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Meeting: 1569<sup>th</sup> meeting (September 2026) (DH)

Item reference: Action Plan (28/08/2026)

Communication from Türkiye concerning the cases of Kavala v. Türkiye (Application No. 28749/18) and Kavala v. Türkiye (No. 2) (Application No. 2170/24)

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Réunion : 1569<sup>e</sup> réunion (septembre 2026) (DH)

Référence du point : Plan d'action (28/08/2026)

Communication de la Türkiye concernant les affaires Kavala c. Türkiye (Requête n° 28749/18) et Kavala c. Türkiye (n° 2) (Requête n° 2170/24) [*anglais uniquement*]

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## UPDATED ACTION PLAN

***Kavala v. Türkiye (Application No. 28749/18)***

*Final on 10 December 2019*

and

***Kavala v. Türkiye (No. 2) (Application No. 2170/24)***

*Final on 25 August 2026*

DGI

28 AOUT 2026

SERVICE DE L'EXECUTION  
DES ARRETS DE LA CEDH

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1. The Turkish authorities would firstly like to state that the decisions adopted by the Committee of Ministers (“the CM”) at the 1563<sup>rd</sup> DH meeting on 9-11 June 2026 have been translated and circulated to the relevant authorities, including the Constitutional Court.
  2. The Turkish authorities would like to provide the following updated information on individual and general measures.

### **I. INDIVIDUAL MEASURES**

#### ***Payment of the costs and expenses awarded by the ECtHR***

3. In the first *Kavala* judgment the Court awarded EUR 7,500 to the applicant for costs and expenses.
4. The applicant refused to provide the information necessary for the payment.
5. Concerning the *Kavala (2)* judgment, the payment process is underway.

#### ***Reopening of the proceedings***

6. The authorities would like to note that, following the *Kavala (2)* judgment, pursuant to Article 311 § 1 (f) of the Code of Criminal Procedure the applicant has the opportunity to request the reopening of criminal proceedings within one year of a final judgment by the Court finding a violation.
7. The authorities will provide information in that respect if the applicant makes such a request.

### **II. GENERAL MEASURES**

8. The authorities would like to provide the following information on general measures, recalling its previous submissions in this regard.
9. The authorities, in the meantime, would like to note that they will provide information on general measures relating to the *Kavala (2)* judgment in due time.

### ***Impartiality and Independence of Judiciary***

10. The authorities note that the principle of independence and impartiality of the courts is one of the fundamental principles of the Turkish legal system. Because of that, it is guaranteed by the Constitution, the Law No. 6087 on the Council of Judges and Prosecutors (CJP), and the Law No. 2802 on Judges and Prosecutors.

11. Article 9 of the Constitution provides that judicial power shall be exercised by independent and impartial courts on behalf of the Turkish Nation. In 2017, by the Law no. 6771, the expression of “and impartial” was added after the expression of “independent” in Article 9 of the Constitution; and thus the fact that the judicial power belongs to independent and impartial courts is guaranteed by the Constitution and it is emphasised that independence also embodies impartiality. Article 138 of the Constitution provides that judges shall be independent in the discharge of their duties; they shall give judgments in accordance with the Constitution, laws, and their personal conviction conforming to the law. No organ, authority, office or individual may give orders or instructions to courts or judges relating to the exercise of judicial power, send them circulars, or make recommendations or suggestions.

12. Further, attempting to influence judges, experts or witness is a criminal offence. Article 277 of the Turkish Criminal Code stipulates that the offence of "Attempting to influence the judge, expert or witness" is punishable from 2 to 4 years. In addition, if the act constituting an offence defined in paragraph one constitutes any other offence, then the sentence to be imposed shall be increased by one half according to the provisions relating to conceptual aggregation.

13. According to Article 288 of the Turkish Criminal Code, those who make a verbal or written statements in ongoing proceedings or a criminal investigation for the purpose of unlawfully influencing a judicial officer, expert or witness in order for them to render an unlawful judgment or to engage in an activity or to make an untrue statement shall be sentenced to a judicial fine of no less than fifty days.

14. Therefore, it is apparent that the Turkish legislation fully ensures the independence and impartiality of the judiciary.

### ***The Structure of the Council of Judges and Prosecutors (CJP)***

15. As stipulated in Article 3 of Law no. 6087, “*The Council shall be independent in the exercise of the duties and authorities set forth in the law. No organ, authority, office or individual may give orders or instructions to the Council. The Council shall perform its*

*duties taking into consideration of the principle of independence of courts and the security of tenure of judges and prosecutors and within the framework the principles of fairness, impartiality, accuracy, honesty, consistency, equality, competence and qualification.”*

16. The CJP operates in two chambers, each consisting of six members. Each chamber convenes by a simple majority and adopts decisions by a simple majority. The matters relating to the personnel status of members of the judiciary are handled through chamber decisions. There is a right to request a re-examination of chamber decisions and, if this request is rejected, to raise an objection before the Plenary.

17. As concerns the composition of the Council of Judges and Prosecutors, the constitutional amendment in 2017 changed the election procedure of the CJP by involving the National Assembly, which now elects three members of the CJP among the members of the Court of Cassation, one member among the members of the Supreme Administrative Court, and three members among academics and lawyers with specific qualifications laid down in law. This amendment ensured that the structure of the CJP is based on the principle of independence and impartiality. The authorities note that this amendment addresses the Venice Commission’s opinions on “Interim opinion on the draft Law on the High Council for Judges and Prosecutors of 27 September 2010” *recommending “at least the four members of the CJP to be elected by Parliament preferably with a qualified majority, ensuring a process that will lead to the representation of different political interests”*. It should be underlined that today, all 7 members of the CJP are elected by the Grand National Assembly of Türkiye with a qualified majority.

18. Besides, the authorities consider it useful to clarify a couple of issues concerning the structure of the CJP. Firstly, the authorities would like to note that the CJP is not a judicial body and its decisions are not of judicial nature. The presence of the Minister of Justice and the Deputy Minister of Justice in this Council, eight members of which come from first-instance courts and high courts and which delivers decisions of administrative nature, cannot be regarded as the executive organ’s instrument of pressure on the judiciary.

19. The authorities would like to bring to the Committee’s attention that there is not a single model of Council of Europe standards as regards the structural independence of the Council of Judges and Prosecutors that would apply to all countries. While some member States have adopted a system whereby all members are elected by the President, some others leave this power to the national parliament. Every member State has its own system based on legal culture and traditions.

20. The authorities would also like to note that the principles regulated in “the UN Basic Principles on the Independence of the Judiciary” and the Committee of Ministers Recommendation CM/Rec(2010)12 on “Judges: independence, efficiency and responsibilities” have already been included in our Constitution and relevant laws.

21. The authorities would further like to highlight that the Council of Judges and Prosecutors took significant steps to achieve a more Convention-compliant judicial practice by courts. On 15 January 2020 an amendment to Article 6 entitled “Principles of Promotion” of the “Resolution on the Principles Concerning the Promotion of Judges and Prosecutors” was promulgated in the Official Gazette. According to this amendment, in the promotion of judges and prosecutors, on the basis of the principles of independence of the judiciary and security of tenure of judges, account will be taken of whether the persons concerned caused a finding of violation by the European Court of Human Rights or the Constitutional Court, as well as the nature and gravity of the violation, and the efforts of the persons concerned to safeguard the rights enshrined in the European Convention on Human Rights and the Constitution.

22. The Justice Academy of Türkiye maintained its intensified pre-service and in-service training activities addressing the judges and public prosecutors including the issues of judicial independence and impartiality.

23. In addition, the authorities consistently continue their efforts to further strengthen the independence and impartiality of the judiciary. In this scope, the authorities would like to draw attention to the Judicial Reform Strategy Document, which was announced on 23 January 2025<sup>5</sup>. This Document, which includes the goals planned to be achieved in the field of judiciary between 2025 and 2029, notes that works will be carried out in regard to the following issues:

- Strengthening the independence and impartiality of the judiciary,
- Increasing the guarantees of those who perform judicial duties to ensure that they deliver decisions free from any pressure, in accordance with the law, and in line with their personal convictions by taking into consideration the rights and justice,
- Re-assessing the structures of the CJP and judicial institutions,
- Strengthening the legal remedies and defence.

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<sup>5</sup> <https://yargireformu.adalet.gov.tr/dosyalar/TurkiyeYuzyiliYargiReformuStratejisi.pdf>

24. Finally, the Council of Judges and Prosecutors' Strategic Plan for 2024-2028 was approved by a decision of the Plenary (no. 245, dated 7 February 2024), then published and shared with the public. The Strategic Plan contains 19 objectives and 110 strategies within the framework of 6 goals.

25. Under the goal "Strengthening Judicial Independence and Impartiality" in the Strategic Plan Objective Cards Table, the objective "Efforts will be made to strengthen judicial independence and impartiality" includes the following strategies:

- "1. A situation analysis will be conducted to identify elements that pose a threat to judicial independence and impartiality.*
- 2. Good practices and international standards regarding judicial independence and impartiality in comparative law will be examined and reported.*
- 3. A needs analysis will be conducted regarding the composition, structure, and functioning of the Council.*
- 4. An action plan will be prepared based on the findings."*

26. In addition, in line with the objective stated in the Judicial Reform Strategy Document mentioned above, namely that "*The promotion system for judges and prosecutors will be updated in accordance with changing conditions and needs*", the Strategic Plan also includes the strategy "*A situation analysis will be conducted regarding the updating of the promotion system*", among other strategies.

27. Likewise, under the goal "Strengthening the Security of Tenure of Judges and Prosecutors" set out in the objective cards table within the framework of the Council of Judges and Prosecutors' Strategic Plan for 2024-2028, the objective "Complaint and disciplinary processes will be restructured" includes, *inter alia*, the following strategies:

- "3. The draft legislative amendment prepared with a view to redefining the disciplinary sanctions set out in the Law on Judges and Prosecutors on the basis of more objective criteria will be updated.*
- 4. Target time-limits will be set for disciplinary proceedings in respect of judges and prosecutors in order to ensure legal foreseeability.*
- 5. A situation analysis will be conducted in relation to the introduction of the possibility of judicial review against disciplinary sanctions and, if necessary, legislative amendment activities will be carried out.*

*6. Disciplinary proceedings will be finalised as a matter of priority in respect of judges and prosecutors who are at the stage of examination for promotion to a higher rank or to first-grade status.*

*7. The rights of judges and prosecutors in disciplinary investigations will be expanded.”*

28. Finally, the authorities would like to draw the Committee's attention to the recent high level political messages regarding the independence and impartiality of the judiciary (see below).

***Violation of Article 5 § 4 of the Convention***

29. At the outset, the Turkish authorities would like to note that the Court's finding that the proceedings carried out by the Constitutional Court while ruling on the legality of the applicant's detention were not compatible with the “speediness” requirement laid down in Article 5 § 4 of the Convention is an isolated situation.

30. According to the statistics published by the Constitutional Court, the number of applications submitted since 2019 and the number of applications concluded are shown in the table below:

|                           | 2019   | 2020   | 2021   | 2022    | 2023    | 2024   | 2025   | 2026<br>(June) |
|---------------------------|--------|--------|--------|---------|---------|--------|--------|----------------|
| Applications<br>Submitted | 42,971 | 40,402 | 66,121 | 109,779 | 108,816 | 70,699 | 64,321 | 29,605         |
| Applications<br>Decided   | 39,196 | 45,143 | 45,180 | 73,269  | 110,001 | 66,798 | 71,175 | 17,792         |

31. As can be seen from the table above, the workload of the Constitutional Court has been increasing every year, and the rate at which the Constitutional Court meets the applications is 86,1 per cent.<sup>1</sup> The applications pending before the Constitutional Court are listed below:

|                              | 2020<br>and<br>before | 2021  | 2022  | 2023   | 2024   | 2025   | 2026<br>(June) |
|------------------------------|-----------------------|-------|-------|--------|--------|--------|----------------|
| Transferred<br>Pending Cases | 463                   | 1,486 | 4,988 | 10,151 | 19,752 | 39,818 | 26,842         |

<sup>1</sup> <https://www.anayasa.gov.tr/tr/istatistikler/bireysel-basvuru-istatistikleri/4>

32. There are currently 103,499 applications pending before the Constitutional Court.

### ***High Level Political Messages on Human Rights and Judicial Independence and Impartiality***

33. The importance attached to the human rights in general and independence and impartiality of the judiciary in particular is consistently expressed via the political messages given at the highest level. The President attaches particular importance to further reinforcement of the independence and impartiality of the judiciary.

34. In the speech he delivered on 11 May 2026 at the event marking “the 158<sup>th</sup> Anniversary of the Establishment of the Supreme Administrative Court and the Day of the Supreme Administrative Court and Administrative Judiciary”, our President, Mr. Recep Tayyip Erdoğan stated, “The broadest definition of the rule of law is that the State, with all its institutions and organs, remains within the bounds of law and thrives through the law. The existence of an independent and impartial judiciary that operates fairly and effectively lies at the forefront of the institutional guarantees that transform this definition from potentiality into reality, and from an ideal to a fact.”<sup>2</sup>

35. In his statements dated 24 February 2026, our Minister of Justice, Mr. Akın Gürlek pointed out that the Council of Judges and Prosecutors bears a great responsibility, remarking “The independence of the judiciary is not as a mere wish, but an indispensable principle for us. A strong judiciary is sustained by strong institutions and strong professional integrity.”<sup>3</sup>

36. In his statements dated 30 July 2026, Mr. Gürlek highlighted their ongoing efforts towards achieving the goal of transforming the Century of Türkiye into the Century of Justice under the leadership of our President, Mr. Recep Tayyip Erdoğan, and remarked, “We are resolutely continuing our reforms for a human-centered, accessible, reliable, and effective justice system. I hope that the Offices for the Efficiency of Judicial Services will be beneficial to our beloved nation and our judicial organisation.”<sup>4</sup>

37. These high-level political messages clearly demonstrate that the authorities attach importance to the independence and impartiality of the judiciary.

### ***Preparation of the “new Human Rights Action Plan”***

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<sup>2</sup> <https://www.tccb.gov.tr/konusmalar/353/164995/danistay-in-158-kurulus-yildonumu-ve-danistay-ve-idari-yargi-gunu-dolayisiyla-duzenlenen-torende-yaptiklari-konusma>

<sup>3</sup> <https://www.adalet.gov.tr/bakan-gurlek-yargi-bagimsizligi-bizim-icin-bir-temenni-degil-vazgecilmez-bir-ilkedir>

<sup>4</sup> <https://www.adalet.gov.tr/bakan-gurlek-yargi-hizmetlerinin-etkinligi-burolari-nin-kurulacagini-acikladi>



38. The authorities would like to note that preparation of “the new Human Rights Action Plan” which is envisaged to address, among others, human rights issues in Türkiye, has started and the process is ongoing. Within this context, our authorities are in contact with several relevant stakeholders and continuing their dialogue with Council of Europe.

### **III. CONCLUSION**

39. The Turkish authorities will maintain submitting further information on the individual and general measures taken or envisaged to be taken in due time. In this respect, the Committee of Ministers will be kept informed on further developments.