

# Türkiye

## MAIN ISSUES BEFORE THE COMMITTEE OF MINISTERS - ONGOING SUPERVISION

### ► Detention for ulterior purpose

**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**

### ► Detention and other issues

**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 *flagrante delicto*, 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.

***Alparslan Altan*** (12778/17)

Judgment final on 09/09/2019

Enhanced supervision  
**Status of execution**

***Akgün*** (19699/18)

Judgment final on 22/11/2021

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

### Freedom of expression and information and safety of journalists

**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**

**Unforeseeable convictions of a participant in a funeral and a peaceful demonstration** as result of an extensive interpretation of the term "membership" in an illegal armed organisation.

**Işıkırık** (41226/09)  
 Judgment final on 09/04/2018

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**

**Unjustified interferences with the applicants' right to freedom of expression** on account of their criminal convictions for insulting public officials.

**Artun and Güvener** (75510/01)  
 Judgment final on 26/09/2007

Enhanced supervision  
**Status of execution**

**Failure of the authorities to provide protection to journalists faced with threats to life;** ineffective investigations and lack of effective remedies right and the right to compensation.

**Dink** (2668/07)  
 Judgment final on 14/12/2010

Enhanced supervision  
**Status of execution**

### Freedom of assembly and association

**Prosecution of participants in and/or use of excessive force to disperse peaceful demonstrations;** failure to carry out effective investigations into their allegations of ill-treatment or lack of an effective remedy in this respect.

**Oya Ataman group** (74552/01+)  
 Judgment final on 05/03/2007

Enhanced supervision  
**Status of execution**

### Irreversible aggravated life sentence

**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.

**Gurban group** (4947/04)  
 Judgment final on 15/03/2016

Enhanced supervision  
**Status of execution**

### Domestic violence

**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.

**Opuz group** (33401/02)  
 Judgment final on 09/09/2009

Enhanced supervision  
**Status of execution**

## MAIN ISSUES BEFORE THE COMMITTEE OF MINISTERS - ONGOING SUPERVISION

### 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 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 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 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**

### Freedom of thought, conscience and religion

**Lack of appropriate options to opt out of compulsory religious education**, without pupils' parents being obliged to disclose their religious or philosophical convictions

**Mansur Yalçın and Others**  
(21163/11)  
Judgment final on 16/02/2015

Enhanced supervision  
**Status of execution**

### Action of security forces

**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 requirement for administrative authorisation to initiate investigations against state officials.

**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**

MAIN ISSUES BEFORE THE COMMITTEE OF MINISTERS - ONGOING SUPERVISION

**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**

▶ **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**