

Türkiye

MAIN ISSUES BEFORE THE COMMITTEE OF MINISTERS - ONGOING SUPERVISION

➔ *Limitation on use of restrictions of rights*

Unreasonable interpretation and application of the legal provisions by domestic authorities so as to render the applicants' deprivation of liberty unlawful and arbitrary in the absence of concrete evidence capable of providing objective justification for the suspicions, for an ulterior purpose, namely, silencing the applicant and dissuading other human rights defenders in *Kavala* case and stifling pluralism and limiting freedom of political debate in *Demirtaş (No. 2)* and *Yüksekdağ Şenoğlu and Others* cases.

Subsequent developments in the *Kavala* case:

The Court's judgment on the *Kavala* case became final on 11 May 2020. In the absence of progress on implementation of the individual measures, the Committee of Ministers referred the *Kavala* case to the Court under Article 46§4. On 11 July 2022, the Grand Chamber found that Türkiye had failed to fulfil its obligation under Article 46 § 1, considering that the measures indicated by Türkiye did not permit it to conclude that the State Party had acted in "good faith", in a manner compatible with the "conclusions and spirit" of the *Kavala* judgment, or in a way that would make practical and effective the protection of the Convention rights which the Court found to have been violated in that judgment.

Kavala (28749/18)

Judgment final on 11/05/2020

Enhanced supervision

Status of execution

Selahattin Demirtaş (No. 2)

(14305/17) (Grand Chamber)

Judgment final on 22/12/2020

Enhanced supervision

Status of execution

Yüksekdağ Şenoğlu and

Others (14332/17)

Judgment final on 03/04/2023

Enhanced supervision

Status of execution

➔ *Freedom of expression and information*

Unjustified and disproportionate interferences with the applicants' right to freedom of expression on account of criminal proceedings initiated under various articles of the Criminal Code or Anti-Terrorism Law for having expressed opinions that did not incite hatred or violence, and the consequent chilling effect on society as a whole.

Öner and Türk (51962/12)

Judgment final on 30/06/2015

Enhanced supervision

Status of execution

Interferences with the right to freedom of expression on account of prosecutions/convictions for denigrating "the Turkish Nation, the State of the Turkish Republic or the Organs and Institutions of the State".

Altuğ Taner Akçam (27520/07)

Judgment final on 25/01/2012

Enhanced supervision

Status of execution

Continued pre-trial detention, in the absence of sufficient and relevant reasons, for peaceful statements, actions, or publication of written material in the cases on journalists.

Nedim Şener group (38270/11)

Judgment final on 08/10/2014

Enhanced supervision

Status of execution

MAIN ISSUES BEFORE THE COMMITTEE OF MINISTERS - ONGOING SUPERVISION

<p>Unforeseeable nature of wholesale blocking of access to internet sites under Article 8 of the Law No.5651.</p>	<p>Ahmet Yıldırım group (3111/10) Judgment final on 18/03/2013</p>
	<p>Standard supervision Status of execution</p>
<p>Failure to provide protection to journalists faced with threats to life</p>	<p>Dink (2668/07) Judgment final on 14/12/2010</p>
	<p>Enhanced supervision Status of execution</p>
<p>Unforeseeable convictions under Article 220 §§ 6 and 7 of the Criminal Code, which provide that anyone who commits a crime on behalf of an illegal organisation or who knowingly and willingly aids and abets an illegal organisation shall be sentenced as a member of that organisation.</p>	<p>Işıkırık (41226/09) Judgment final on 09/04/2018</p>
	<p>Enhanced supervision Status of execution</p>
<p>Unjustified interferences with the applicants' right to freedom of expression on account of their criminal convictions for insulting public officials.</p>	<p>Artun and Güvener (75510/01) Judgment final on 26/09/2007</p>
	<p>Enhanced supervision Status of execution</p>

▶ **Detention and other issues**

<p>Unlawfulness of detention and the lack of a reasonable suspicion at the time of pre-trial detention; extensive interpretation of the concept of discovery in <i>flagrante delicto</i>, negating the procedural safeguards which members of the judiciary were afforded in order to protect them from interference by the executive; lack of a speedy review on the applicant's pre-trial detention.</p>	<p>Alparslan Altan (12778/17) Judgment final on 09/09/2019</p> <p>Enhanced supervision Status of execution</p>
	<p>Akgün (19699/18) Judgment final on 22/11/2021</p> <p>Enhanced supervision Status of execution</p>
<p>Absence of review mechanism in Turkish legislation governing the execution of aggravated life sentences that would allow the review of a life sentence after a certain minimum term in order to verify whether legitimate grounds still justified the continuation of the applicant's imprisonment.</p>	<p>Gurban (4947/04) Judgment final on 15/03/2016</p> <p>Enhanced supervision Status of execution</p>

▶ **Freedom of assembly and association**

<p>Prosecution of applicants for participating in peaceful demonstrations and use of excessive force to disperse peaceful demonstrations</p>	<p>Oya Ataman group (74552/01+) Judgment final on 05/03/2007</p> <p>Enhanced supervision Status of execution</p>
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▶ **Domestic violence**

<p>Failure of authorities to react sufficiently to complaints/warnings of domestic violence and inadequate investigations into resulting killings/ill-treatment; inadequate legal framework and judicial passivity.</p>	<p>Opuz group (33401/02) Judgment final on 09/09/2009</p> <p>Enhanced supervision Status of execution</p>
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MAIN ISSUES BEFORE THE COMMITTEE OF MINISTERS - ONGOING SUPERVISION

➔ *Action of security forces*

Unjustified or/and excessive use of force by security forces during military and police operations. Failure to prepare and supervise operations or to take all the necessary safety measures to reduce any risk to life. Ineffectiveness of investigations and/or serious shortcomings of ensuing criminal proceedings brought against members of security forces.

Erdoğan and Others group (19807/92+)
 Judgment final on 13/09/2006
 Enhanced supervision
Status of execution

Ineffectiveness of investigations into deaths, torture or ill-treatment and serious shortcomings in subsequent criminal and/or disciplinary proceedings initiated against members of security forces, including the administrative authorisation requirement to initiate criminal investigations against State authorities

Batı and Others group (33097/96+)
 Judgment final on 03/09/2004
 Enhanced supervision
Status of execution

Elvan (64937/19)
 Judgment final on 26/06/2023
 Enhanced supervision
Status of execution

➔ *Functioning of justice*

Violation of the principle of no punishment without law on account of the applicant's conviction for membership in an armed terrorist organisation without establishing the offence's constituent material and mental elements in an individualised manner.

Yüksel Yalçınkaya (15669/20)
 Judgment final on 26/09/2023
 Enhanced supervision
Status of execution

Failure of the national courts to conduct an in-depth, thorough examination of the applicant's arguments and to give reasons for the dismissal of his objections; lack of specification by the employer of the nature of the applicant's activities used as evidence of his links with an illegal structure and a lack of any actual charges explicitly put forward during the domestic proceedings.

Piskin (33399/18)
 Judgment final on 19/04/2021
 Enhanced supervision
Status of execution

Lack of access to a court, resulting in a judge's inability to have recourse to judicial review of an allegedly unjustified non-consensual transfer decision to a lower ranking judicial district.

Bilgen (1571/07)
 Judgment final on 09/06/2021
 Enhanced supervision
Status of execution

Failure of the national authorities to comply with numerous administrative court decisions, annulling various permits required for the operation of a gold mine, three thermal power plants and a starch factory on grounds of risk to public health and environment.

Genc and Demirgan (34327/06)
 Judgment final on 10/10/2017
 Enhanced supervision
Status of execution

Failure of the domestic courts to provide adequate and relevant reasons for their decisions.

Deryan (41721/04)
 Judgment final on 21/10/2015
 Enhanced supervision
Status of execution

MAIN ISSUES BEFORE THE COMMITTEE OF MINISTERS - ONGOING SUPERVISION

Freedom of thought, conscience and religion

Unjustified and discriminatory refusal to recognise the faith of the Alevi community as a religious faith, thus excluding it notably from the religious public service offered through the Religious Affairs Department to persons adhering to the majority Sunni branch of Islam.

Izzettin Doğan and Others (62649/10)

Judgment final on 26/04/2016

Enhanced supervision
Status of execution

Successive convictions and imprisonment of conscientious objectors for refusing to carry out compulsory military service; lack of an effective and accessible procedure to establish conscientious objector status and lack of an alternative to compulsory military service in Turkey.

Ulke group (39437/98)

Judgment final on 24/04/2006

Enhanced supervision
Status of execution

Rigid and prohibitive conditions imposed by legislation on premises for worship belonging to small religious denominations, in particular the Jehovah's Witnesses.

Association for Solidarity with Jehovah's Witnesses and Others (36915/10+)

Judgment final on 17/10/2016

Enhanced supervision
Status of execution

Interstate and related cases

Interstate case - Violations linked with the situation in the northern part of Cyprus: Lack of effective investigations into the fate of the Greek Cypriot missing after the military intervention in northern Cyprus in 1974, the lack of respect for the homes and properties of displaced persons and problems relating to the living conditions of Greek Cypriots in the Karpas region of the northern part of Cyprus.

Cyprus v. Turkey (25781/94)

Judgment GC (merits) final on 10/05/2001

Judgment GC (just satisfaction) final on 12.05/2014

Enhanced supervision
Status of execution

Significant progress: Reforms adopted have ensured that **civilians can no longer be subjected to the jurisdiction of military courts** and the supervision of this issue has been closed ([CM/ResDH\(2005\)44](#)).

In view of measures adopted the CM has also been able to close a number of aspects of the violations relating to the **living conditions of Greek Cypriots in northern Cyprus**, notably as regards secondary schools, censorship of textbooks and freedom of religion ([CM/ResDH\(2007\)25](#)), as well as peaceful enjoyment of property and effective domestic remedies in this respect ([CM/ResDH\(2020\)185](#)).

As regards in particular missing Greek Cypriots: lack of effective investigations into the fate of nine Greek Cypriots who disappeared during the Turkish military operations in Cyprus in 1974.

Varnava group (16064/90)

Judgment final on 18/09/2009

Enhanced supervision
Status of execution

As regards in particular property rights of displaced Greek Cypriots: continuous denial of access to property in the northern part of Cyprus and consequent loss of control thereof and, in some cases, also violation of the applicants' right to respect for their homes.

Xenides-Arestis group

(46347/99)

Judgments final on 22/03/2006 and on 23/05/2007 (art 41)

Enhanced supervision
Status of execution