 on account of the lack of sufficient reasoning in the detention decisions. Significantly, the Court did not consider it necessary to examine whether there existed a "reasonable suspicion" under Article 5 § 1 (c), having already identified fundamental deficiencies in the judicial reasoning. This shows that the core issue is not limited to the nature or type of evidence relied upon but lies in a broader and structural deficiency in judicial practice, namely the failure to provide concrete, individualised and sufficiently reasoned assessments capable of justifying deprivation of liberty at the time of detention.

19. The systemic nature of the deficiency identified by the Court is further confirmed by its findings in *Altun and Others v. Türkiye* (Applications nos. 75370/17 and 22 others), also examined under the Akgün group. In that case, the applicants' pre-trial detention was based on a wide range of alleged evidential grounds, including their suspension from judicial office, alleged use of the ByLock application, witness statements, the content of third parties' communications, and other elements said to indicate organisational links with the Gülen Movement. Despite this diversity of evidential bases, the Court found a violation of Article 5 § 1 of the Convention on account of the lack of reasonable suspicion at the time of the applicants' initial pre-trial detention. It further noted that the applicants' objections, including those based on the absence of reasonable suspicion, had been dismissed by the domestic courts, including the Constitutional Court.

20. Taken together, these judgments confirm that the problem identified by the Court is not limited to cases where detention is based solely on ByLock evidence. Rather, even where multiple categories of evidence are invoked, the domestic courts have consistently failed to ensure that such elements meet the Convention standard of "reasonable suspicion," as they are neither assessed in an individualised manner nor supported by concrete and verifiable facts.

2. Implications for Execution

21. Against this background, the Government's assertion that the violation was due to a lack of information available to judges in 2016 significantly mischaracterises the nature of the Court's

findings. By reducing the violation to a merely temporal and informational deficiency, the Government overlooks the fundamental and continuing problem, namely the absence of safeguards capable of ensuring that detention decisions are based on concrete and individualised evidence. Such a restrictive interpretation is particularly problematic in the execution context, as it diverts attention from the structural nature of the violations, lends support to the continued use of categorical or presumptive forms of evidence, and ultimately hinders the adoption of effective general measures that address the root causes of the violations. Accordingly, it is respectfully submitted that the Government has, at best, misunderstood the core issue underlying the *Akgün* group of cases, which raises serious concerns as to the adequacy of the measures proposed for the execution of the Court's judgments.

22. It is noteworthy that the authorities' characterization of the violations has remained essentially unchanged despite the passage of time and the introduction of new reform narratives. In particular, the reasoning contained in paragraphs 295–307 of the authorities' June 2026 Action Plan substantially reproduces, in near-identical terms, the arguments previously advanced in paragraphs 8–19 of the Revised Action Report submitted in 2024.¹ This continuity confirms that the authorities continue to approach the *Akgün* group primarily as a limited evidentiary issue relating to ByLock, rather than as a structural problem concerning judicial reasoning, individualized assessment, and procedural safeguards under Article 5 of the Convention.

3. Assessment of the Government's Revised Action Report

3.1. Failure to Provide Concrete and Result-Oriented Measures

23. In its 1475th session decision 8CM/Del/Dec(2023)1475/H46-35), the Committee urged the authorities to adopt “concrete and result-oriented measures” and to provide sample judicial decisions demonstrating compliance with Convention standards.

24. However, although the Government refers to several Constitutional Court judgments and provides information on a limited number of magistrates' court detention decisions, these references do not demonstrate any meaningful improvement in Convention-compliant judicial practice. The Constitutional Court decisions cited do not show that lower courts now carry out an individualised assessment of evidence when ordering or extending detention. Nor do the

¹ Compare paragraphs 8–19 of the 2024 Revised Action Report with paragraphs 295–307 of the June 2026 Action Plan.

examples from magistrates' courts establish that the requirement of "strong suspicion based on concrete evidence" is being effectively applied in practice. In particular, the Action Report fails to provide convincing examples of first-instance detention decisions that contain relevant and sufficient reasoning, assess the concrete evidentiary basis for detention, and comply with the standards identified by the Court in the Akgün group of cases.

25. In its Actionplan, particularly in paragraphs 187–224, the Government mainly lists and explains existing legislative provisions and amendments concerning detention which are generally applicable to all criminal proceedings, and argues on that basis that the legislative framework is Convention-compliant. The Government also limits itself to abstract descriptions of the legislative framework and general references to developments in domestic case law. However, both the legislative framework relied upon and the case-law developments invoked were already known to the Committee of Ministers and had already been assessed by the European Court of Human Rights when delivering its judgments in this group of cases. Their mere repetition therefore cannot be regarded as evidence of meaningful progress in execution.

26. Under Section C, from paragraph 291 onwards, the Government addresses general measures relating to ByLock evidence. It first outlines the established practice concerning the evidentiary role attributed to the ByLock application, and then refers to certain aspects of judicial practice regarding the assessment of such evidence. Subsequently, under Section D, the Government presents selected case-law examples concerning pre-trial detention decisions.

27. In the part concerning the "established practice", between paragraphs 295 and 302, the Government provides explanations regarding the Constitutional Court's case-law on the use of ByLock evidence in the detention context. However, the case-law references cited in this section, such as **Aydın Yavuz and Others**, **Ferhat Kara and Others**, and the April 2017 landmark judgment of the 16th Chamber of the Court of Cassation, were already known to the European Court of Human Rights, which assessed them in **Akgün** and in subsequent judgments. They were therefore also already known to the Committee of Ministers before its 2023 decision on the Akgün group of cases. Accordingly, this section does not introduce any new element or demonstrable evidence showing that Convention-compliant judicial practice has been developed in response to the deficiencies identified in the *Akgün* judgment.

28. The Government's assertion in the Action Plan that the deficiencies identified by the Court have now been remedied (paragraph 302 of the Action plan) is presented in a purely declaratory manner and is not supported by any concrete evidence. In particular, the authorities claim in paragraph 301 that it has been "undoubtedly established" through numerous judicial decisions

and expert reports that the ByLock application was used exclusively by members of the Gülen Movement, and that domestic courts now possess sufficient information in this regard. However, the Action plan does not provide any examples of such judicial decisions, expert reports, or case files, nor does it explain how this alleged knowledge is translated into a Convention-compliant judicial practice. In the absence of verifiable material, meaningful statistical data, or sample decisions demonstrating how courts assess and rely on such evidence in an individualised manner, these assertions remain unsubstantiated. As such, they cannot be regarded as evidence that the structural deficiencies identified by the Court have been effectively remedied.

29. While being mindful that a definitive assessment of this disputed technical question may go beyond the scope of the Committee of Ministers' supervision in the present group of cases, the Government's position is not uncontested. Independent expert reports and academic analyses² have also challenged the assertion that ByLock was used exclusively by members of the Gülen Movement, suggesting instead that the application was, in principle, accessible to the general public. At the very least, this confirms that the matter cannot be treated as conclusively established in the abstract, and certainly not in the absence of supporting material produced in the present execution process.

30. In the absence of any concrete indication of a shift in judicial practice, this approach is insufficient to demonstrate effective execution, given that the violations identified by the Court stem precisely from deficiencies in the practical application of the law.

31. Furthermore, it is essential not to lose sight of the core issue identified by the Court in the *Akgün* group of cases. The central problem was not limited to whether the ByLock application was used exclusively by members of the Gülen Movement. Rather, the Court's concern went beyond the nature of the application itself and focused on the manner in which its alleged use was treated by domestic courts. In particular, the Court criticised the automatic reliance on alleged ByLock use as a sufficient basis for detention, without any individualised assessment and without demonstrating how such use could substantiate the offence of membership of a terrorist organisation. The domestic courts failed to explain, on the basis of concrete and

² See, for example, "Evaluation of the Argument that the ByLock Application has been Used Exclusively", expert Opinion, by Levent Mazılıgüney and Koray Peksayar, accessible at: https://www.academia.edu/83858052/Evaluation_of_the_Argument_that_the_ByLock_Application_has_been_Used_Exclusively

verifiable facts, how the applicant's alleged conduct satisfied the constituent elements of the offence.

3.2. Judicial practice concerning the treatment of ByLock evidence remains unchanged

32. The Government submits (between paragraphs 303 and 307) that the current practice concerning the examination of ByLock evidence has remedied the deficiencies identified by the Court, relying on the existence of technical analyses and expert reports prepared by law enforcement authorities. However, this description, even if taken at face value, does not address the core issue identified in the Court's judgments.

33. As presented in the Action Plan, the role of the investigative authorities and judicial bodies remains essentially limited to establishing whether an individual has used the ByLock application. Once such use is identified—regardless of the context, manner, or underlying circumstances—this finding appears to trigger, in practice, an almost automatic sequence of measures, including arrest, referral for detention, and pre-trial detention.

34. In practice, this approach reflects a continuing and problematic presumption that any indication of ByLock use—whether based on technical data or other forms of inference—is sufficient to trigger terrorism-related criminal proceedings and pre-trial detention. Indeed, in paragraph 304 of the Action plan, the Government itself states that the ByLock application remains “an important piece of evidence concerning the suspicion of membership of the FETÖ/PDY organisation”. This formulation demonstrates that the underlying approach criticised by the Court has not changed.

35. This approach is particularly problematic in light of the Court's findings in *Yüksel Yalçınkaya* and *Yasak*, where the Court identified, under Article 7 of the Convention, the systemic problem of automatically deriving the offence of membership of an armed terrorist organisation from acts which may otherwise fall within the sphere of lawful civil, social or associative activity. The same logic continues to operate at the detention stage: alleged ByLock use is treated as a decisive indicator of terrorist-organisation membership without any meaningful examination of whether the material and mental elements of that offence are present in the individual case.

36. As a result, detention practice continues to rely on alleged ByLock use as the principal basis for deprivation of liberty, often through formulaic references to the catalogue offences under Article 100 of the Code of Criminal Procedure. Criminal proceedings are initiated, detention is ordered, and evidence is gathered only afterwards, while the individual may remain in pre-trial detention for months. This confirms that the deficiency identified in *Akgün* persists: detention

decisions continue to rely on abstract and stereotyped references to ByLock, without meaningful judicial scrutiny, without individualised assessment, and without concrete and verifiable facts capable of justifying a strong suspicion under Article 5 of the Convention.

3.3. Assessment of the Case-Law Examples Relied upon by the Government

3.3.1. The Constitutional Court's Case-Law Does Not Demonstrate an Effective Remedy in Comparable Cases

37. Under the heading “Case-law Samples on Pre-Trial Detention”, the Government refers to certain judgments of the Constitutional Court and provides selected examples of decisions delivered by magistrates’ judgeships. This section examines these examples in order to assess whether they genuinely demonstrate the development of Convention-compliant judicial practice in response to the deficiencies identified by the Court in the Akgün group of cases.

38. In this section, the Government refers to the Constitutional Court’s judgments in *Hasan Akboğa*, *Kadir Aġladıođlu* and *Ümit Çiftçi*. It is true that, in these cases, the Constitutional Court found violations of the applicants’ right to liberty and security. However, none of these judgments is comparable to the cases examined in the *Akgün* group.

39. The *Hasan Akboğa* case concerned an applicant accused of aiding the PKK, who was taken from his home, held in custody for approximately seven and a half hours, and subsequently benefited from a decision of non-prosecution. It therefore does not concern pre-trial detention based on alleged affiliation with the Gülen Movement or the use of ByLock evidence.

40. The other two cases, *Kadir Aġladıođlu* and *Ümit Çiftçi*, concerned individuals accused of membership of the Gülen Movement. However, contrary to the Government’s suggestion in paragraph 312 of the Action Report, these cases do not involve claims comparable to those raised in the *Akgün* group. Moreover, both judgments pre-date even the *Akgün* judgment and therefore cannot demonstrate any post-*Akgün* development in judicial practice.

41. In *Kadir Aġladıođlu*, the applicant was accused on the basis of several elements, including allegations that a special academic position had been opened for him in 2013, that he had participated in organisational meetings, and that documents had been seized during searches. The accusation was also supported by witness and suspect statements, telephone records,

bank records, university correspondence, a Higher Education Council inspection report and investigation records. Despite this accumulation of evidence, the applicant remained in pre-trial detention for nearly one and a half years and was ultimately acquitted.

42. In *Ümit Çiftçi*, the applicant was accused on the basis of witness statements, alleged visits to houses connected with the organisation between 2008 and 2010, telephone contacts with persons accused of using ByLock, and the presence on his phone of a PDF document entitled “Gerçeğin peşinde 15 Temmuz 2016”. He remained in pre-trial detention for almost one year and was eventually acquitted.

43. These examples therefore do not show that the Constitutional Court has developed a Convention-compliant approach in cases similar to *Akgün*. On the contrary, the Government has failed to identify a single Constitutional Court judgment in a genuinely comparable case in which the court examined, on the merits, whether alleged ByLock use or similar indicators constituted a reasonable suspicion within the meaning of Article 5, and applied the principles set out in *Akgün* in favour of the applicant.

44. This conclusion is further confirmed by the scale of violations subsequently found by the European Court of Human Rights. As of 17 March 2026, according to ECtHR data, the Court has found violations in 57 separate judgments concerning the unlawful and arbitrary detention of 4,063 applicants accused of affiliation with the Gülen Movement after 15 July 2016, including 21 judgments concerning 1,239 judges and prosecutors. These cases all reached Strasbourg after the exhaustion of domestic remedies and after the Constitutional Court had declared the relevant complaints inadmissible. These figures illustrate both the depth of the problem and the continuing failure of the domestic system to remedy the structural deficiencies identified in the *Akgün* group.

45. In paragraph 313 of the Action plan, the Government provides statistical information concerning the Constitutional Court’s judgments on the right to liberty and security over the last five years. It argues that these statistics demonstrate the effectiveness of the individual application mechanism as a domestic remedy. However, the figures relied upon by the Government in fact reveal the opposite.

46. According to the Government’s own data, between 1 January 2021 and 31 December 2025, the Constitutional Court found a violation of the right to liberty and security in the context of detention orders in only 65 applications. In 2025, the number of such findings was limited to 17.

When compared with the Constitutional Court's own overall statistics for 2025³, this figure appears strikingly low. In that year, the Constitutional Court found at least one violation in 4,750 applications. The fact that only 17 of those cases concerned the right to liberty and security in detention matters demonstrates the extremely limited practical impact of the remedy in this field.

47. This conclusion is further reinforced by the broader 2025 statistics of the Constitutional Court.⁴ When the 65,543 inadmissibility decisions and 185 decisions finding no violation are taken into account, it becomes clear that individual applications concerning deprivation of liberty, including complaints relating to detention, are systematically filtered out or rejected. Far from demonstrating the effectiveness of the remedy, these figures suggest that the Constitutional Court functions in practice as a mechanism which delays, rather than effectively remedies, the recognition of violations of the right to liberty and security.

48. The Committee is therefore invited to assess the Government's figures of 17, 8, 5, 18 and 17 violation judgments delivered respectively in 2021, 2022, 2023, 2024 and 2025 against the Constitutional Court's overall caseload and outcome statistics during the same period. Viewed in context, these extremely limited numbers do not establish that the Constitutional Court provides an effective remedy for the structural deficiencies identified in the *Akgün* group of cases.

49. In order to enable a meaningful assessment, the Committee should invite the Government to provide disaggregated and case-specific statistics, covering the period from 2021 to 2025, on individual applications concerning pre-trial detention in terrorism-related cases, and in particular in cases involving alleged affiliation with the Gülen Movement and/or reliance on ByLock evidence. These statistics should indicate, at a minimum, the total number of applications lodged, the number declared inadmissible, the number rejected on the merits, the number resulting in a finding of violation, the average length of the Constitutional Court's examination, and whether the applicant had already been released, convicted, or acquitted by the time the Constitutional Court delivered its decision.

50. The Committee should also invite the Government to provide concrete examples of Constitutional Court judgments and first-instance detention decisions in which domestic courts examined, in an individualised and reasoned manner, whether the facts relied upon were capable of giving rise to a strong suspicion within the meaning of Article 5 of the Convention. In particular, the Government should be requested to submit examples from cases that did not end in an acquittal or a decision of non-prosecution, demonstrating that the Constitutional Court

³ <https://www.anayasa.gov.tr/istatistikler/bireysel-basvuru-istatistikleri/2/>

⁴ *Ibid.*

conducted an effective review of allegedly unlawful detention in line with the Court's standards. Without such disaggregated data and concrete examples, the general figures submitted by the Government cannot demonstrate the effectiveness of the remedy or the existence of Convention-compliant judicial practice.

3.3.2. The Case-Law Examples from Magistrates' Judgeships Do Not Demonstrate a Structural Change in Detention Practice

51. The Government further relies on several decisions of magistrates' judgeships in which requests for pre-trial detention were rejected on the grounds that the available evidence was insufficient, that detention would be disproportionate, or that judicial supervision measures would be adequate alternatives. However, these isolated examples do not demonstrate that the systemic deficiencies identified by the Court in the *Akgün* group of cases have been remedied in practice.

52. First, none of the examples provided by the Government concerns a case genuinely comparable to the factual and legal context examined in the *Akgün* group, namely detention decisions based predominantly on alleged ByLock use or alleged affiliation with the Gülen Movement. Several of the examples concern different offences, including terrorist propaganda offences, and do not address the specific structural problem identified by the Court: the automatic reliance on alleged indicators of organisational affiliation, particularly ByLock-related allegations, as sufficient grounds for detention without an individualised assessment of the constituent elements of the offence.

53. Secondly, the examples relied upon by the Government merely show that, in certain individual cases, magistrates' judgeships rejected requests for detention because the available evidence was considered insufficient or because judicial supervision was deemed sufficient. Such decisions are neither unusual nor sufficient to demonstrate the existence of a Convention-compliant and consistently applied judicial practice. The issue identified in the *Akgün* group was not whether domestic courts are theoretically capable of rejecting detention requests, but whether courts systematically conduct an individualised assessment of whether the concrete facts relied upon are capable of establishing a strong suspicion within the meaning of Article 5 of the Convention.

54. Crucially, the Government has failed to provide examples demonstrating that domestic courts, in cases involving alleged ByLock use or alleged membership of the Gülen Movement, departed from the previously criticised automatic approach and examined in a concrete and reasoned manner whether the factual allegations actually satisfied the material and mental elements of the offence of membership of an armed terrorist organisation. None of the examples submitted demonstrates a judicial assessment comparable to the standards required by the Court in *Akgün*, *Yüksel Yalçınkaya* or subsequent judgments.

55. Moreover, the examples cited by the Government are highly selective and statistically insignificant when viewed against the broader background of thousands of detention orders issued in terrorism-related proceedings after 15 July 2016. Isolated non-detention decisions cannot in themselves establish a structural change in judicial practice, particularly in the absence of comprehensive statistical information showing how frequently domestic courts reject detention requests in comparable ByLock-related cases.

56. Accordingly, the examples relied upon by the Government do not constitute demonstrable evidence that magistrates' judgements now consistently rely on concrete and verifiable facts capable of justifying a strong suspicion when ordering pre-trial detention. Nor do they demonstrate that the structural deficiencies identified in the *Akgün* group have been effectively remedied in practice.

4. Failure to Report on the Use of Detention as a Measure of Last Resort

57. The Committee of Ministers urged the authorities to take vigorous measures to ensure that deprivation of liberty is used strictly as a measure of last resort and that detention decisions are supported by relevant and sufficient reasoning, in line with the principle of a presumption in favour of liberty. It further called on the authorities to provide statistical information on the use of detention compared with alternative measures to assess developments in practice and identify emerging trends. An examination of the decisions submitted by the Government in fact confirms, rather than dispels, the concerns raised in the present communication. Those decisions rely on the same stereotyped and formulaic language habitually used by magistrates' judgements, without explaining on what concrete basis the existence or absence of a "strong suspicion" was assessed. The systemic problem in practice is not that every detention request submitted to magistrates' judgements is invariably accepted; the undersigned organisations do not make such a claim. Rather, the problem is that the practice remains so unpredictable and abstract that individuals may be detained on the basis of formulaic reasoning, while in other cases detention may be refused by using similarly formulaic statements that the relevant

conditions are not met. Such an approach is incompatible with legal certainty and creates a wide margin for arbitrariness and abuse. The examples relied upon by the Government therefore contain no indication that the structural deficiencies identified by the Court have been remedied in practice.

58. In paragraph 314 of the Action Plan, the Government asserts that deprivation of liberty is applied only as a measure of last resort and that domestic courts rely on relevant and sufficient reasoning when ordering detention. However, this assertion is not supported by the information provided. The Action Plan does not contain any statistical data enabling an assessment of the relative use of detention versus alternative measures, nor does it demonstrate any measurable reduction in the systematic overuse of pre-trial detention. More fundamentally, it fails to show any tangible change in judicial reasoning or practice indicating that detention is genuinely being treated as a measure of last resort. In the absence of such evidence, it must be concluded that no progress has been demonstrated in ensuring compliance with the principle of a presumption in favour of liberty.

59. This systemic deficiency and the lack of progress have also been identified by the UN Human Rights Committee in its 2024 concluding observations on Türkiye. The Committee expressed concern about the persistent overuse of pretrial detention, particularly in politically sensitive and terrorism-related cases, and specifically recommended that Türkiye “*ensure that pretrial detention is exceptional, imposed only when necessary and for a period of time that is as short as possible and that statutory limits on detention are strictly enforced.*”⁵ This confirms that the failure to treat detention as a measure of last resort is not an isolated issue but a broader, ongoing systemic problem, also recognized at the United Nations level.

5. Lack of Effective Measures to Ensure Access to the Case File and Persisting Systemic Violations

60. The Government’s response to the Committee of Ministers’ invitation of September 2023 fails to address the core concern identified, namely the need to ensure effective and uniform practice guaranteeing access to the investigation file, particularly in detention proceedings.

61. Instead of presenting concrete measures, the Government merely reiterates the legislative framework under Article 153 of the Code of Criminal Procedure and argues that the violation found in *Akgün v. Türkiye* was an isolated incident stemming from judicial practice. This position is not only unconvincing but also directly contradicted by the Court’s reasoning.

⁵ Human Rights Committee, *Concluding observations on the second periodic report of Türkiye*, [CCPR/C/TUR/CO/2](#), 30 October 2024, para. 30(c).

62. First, contrary to the Government's assertion that no restriction decision existed, the Court explicitly addressed this contested issue and reached a different conclusion. It observed that the Turkish Constitutional Court had examined the applicant's complaint as if a restriction decision existed and rejected it on the merits. On this basis, the Court held that it could accept the existence of a restriction (§197). This finding clearly undermines the Government's argument that the case did not involve any restriction of access.

63. Second, and more importantly, the Court's violation finding was not based on a purely formal question of whether a restriction decision existed, but on the practical consequences of the lack of access to crucial evidence. The Court found that neither the applicant nor his lawyer had sufficient knowledge of the sole piece of evidence—the alleged use of ByLock—on which the detention was based, and that no relevant documents had been provided during the critical phase of detention (§202–204). This resulted in a clear breach of the principle of equality of arms and the right to effectively challenge the lawfulness of detention under Article 5 § 4.

64. Third, the Government's reliance on the adequacy of the legislative framework is misplaced. The Court's analysis demonstrates that even where legislation appears Convention-compliant, its application in practice may give rise to violations. In *Akgün*, the problem was precisely the systematic failure in practice to ensure meaningful access to the evidence forming the basis of detention.

65. Most importantly, the Government's characterization of the violation as "isolated" is incompatible with the Court's well-established case-law. As the Court itself recalled (§200), it has repeatedly found violations in cases such as *Nedim Şener and Şık*, where access to investigation files was restricted under Article 153 of the CCP. The present case was distinguished from non-violation cases precisely because the applicant lacked sufficient knowledge of the evidence, confirming that the issue is one of consistent judicial practice rather than exceptional error.

66. In this context, it is crucial to underline that this restrictive practice is not incidental but has become quasi-automatic in politically sensitive cases, particularly those concerning individuals accused of membership in the Gülen movement. In such cases:

- detention decisions are frequently based exclusively on secret or undisclosed evidence, notably alleged ByLock use;
- access to investigation files is systematically restricted during the initial and most critical phase of detention;

- defendants are deprived of any real opportunity to challenge the evidence underpinning their deprivation of liberty.

67. This pattern demonstrates the existence of a structural and systemic problem, whereby the safeguards of Article 5 § 4 are rendered ineffective in practice. The persistence of this practice, despite the Court's clear findings, indicates that no meaningful change has occurred at the judicial level.

68. In conclusion, the Government has failed to provide any information on practical, operational, or judicial measures capable of ensuring uniform compliance with Convention standards. The continued reliance on abstract legislative guarantees, without addressing entrenched judicial practices, confirms that the violation identified in *Akgün* is ongoing and systemic, particularly in cases involving allegations of terrorism linked to the Gülen movement.

69. The systemic character of the restriction of access to the investigation file is further evidenced when examining the broader group of cases considered under the *Akgün* leading case. In a large number of these cases, applicants raised complaints under Article 5 § 4 of the Convention, arguing that they had been denied effective access to the evidence forming the basis of their detention. However, the European Court of Human Rights frequently considered that there was no need to examine these complaints separately, having already found violations under other limbs of Article 5, in particular Article 5 § 1 and/or Article 5 § 3.

70. A striking example is *Keskin and Others v. Türkiye* (Applications nos. 36994/17 and 130 others), which concerns a large group of similarly situated applicants. In that case, while the applicants explicitly complained under Article 5 § 4 about their inability to effectively challenge the lawfulness of their detention, the Court decided not to examine these complaints separately.

71. This approach should not be interpreted as an indication that no problem exists under Article 5 § 4. On the contrary, it reflects the fact that the deficiencies affecting the lawfulness of detention were so pervasive and structurally similar across cases that the Court was able to dispose of them on other grounds without conducting a separate analysis under Article 5 § 4.

72. In other words, the repetition of similar factual patterns across a large number of cases—combined with the Court's practice of not examining Article 5 § 4 complaints separately—confirms the existence of a recurring and systemic deficiency in the Turkish system. This includes, in particular, the lack of effective access to the investigation file and the inability of detainees to challenge the evidence against them in a meaningful adversarial procedure.

73. Taken together with the findings in *Akgün*, this case-law demonstrates that the issue is not isolated but forms part of a broader pattern of automatic and restrictive practices, especially in cases involving allegations of terrorism linked to the Gülen movement.

Confirmation of the systemic problem by the UN Human Rights Committee

74. The systemic nature of the restrictions on access to investigation files is also confirmed by the Human Rights Committee in its 2024 concluding observations on Türkiye.⁶ The Committee expressed serious concern about prolonged pretrial detention, particularly in cases involving political dissidents, journalists, human rights defenders and individuals accused of terrorism-related offences. Crucially, it highlighted practical obstacles faced by defence lawyers, including restrictions on access to case files and difficulties in effectively challenging the lawfulness of detention.

75. In its recommendations, the Committee explicitly called on Türkiye to ensure that all detainees are afforded, in practice, full procedural safeguards from the outset of detention, and stressed in particular that limitations on access to case files in terrorism-related proceedings must not unduly restrict the rights of the defence. These findings are highly significant, as they confirm that the problem identified by the Court in *Akgün* is not an isolated judicial deficiency, but rather a broader and persistent systemic issue, also recognised at the UN level. The convergence between Strasbourg and UN findings demonstrates that restrictions on access to investigation files and the resulting inability to effectively challenge detention have become structural features of the system, especially in politically sensitive and terrorism-related cases.

76. The systemic nature of the deficiencies identified in the *Akgün* group is further corroborated by the findings of the United Nations Working Group on Arbitrary Detention. In a significant number of post-2016 opinions concerning Türkiye, including cases involving persons allegedly affiliated with the Gülen Movement, the Working Group concluded that deprivation of liberty was arbitrary under international law. It repeatedly observed that the authorities relied on associational indicators—such as alleged use of the ByLock application, links to certain institutions, or other lawful forms of social and professional affiliation—rather than on

⁶ Human Rights Committee, *Concluding observations on the second periodic report of Türkiye*, [CCPR/C/TUR/CO/2](#), 30 October 2024, paras. 29-30.

individualized evidence of criminal conduct. These findings reinforce the conclusion that the problem is not confined to isolated cases, but reflects a broader and persistent structural pattern.

II. As regards the Alparslan Altan Group of Cases

77. The Alparslan Altan group of cases concerns various violations of the right to liberty and security guaranteed under Article 5 of the Convention, arising notably from the domestic courts' extensive and unforeseeable interpretation of the concept of discovery in flagrante delicto when placing members of the judiciary under pre-trial detention, the lack of reasonable suspicion, the absence of relevant and sufficient reasoning in detention decisions, the failure to consider alternative measures to detention, and restrictions on access to investigation files. In particular, the Court found that the special procedural safeguards afforded to members of the judiciary under domestic law had been circumvented through an excessively broad interpretation of in flagrante delicto, contrary to the principles of legal certainty and protection against arbitrariness.

78. The Government's submissions concerning the Alparslan Altan group largely repeat the same arguments and legislative framework previously presented to the Committee of Ministers. The authorities again rely on the existence of statutory safeguards under Laws nos. 6216, 2797, 2575 and 2802 and argue that the violations were isolated and limited to the exceptional circumstances following the attempted coup of 15 July 2016. However, this response does not address the specific requests made by the Committee of Ministers in its 2023 decision.

79. In that decision, the Committee expressly invited the authorities to take legislative or other measures to ensure respect for the principle of legal certainty when placing members of the judiciary in pre-trial detention and to protect the procedural safeguards shielding the judiciary from interference by the executive. The Government's Action Plan does not identify any such legislative or other measure. It does not show that any binding interpretative guidance has been issued, that the relevant provisions have been amended, or that domestic courts have abandoned the extensive interpretation of in flagrante delicto criticised by the Court.

80. The core problem in the Alparslan Altan group was not the absence of formal safeguards in domestic law, but the manner in which those safeguards were rendered ineffective through an extensive and arbitrary interpretation of in flagrante delicto. By treating an alleged organisational link as sufficient to establish a situation of discovery in flagrante delicto, domestic courts bypassed the special procedural protections afforded to members of the judiciary. The Government's reliance on the same legislative framework therefore cannot constitute an

adequate response unless it is accompanied by evidence of a genuine change in judicial practice.

81. Nor has the Government provided the statistical information specifically requested by the Committee. The Committee reiterated its call for data on the overall number of preliminary investigations concerning terrorism-related allegations against members of the judiciary since the Alparslan Altan judgment became final on 9 September 2019, and on the number of cases in which the Council of Judges and Prosecutors decided not to refer the case to prosecution offices. The Action Plan contains no such statistics. It therefore does not enable the Committee to assess whether the special procedural safeguards for judges and prosecutors are now being applied in practice.

82. The Government has also failed to provide sample decisions concerning detention orders complying with Convention standards, as requested by the Committee, in order to demonstrate a positive change in judicial practice. Instead, the Action Plan merely repeats general statements that the existing legal framework provides Convention-compliant safeguards and that the violations were isolated. Such general assertions cannot replace concrete examples of judicial decisions showing that courts now require a genuine, current and factual basis for in flagrante delicto, apply the special procedures protecting members of the judiciary, and provide relevant and sufficient reasoning for detention.

83. Moreover, the Action Plan does not respond to the continuing concern that the Constitutional Court itself has maintained the approach criticised by the European Court. The Government relies on Constitutional Court judgments which accepted the existence of in flagrante delicto by reference to the coup attempt and alleged organisational links. This confirms that the problematic interpretation has not been clearly reversed at the domestic level.

84. Accordingly, the Government has not complied with the Committee's 2023 requests. It has not demonstrated the adoption of legislative or other measures ensuring legal certainty; it has not shown that procedural safeguards protecting the judiciary from executive interference are now effective in practice; it has not provided the required statistical information; and it has not submitted sample detention decisions capable of demonstrating a positive change in judicial practice.

85. For these reasons, the information provided in the Action Plan remains insufficient to establish meaningful progress in the execution of the judgments in the Alparslan Altan group of cases.

III. Assessment of the “Other Measures” Invoked by the Government

1. Awareness-Raising and Training Measures: No Evidence of Impact in Practice

86. At the outset, the Government’s presentation of the Justice Academy of Türkiye as an autonomous and independent training institution is misleading. Although formally restructured by Presidential Decree following its closure in 2019, the Academy remains institutionally linked to the Ministry of Justice. The appointment of its leadership, including deputy presidents, by the Minister raises serious concerns as to its functional independence. This institutional framework has been widely criticised⁷ for placing the training of judges and prosecutors under executive influence, thereby undermining the credibility and impartiality of such training activities. The Academy’s lack of independence affects its capacity to provide training programs that meet the requirements of openness, competence, and impartiality. The European Judicial Training Network (EJTN) therefore maintained the suspension of the Academy’s observer status that was originally decided in 2017.

87. The Government relies extensively on the activities of the Justice Academy of Türkiye, including training programmes, curricula and the number of judges and prosecutors trained, in order to demonstrate progress. However, these submissions fail to respond to the core concerns expressed by the Committee of Ministers.

88. In its September 2023 decision, the Committee explicitly called on the authorities to adopt concrete and result-oriented measures, in particular to ensure the practical application of criminal law in compliance with the case-law of the European Court of Human Rights. The emphasis was therefore not on the existence of training programmes as such, but on their tangible impact on judicial practice.

89. The information provided by the Government does not demonstrate any such impact. While reference is made to the number of judges and prosecutors trained and to the inclusion of human rights and ECHR case-law in training curricula, no evidence is presented to show that these trainings have led to any measurable change in judicial behaviour, particularly in areas identified as problematic by the Court, such as:

- the use of pre-trial detention as a measure of last resort;
- the requirement of relevant and sufficient reasoning in detention decisions;
- effective access to investigation files;

⁷ See, for example, Türkiye 2023 Report, EU Enlargement and Eastern Neighbourhood; Türkiye 2025 Report, EU Enlargement and Eastern Neighbourhood

- and the genuine ability to challenge the lawfulness of detention.

90. On the contrary, the continued delivery of repetitive violation judgments by the Court in these areas demonstrates that training has not translated into compliance in practice. The persistence of systemic problems—despite the scale of the training activities invoked—strongly suggests that these measures are formalistic and insufficient to address the structural deficiencies identified.

91. Moreover, the Government has not provided any evaluation, monitoring mechanism, or impact assessment capable of demonstrating that these training programmes effectively influence judicial decision-making. Nor has it shown that judges and prosecutors who fail to comply with Convention standards face any form of accountability or corrective guidance.

92. In these circumstances, the reliance on awareness-raising and training measures appears to be purely declaratory and does not meet the requirement set by the Committee of Ministers to adopt concrete and result-oriented measures. The absence of any demonstrated improvement in judicial practice confirms that these initiatives have failed to remedy the systemic issues identified by the Court.

3. Consideration of ECtHR and Constitutional Court Judgments in Judicial Promotions: A Formal Measure Without Demonstrable Impact

93. The Government refers to the 2020 amendment introducing the consideration of violation judgments of the European Court of Human Rights and the Constitutional Court in the promotion of judges and prosecutors as an important safeguard. However, this measure appears to remain purely formal and lacks any demonstrated effect in practice.

94. While the amendment provides, on paper, that findings of violations may be taken into account in promotion assessments, the Government has failed to present any concrete data or examples showing that this mechanism has ever been implemented. In particular, no information has been provided on:

- how many judges or prosecutors have been negatively affected in their career progression due to findings of violations;
- whether any disciplinary or evaluative consequences have followed from repeated violations;
- or how this criterion is applied in practice by the relevant judicial bodies.

95. This absence of evidence is particularly striking in light of the scale and repetition of violations identified by the Court, including within the Akgün and Alparslan Altan groups of cases, which concern thousands of applicants and numerous findings of unlawful detention. If the mechanism were genuinely operational, one would expect at least some publicly known examples or statistical data demonstrating its application.

96. However, to date, there is not a single publicly known case in which a judge or prosecutor has faced adverse professional consequences specifically on account of an ECtHR violation finding in such cases. Nor has the Government provided any information to suggest otherwise.

97. In the absence of demonstrable evidence of implementation, this measure cannot be regarded as an effective safeguard. Rather, it remains a purely declaratory provision, lacking any tangible impact on judicial accountability or behaviour.

98. Accordingly, the reported amendment does not meet the requirement of concrete and result-oriented measures, as requested by the Committee of Ministers, and cannot be considered capable of addressing the systemic deficiencies identified by the Court.

4. Announced Human Rights Action Plan and Judicial Reform Strategy: No Concrete Timeline, No Specific Commitments, No Demonstrable Relevance to the Execution of the Akgün Group

99. The Government's reference to the preparation of a "new Human Rights Action Plan" and a "new Judicial Reform Strategy Paper" does not demonstrate any concrete progress in the execution of the Akgün and Alparslan Altan groups of cases. At the time of the Government's September 2023 submission, these documents were merely announced as being under preparation. More than two years later, the position remains essentially unchanged: the Ministry of Justice website⁸ still indicate that work on a new Human Rights Action Plan is ongoing, as presented in the new Action plan, after the expiry of the 2021–2023 plan.

100. This prolonged and open-ended process is particularly problematic because the Government has provided no concrete timetable, no adoption date, and no time-bound roadmap for the finalisation and implementation of the new Human Rights Action Plan. The absence of any clear schedule confirms that this is not a result-oriented measure capable of addressing the urgent concerns identified by the Committee of Ministers.

101. Moreover, the Government has not shown that either the planned Human Rights Action Plan or the current judicial reform framework contains specific commitments directed at the

⁸ <https://insanhaklarieylemplani.adalet.gov.tr/> (last accessed on 23 April 2026)

violations examined in the Akgün and Alparslan Altan groups of cases. The Fourth Judicial Reform Strategy Document covering 2025–2029 has indeed been officially announced and is described by the Ministry as containing 5 aims, 45 targets and 264 activities.⁹ However, neither the Ministry’s official presentation of that strategy nor the related official planning documents demonstrate any concrete commitment, planned action, or time-bound target specifically aimed at the execution of the *Akgün* group judgments.

102. In these circumstances, the Government’s reliance on future policy documents remains purely prospective and abstract. The human rights reform process that has remained under preparation for years, without a concrete timetable and without targeted commitments relevant to the violations under supervision, cannot be regarded as a meaningful response to the Committee of Ministers’ concerns. The absence of any demonstrable link between these announced policy initiatives and the execution of the Akgün and Alparslan Altan groups of cases further confirms that no tangible progress has been shown.

4. The “Terror-free Türkiye” Initiative Does Not Yet Demonstrate Tangible Progress in Execution

103. The Government refers to the recently launched “Terror-free Türkiye” initiative and the establishment of the Parliamentary “National Solidarity, Brotherhood, and Democracy Committee” as developments that could potentially contribute to strengthening democracy, the rule of law, and social cohesion.

104. While the initiative may constitute a potentially important political opportunity for broader democratic reform and for addressing structural human rights problems identified in the Akgün and Alparslan Altan groups of cases, the information provided by the Government remains purely aspirational and forward-looking. This assessment is also consistent with the approach of the Council of Europe Commissioner for Human Rights¹⁰, who recognised the initiative as an important opportunity to address human rights concerns and strengthen democratic institutions, while emphasising that Türkiye’s anti-terrorism legislation and practices must be brought into line with the Court’s case-law and the opinions of the Venice Commission.

105. However, the Action Plan does not demonstrate that the initiative has produced any concrete legislative, judicial, or administrative changes capable of remedying the violations found by the Court. Nor can a general political process be used to postpone or substitute the

⁹ <https://yargireformu.adalet.gov.tr/Yrs/Details?pagelid=22> (last accessed on 23 April 2026)

¹⁰ Commissioner for Human Rights. “Türkiye: Authorities should ensure the implementation of human rights standards on freedom of expression, peaceful assembly and association”. Council of Europe.

specific legal measures required in individual cases, such as release, reopening of proceedings, or other forms of redress.

106. In particular, the Government has not identified any reforms resulting from this initiative that would address the systemic deficiencies underlying the present groups of cases, including the excessive and insufficiently reasoned use of pre-trial detention, the lack of effective judicial review of detention, the routine reliance on abstract and formulaic reasoning, restrictions on access to investigation files, the deficient assessment of evidence such as ByLock-related material, or the structural shortcomings affecting judicial independence and impartiality.

107. Nor does the Action Plan provide any examples of changed judicial practice, amendments to the Code of Criminal Procedure, binding interpretative guidance, or statistical indicators demonstrating measurable progress in the protection of the right to liberty and security.

108. The mere existence of parliamentary discussions or policy initiatives cannot in itself satisfy the respondent State's obligations under Article 46 of the Convention. What is required is the adoption of effective and practical measures capable of preventing similar violations in the future and producing tangible improvements in judicial and administrative practice.

109. At the present stage, the "Terror-free Türkiye" initiative therefore remains too indeterminate and speculative to be relied upon as evidence of meaningful progress in the execution of the judgments in the Akgün and Alparslan Altan groups of cases.

5. Publication and Dissemination Measures: Commendable in Principle, Yet Selective and of Limited Practical Value

110. The translation and dissemination of European Court of Human Rights judgments by the Ministry of Justice is, in principle, a commendable measure. In particular, the *European Court of Human Rights Case-Law Bulletin (Selected Judgments)* is published by the Human Rights Department of the Ministry of Justice and is made accessible online to practitioners and the public through the Ministry's official website. The most recent accessible bulletin in this series, Issue No. 46, covering January–February 2026, was published on 16 March 2026.

111. However, the practical value of this dissemination policy is seriously undermined by its selective editorial approach. Although the bulletin series is intended to present important and guiding Strasbourg judgments to domestic practitioners, neither *Akgün v. Türkiye* nor any judgment from the Akgün leading group appears in the bulletin series, including in Issue No. 46. The latest bulletin does include a section on the right to liberty and security, but the cases

selected there are not the leading Turkish judgments that are directly relevant to the structural problems under the Committee's supervision.

112. A broader look at the bulletin series also reveals a pattern: while some judgments concerning the right to liberty and security are indeed included from time to time, most of the selected judgments in this field concern other States, not Türkiye. Even where Türkiye-related decisions are included, they are often inadmissibility decisions or fact-specific summaries of limited guidance value, rather than leading violation judgments capable of directing judges and prosecutors on how to remedy systemic shortcomings in domestic practice. This pattern is visible not only in the latest bulletin but also in earlier issues in the series.

113. This selectivity is significant. It suggests that dissemination is not being used primarily as a tool to ensure that domestic courts and prosecutors internalise the most relevant Convention standards arising from judgments against Türkiye. On the contrary, the omission of *Akgün* and the other judgments in its leading group indicates a reluctance to present to practitioners the very case law that exposes the systemic misuse of pre-trial detention, inadequate reasoning, and restrictions on access to the case file in politically sensitive cases.

114. Accordingly, while publication and dissemination measures are commendable in form, their selective implementation considerably limits their practical impact. The Ministry's approach suggests that the dissemination exercise serves less as a mechanism for correcting structural deficiencies and more as a curated presentation of Strasbourg case-law, avoiding sustained engagement with the most consequential judgments against Türkiye in this area.

IV. Conclusions

115. The information submitted by the Government concerning the execution of the *Akgün* and *Alparslan Altan* groups of cases remains insufficient to demonstrate that the structural deficiencies identified by the Court have been effectively remedied in practice.

116. Nothing in the Revised Action Report demonstrates that the structural deficiencies identified by the Court have been effectively remedied. On the contrary, the material submitted by the authorities confirms a continued reliance on abstract legislative provisions, general institutional descriptions, and declaratory assertions, while failing to provide the very type of information expressly requested by the Committee of Ministers in its decision of September 2023.

117. As regards the *Akgün* group, the Government has failed to submit concrete and result-oriented information showing:

- any real change in judicial practice concerning the establishment of reasonable suspicion;
- any meaningful improvement in the reasoning of detention decisions;
- any effective and uniform practice ensuring access to the investigation file in detention proceedings;
- any statistical data showing that detention is used as a measure of last resort rather than as a routine response;
- any demonstrable impact of the reported training, dissemination, promotion, or policy measures on the practice of courts and prosecutors.

118. Likewise, as regards the Alparslan Altan group, the Government has failed to demonstrate:

- any legislative or interpretative measure ensuring respect for the principle of legal certainty in detention proceedings involving members of the judiciary;
- any practical safeguard preventing the abusive and extensive interpretation of the concept of discovery in flagrante delicto;
- any change in the Constitutional Court's or lower courts' approach to the procedural safeguards protecting judges and prosecutors;
- any statistical information concerning terrorism-related investigations against members of the judiciary since the Alparslan Altan judgment became final;
- or any sample judicial decisions demonstrating Convention-compliant detention practice in this context.

119. The Government has also failed to comply with the specific requests formulated by the Committee of Ministers in its 2023 decisions concerning both case groups. In particular, the authorities did not provide the requested statistical information, practical examples, or concrete evidence demonstrating a positive and measurable change in judicial practice. The absence of such material is particularly significant given that the Committee expressly requested evidence of implementation in practice rather than mere references to the existing legislative framework.

120. Moreover, the authorities continue to rely on an unduly narrow and misleading interpretation of the Court's judgments. In the Akgün group, the violations are wrongly reduced to a temporary evidentiary issue concerning ByLock, whereas the Court identified broader structural deficiencies relating to the absence of individualized assessment, the lack of concrete

and verifiable evidence, and the automatic nature of detention reasoning. In the Alparslan Altan group, the authorities continue to frame the violations as isolated and exceptional, without addressing the core issue identified by the Court, namely the unforeseeable and arbitrary interpretation of *in flagrante delicto* used to circumvent procedural safeguards protecting members of the judiciary.

121. Far from demonstrating progress, the overall picture that emerges from the Government's own submissions is one of continuing systemic failure affecting thousands of individuals. The problem has not diminished; it has persisted and, in its practical consequences, deepened over time. The absence of any measurable improvement in judicial practice, coupled with the scale of repetitive violations already identified by the Court, confirms that the underlying structural deficiencies remain unresolved.

122. The information submitted by the Government is therefore insufficient to justify any relaxation of the Committee's supervision at this stage. Any move towards closure or reduced supervision would risk endorsing a purely formal and paper-based approach to execution, despite the absence of evidence that Convention standards are being respected in practice. It would also run counter to the logic of enhanced supervision in case groups revealing entrenched and repetitive violations affecting thousands of persons, particularly in politically sensitive and terrorism-related prosecutions.

123. In these circumstances, it is respectfully submitted that the Committee of Ministers should maintain close and enhanced supervision of both the Akgün and Alparslan Altan groups of cases and invite the authorities to provide, within a fixed and short deadline, concrete, practice-oriented and verifiable information demonstrating measurable progress in the execution of these judgments.

V. Proposed Action Requested from the Committee of Ministers

124. In light of the continuing and systemic nature of the violations, and the Government's failure to provide a satisfactory response to the Committee's September 2023 decision, the submitting organisations respectfully invite the Committee of Ministers to adopt a strengthened decision along the following lines:

1. Firmly reiterate that the information provided by the authorities remains insufficient to demonstrate effective execution of the Akgün and Alparslan Altan groups of cases, whether as regards individual or general measures.

2. Reaffirm with particular emphasis the concerns already expressed in September 2023 regarding:
 - the lack of concrete and verifiable evidence capable of establishing reasonable suspicion;
 - the continued use of stereotyped and insufficient reasoning in detention decisions;
 - the absence of effective and adversarial access to the evidence forming the basis of detention;
 - the failure to ensure that detention is used strictly as a measure of last resort;
 - the extensive and unforeseeable interpretation of the concept of discovery *in flagrante delicto* in relation to members of the judiciary;
 - and the continuing ineffectiveness of procedural safeguards protecting judicial independence and legal certainty.
3. Strongly urge the authorities to provide, without further delay, precise, practical, and results-oriented information, including:
 - sample first-instance detention decisions showing an individualised assessment of evidence and compliance with Article 5;
 - statistical data on the use of pre-trial detention and alternatives to detention, allowing an assessment of trends in practice;
 - examples of judicial decisions demonstrating effective access to the investigation file in detention-related proceedings;
 - examples of judicial decisions demonstrating compliance with Convention standards concerning *in flagrante delicto* and procedural safeguards applicable to judges and prosecutors;
 - information on measures ensuring adversarial scrutiny of technical or intelligence-based evidence, including alleged ByLock evidence;
 - information on any concrete consequences in judicial careers or evaluations following ECtHR and Constitutional Court violation findings;

- examples of decisions of the Constitutional Court in which violations of Convention rights have been found in similar contexts, together with information on the subsequent implementation of those judgments by lower courts;
 - information on any practical consequences in judicial careers or evaluations following ECtHR and Constitutional Court violation findings.
4. Call on the authorities to adopt targeted general measures aimed specifically at remedying the structural deficiencies revealed in the *Akgün* and Alparslan Altan groups of cases, including measures to:
- ensure that detention decisions are based on concrete, verifiable and individualised facts;
 - prevent automatic or presumptive reliance on certain categories of evidence such as Bylock;
 - guarantee full equality of arms in proceedings reviewing the lawfulness of detention;
 - ensure that alternatives to detention are genuinely considered and that detention remains exceptional in practice;
 - secure effective judicial reasoning at all stages of detention and detention review£
 - and ensure that procedural safeguards protecting members of the judiciary cannot be circumvented through expansive interpretations of *in flagrante delicto*.
5. Invite the authorities to submit an updated action plan within a short and fixed deadline, addressing each of the Committee's outstanding concerns in a concrete and documented manner.
6. Maintain both the *Akgün* and Alparslan Altan groups under enhanced supervision in view of the continuing systemic nature of the violations and the absence of demonstrated progress in execution.

Co-signatories:

- **Justice Square Foundation** (Netherlands)
- **Italian Federation for Human Rights** (Rome)
- **Cross Border Jurists Association** (Germany)
- **The Arrested Lawyers Initiative** (Belgium)
- **Solidarity with OTHERS** (Belgium)