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Contact: *Christophe Poirer*
Tel: 03 88 41 23 30

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Communication from Turkey in the group of cases Incal against Turkey (Application No. 22678/93)

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Communication de la Turquie dans le Groupe d'affaires Incal contre la Turquie (Requête n° 22678/93)
(anglais uniquement)

ACTION REPORT

EXECUTION OF THE EUROPEAN COURT OF HUMAN RIGHTS

JUDGMENTS

IN THE GROUP CASES OF INCAL V. TURKEY (22678/93, 9 JUNE 1998)

I. CONTENT OF THE JUDGMENTS

1. Under the Incal v. Turkey group of cases, a list of judgments (119 cases) (see Annex I) finding a violation are currently being supervised. In these judgments, the European Court of Human Rights (“the ECtHR” or “the Court”) found violations of the applicants’ right to freedom of expression on account of their convictions for the offences of:

a) disseminating propaganda for terrorist organisations (under Articles 6 (see Annex II) and 7 (see Annex III) of the Anti-Terror Law no: 3713) ;

b) praising an offence or an offender and inciting people to hatred or hostility (under former Article 312 (see Annex IV) of the Criminal Code Law no: 765);

c) insulting or vilifying the Turkishness, the Republic, the Grand National Assembly, or the moral personality of the Government, ministries, armed forces (under former Article 159 (see Annex V) of the Law no: 765);

d) making propaganda for terrorism via written materials (Under Article 8 (see Annex VI) of Law no: 3723).

e) making propaganda for terrorism by publishing books and periodicals (under Article 7/5 (see Annex VII) of the Law no:3713).

2. Furthermore, in some cases the lack of impartiality and independence of the State Security Courts (see Annex VIII), non-communication of the legal opinion of the Chief Public Prosecutor at the Court of Cassation to the parties during the appeal proceedings (see Annex IX), excessive length of proceedings (see Annex X) and lack of assistance by a lawyer during police custody (the case of *Temel*) can be subject to the finding of a violation.

II. INDIVIDUAL MEASURES

3. The Government has taken measures to ensure that the violations at issue have been brought to an end and that the applicants are redressed for their negative consequences.

II.a. Reopening of the proceedings

4. A new ground for retrial has been introduced under Article 311 § 1 (f) of the Code of Criminal Procedure (“the CCP”), requiring the existence a violation found by the ECtHR. In such cases, retrial must be requested from the relevant court within one year as from the finalization of the judgment of the ECtHR.

5. Moreover, under the Provisional Article 2 introduced into the Law no. 5271 it is possible to file a request for reopening of the proceedings within three months as from the date of entry into force of the Article in question in respect of the final judgments of the European Court of Human Rights which establish that a conviction was imposed in violation of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the European Convention on Human Rights” or “the Convention”) and its Protocols and which are being supervised by the Committee of Ministers of the Council of Europe as of 15 June 2012.

6. Accordingly, in 8 cases, applicants applied for reopening of the proceedings, the domestic courts granted leave for reopening of proceedings in 7 cases. In the end, the domestic courts decided acquittal for applicants in 7 cases. As a result of acquittal decision, records of previous convictions in respect of those were erased together with all their consequences (see Annex VII). On the other hand, the domestic court rejected the request in the case of *Belek*, by reasoning that there is no ground for reopening the proceedings.

II.b. Deletion of criminal records

7. The criminal records recorded in the particular system may be deleted in some situations occurred pursuant to Article 12 of the Criminal Records Law no. 5352. The records shall be deleted where the act in question no longer constitutes an offence under the law, or where a decision of acquittal or a decision of no need for imposing a penalty has become final as a result of reversal in favour of the administration of justice or a retrial conducted.

8. On the other hand, where the convict requests deletion of the records in 5 or 15 years after, depending on the crimes, serving his sentence, the criminal records may be deleted on the condition that no other offence has been committed within that period.

9. The Government would like to remind the repeal of Article 6 § 5 of the Anti-Terror Law in 2012. The relevant criminal records were to be cleared *ex officio* by the General Directorate of Criminal Records and Statistics of the Ministry of Justice pursuant to Article 12 § 2 of the Criminal Records Law.

10. At this stage, as regards the conviction records, the Turkish Government submits the list of applicants whose criminal records have been deleted (see Annex XII).

II.c. Cases concerning the excessive length of proceedings

11. As to the case of *Yavuz and Yaylalı* and *Fatih Taş* the Court decided violation on length of trial. The Government would like to inform that the proceedings in the cases brought an end respectively on 8 July 2010 and 25 May 2010.

II.d. Just Satisfaction

12. The Court had awarded just satisfaction in 2 cases as regards to pecuniary damage and 68 cases as regards to non-pecuniary damage and for 29 cases the Court decided both non-pecuniary and pecuniary damage. In 10 cases, the Court decided to strike out because of friendly settlement. For the rest of the cases, the Court decided no just satisfaction on the ground that the violation finding is sufficient for satisfaction or the applicants did not request satisfaction in due time.

13. The just satisfaction amounts awarded to the applicants were fully and timely paid within the deadline set by the Court. (Annex I).

14. In view of the above, the Turkish authorities consider that the individual measures have been taken in compliance with the Committee of Ministers' practice in the past and under these circumstances, no further individual measures are required.

III. GENERAL MEASURES

15. At the outset, the Government would like to highlight that in the light of the assessments made by the Committee of Ministers, certain Articles which constitute problems in the context of freedom of expression and the legislative provisions examined under the Incal group of cases were reviewed and aligned with the international human rights standards. In particular, within the scope of the legislative amendments made in 2012 and 2013 (the 3rd and the 4th Judicial Reform Packages).

16. First of all, in the cases of *Öztürk, Sürek and Özdemir* the Court decided violation due to the Article 142 of the Law no. 765 besides the other violations in domestic law. The Government would like to indicate that the Article 142 of the Law no. 765 was repealed on 12 April 1991.

III.a. Measures taken on the basis of each article in domestic law

III.a.1. Praising an offence or an offender article 215 of the Law no. 5237 (Former Article 312 § 1)

III.a.1.1. Legislative Amendments

17. One of the areas of violations found in the Incal group of cases concerns the offence of praising an offence or an offender either legislation or its implementation. The judgments finding a violation in connection with this offence generally stemmed from the wording of Article 312 § 1 of the former Criminal Code Law no. 765. This offence was placed under Article 215 of the new Criminal Code Law no. 5237. Following the violation found by the ECtHR in the case of *Kılıç and Eren* due to the practice concerning the offence described under Article 215 of the Law no. 5237, in 30 April 2013, the offence revised and added a new prog providing that an expression is to cause an eminent and clear danger to the public order, which is in line with the case-law of the ECtHR.

Art. 312 § 1	Art. 215 (2005 Version)	Amended Art. 215 (Current Version)
Anyone who publicly praises or condones an act punishable by law as an offence or incites the people to act in breach of the law shall be sentenced to imprisonment for a term of six months to two years.	Anyone who publicly praises an offence that was committed, or a person on account of an offence he/she committed, shall be sentenced to imprisonment for a term of up to two years.	Anyone who publicly praises an offence that was committed or a person on account of an offence he/she committed shall be sentenced to imprisonment for a term of up to two years <u>provided that there emerges an imminent and clear danger to the public order.</u>

III.a.1.2. Case-law of the Court of Cassation (CC)

18. At the mean time, the Court of Cassation has changed its jurisprudence in accordance with the Court's Judgments. The Court of Cassation quashed the convictions and upheld the decisions of acquittal issued in respect of the accused, by examining the cases in the framework of the Court's case-law, taking superiority position of the Convention pursuant to Article 90 § 5 of the Turkish Constitution (see Annex XI).

19. In respect of the criminal proceedings initiated against a convict due to a petition submitted by him to the Elbistan Chief Public Prosecutor's Office, stating "If addressing Abdullah Öcalan using the expression "esteemed" (sayın) is an offence, then I say esteemed Abdullah Öcalan and thus commit this offence", in its judgment of 20 June 2012, the 8th Criminal Chamber of the Court of Cassation, in the light of the ECHR and the relevant case-law of the ECtHR, upheld the decision of acquittal rendered by the domestic court, on the ground that the expression "esteemed Öcalan" used in the petition does not incite violence, armed resistance or uprising, or praise an offence or offender. In this judgment, the Court of Cassation, by referring to the Zana v. Turkey and Gözel and Özer v. Turkey judgments of the ECtHR, acknowledged that an assessment should be made as to by whom, where, in which context, and in which circumstances the letter or statement in question was written or made, that the extent of influence created by the person who made the statement in question should be evaluated on the basis of the criterion of "present and imminent danger", and also that regard should be paid to the issue of whether such statement has a potential to incite violence in view of the relevant place and time.

20. In another decision, the statement of "Long live leader Apo" during the press statement, the Erzurum Specially Authorized Court acquitted the accused on 12 June 2013, stating that the act in question should pose a clear and imminent danger to the public order for it to be considered as an offence under Article 215 of the Law no. 5237, and that this was not the case in the present circumstances.

21. In an investigation initiated against a person singing a song which contains the lyrics "... Apo is our president ... Our president is in the hands of tyrants" during an event, the Erzurum Chief Public Prosecutor's Office issued a decision of non-prosecution on 11 June 2013, stating that the act in question should pose a clear and imminent danger to the public order for it to be considered as an offence under Article 215 of the Law no. 5237, and that this was not the case in the present circumstances.

22. By the decision rendered on 9 July 2014, the 8th Criminal Chamber of the Court of

Cassation held that the acquittal decisions, delivered on the basis of the finding that offending, disturbing and scary statements and expressions which are disliked by a segment of the State or the public fell within the ambit of the freedom of expression had been in line with the procedure and the law.

23. In its decision of 13 January 2016 concerning the offence of committing a crime on behalf of an armed terrorist organization despite not being a member of that organization, the Court of Cassation quashed the decision of the first-instance court on the ground that it was necessary to redesignate and reassess the legal situation of the accused by discussing whether the imputed offence set out in Article 217 of the Turkish Criminal Code and the amendments made to Articles 215 and 318 of the Turkish Criminal Code and to Article 7 of the Law no. 3713 by the Law no. 6459 which entered into force upon on the dated of 30 April 2013.

24. As is seen from the decisions of the Court of Cassation, the examination methods, ground and progs of the crime are similar to the methods and criterias used by the ECtHR.

III.a.1.3. The effect of those adjustments

25. Those amendments and practice changed have positively affected the number of bill of indictment drawn up under Article 215 § 1 of the Law no. 5237. The number of bill of indictment have considerably declined from 2010 to 2015. It was 489 in 2010, 376 in 2011 and 326 in 2012, 113 in 2013, and 108 in 2014.

26. The government would like to draw the Committe of Ministers (CM) attention to the statistics on detention on remand issued under this article. Between 2012 to 1 May 2016, no detention decision have been ordered by the domestic courts.

27. Moreover, the belove-statistics are encouraging that the domestic courts have adapted themself to the change of provision. The Government submits the statistics which give oppurtunitiy to compare same period before and after the amendments made in 2013.

The number of criminal courts' decisions between 21 April 2010 and 11 April 2013 under Article 215 (1) of the Turkish Criminal Code by decision types and dates						
ARTICLE	DECISION	2010	2011	2012	2013	Grand Total
215/1	Acquittal	1660	908	966	133	3667
	Conviction	213	236	197	46	692

	Suspension of criminal proceedings	1	2	73	3	79
	Decision of no need for determination of a penalty	8	1	4	3	16
	Decision not to impose a penalty		24	2	1	27
	Striking out	47	192	174	16	429
	Suspension of the pronouncement of the judgment and probation	162	270	244	40	716
	Decision of no need for delivering a judgment	8	26	53	1	88
	Suspension of prosecution	1	9	1162	465	1637

The number of criminal courts' decisions between 11 April 2013 and 1 May 2016 under Article 215 (1) of the Turkish Criminal Code by decision types and dates						
ARTICLE	DECISION	2013	2014	2015	2016	Grand Total
215/1	Acquittal	337	261	165	172	935
	Conviction	41	18	51	17	127

	Suspension of criminal proceedings	12	1			13
	Decision of no need for determination of a penalty	1		2	1	4
	Striking out	10	7	79	7	103
	Suspension of the pronouncement of the judgment and probation	50	19	22	18	109
	Decision of no need for delivering a judgment	7	7	3		17
	Suspension of prosecution	605	183	45	6	839

28. Regard must be given to the changes and their effect on detention decisions, proceeding and investigations. The CM, taking those into account, should be aware of the very positive change in implementation. The change does not mean no one will be charged or convicted for the crimes committed which fall within this provision. Those demonstrate that the implementation of judicial authorities are in line with the ECtHR judgments.

29. The Government therefore considers that all general measures have been taken for this sort of violation and no other general measures are required.

III.a.2. The offence of incitement to hatred or hostility under Article 216 of the Law no. 5237 (Former Article 312 § 2)

III.a.2.1. Legislative Amendments

30. One of the most common areas of violations found in the Incal group of cases concerns the offence of incitement to hatred and hostility among the people or degrading them. The judgments finding a violation in connection with this offence entirely stemmed from the

wording of Article 312 § 2 of the Law no. 765, which was in force during the violations occurred.

31. This offence was revised in 2005 under Article 216 of the Law no. 5237. Within the scope of this redefinition, the elements of the offence were reviewed and aligned with the Courts judgments. In the wording of Article 216, the concept of “clear and imminent danger to the public safety” has become anew prog. In other words, the new article provides that this offence shall be constituted if there emerges a clear and imminent danger to the public safety.

Art. 312 § 2	Art. 216 (2005 Version)
Anyone who publicly incites the people to hatred or hostility in a manner that may constitute a threat to the public order on the basis of a distinction between social classes, races, religions, denominations or regions shall be sentenced to imprisonment for a term of one to three years.	Anyone who publicly incites hatred or hostility in one section of the public against another section with different characteristics based on social class, race, religion, sect or regional differences, <u>provided that there emerges an imminent and clear danger to the public safety</u> shall be sentenced to imprisonment for a term of one to three years.

III. a.2.2. Case-law of the Court of Cassation

32. The CC has changed its case-law in line with the Court’s Judgments. The Court of Cassation quashed the convictions and upheld the decisions of acquittal issued in respect of the accused, by examining the cases in the framework of the Court’s case-law, taking superiority position of the Convention pursuant to Article 90 § 5 of the Turkish Constitution (see Annex XI).

33. In its judgment of 20 June 2012, the 8th Criminal Chamber of the Court of Cassation held that the impugned columns, when taken and evaluated as a whole, did not involve violence and that they caused no reaction among the people and constituted no clear and imminent danger. In the Chamber’s view, the columns on account of which the first-instance court imposed a sentence fell within the ambit of freedom of expression and the elements of the

offence under 216 of the Law no. 5237 were not constituted. The Chamber thus considered that the accused should be acquitted.

34. As is seen from the decisions of the Court of Cassation, the examination methods, ground and progs of the crime are similar to the methods and criterias used by the ECtHR

III. a.2.3. The effect of those adjustments

35. Following the redefinition of the progs of this offence in 2005, the number of cases that are brought before the courts has significantly decreased. Its considerable effect has been shown in the statistics below. The relevant statistics indicate that there has been a significant decrease in the number of cases brought before courts after the concept of “clear and imminent danger to the puclic safety” become a prerequisite for the existence of the offence within the meaning of Article 216 of the Law no. 5237.

III. a.2.4. Numbers of indictment lodged by the Chief Public Prosecutors’ Offices

36. Between 2010 and 2015; while the number of the bills of indictment drawn up under Article 216 § 1 of the Law no 5237 was 66 in 2010, 49 in 2011 and 59 in 2012, it was 57 in 2013 and 82 in 2014.

37. Between 2010 and 2015; while the number of the bills of indictment drawn up under Article 216 § 2 of the Law no. 5237 was 33 in 2010, 22 in 2011 and 33 in 2012, it was 31 in 2013 and 35 in 2014.

38. Between 2010 and 2015; while the number of the bills of indictment drawn up under Article 216 § 3 of the Law no. 5237 was 10 in 2010, 10 in 2011, 26 in 2012, 42 in 2013, and to 32 in 2014.

III a.2.5. Decisions made by domestic courts

39. For instance, while 1310 case file unde Article 312 of the Law no. 765 had been brought before the courts in 2005, it had been 106 in 2006, and 135 in 2009. The new statistics for the past few years are submitted below in detail.

40. Moreover, between 30 April 2013 and 30 March 2015, 17 conviction decision had been given under Article 216 § 1 of the Law no. 5237, 10 under Article 216 § 2, and 15 under Article 216 § 3.

<p>The number of criminal courts’ decisions between 1 January 2010 and 1 May 2016 under Articles 216 (1), 216 (2) and 216 (3) of the Turkish Criminal Code by decision types and dates</p>

ARTICLE	DECISION	2010	2011	2012	2013	2014	2015	2016	Grand Total
216/1	Acquittal	31	36	41	20	23	35	30	216
	Conviction	12	5	6	1	5	3	8	40
	Suspension of criminal proceedings				1	1		1	3
	Decision of no need for determination of a penalty			1					1
	Striking out	1	3	4		1	3	2	14
	Suspension of pronouncement of the judgment and probation	12	10	8	1	4	8	4	47
	Suspension of prosecution			26	26	4	6		62
216/2	Acquittal	13	8	15	20	14	21	11	102
	Conviction	3	1	6	5	2	9		26

	Decision of no need for determination of a penalty			2				1	3
	Striking out	2	1	1	1	2			7
	Suspension of pronouncement of the judgment and probation	6	2	13	8	7	9	8	53
	Decision of no need for delivering a judgment					1			1
	Suspension of prosecution			8		3	1		12
216/3	Acquittal	2	2	9	13	13	17	8	64
	Conviction	1		1	6	4	5	6	23

	Decision of no need for determination of a penalty					3	3	1	7
	Striking out			2			1		3
	Suspension of pronouncement of the judgment and probation	2	2		8	7	8	5	32
	Decision of no need for delivering a judgment		1						1
	Suspension of prosecution			6	5	2	4	1	18

41. Furthermore, detention decisions given under this article are considered useful while evaluating whether the measures taken is sufficient.

The number of persons detained pursuant to Article 216 of the Law no. 5237					
Time Spent in a Penitentiary Institution	2012	2013	2014	2015	2016 (As of 1 June)
0 - 1 Year			1	13	
1 - 2 Years					
2 - 3 Years					
3 - 4 Years	10				
4 - 5 Years		10			

42. Regard must be given to the changes and their effect on detention decisions, proceeding and investigations. The CM, taking those into account, should be aware of the very positive change in implementation. The change does not mean no one will be charged or convicted for

the crimes committed which fall within this provision. Those demonstrate that the implementation of judicial authorities are in line with the ECtHR judgments.

43. The Turkish Government draws the CM attention to the fact that since the amendment made Article 216, no judgment has delivered finding a violation in connection with the implementation of this article by the ECtHR.

44. The Government therefore considers that all general measures have been taken for this sort of violation and no other general measures are required.

III.a.3. Insulting or vilifying the Turkishness, the Republic, the Grand National Assembly, or the moral personality of the Government, ministries, armed forces under Article 301 of the Law no. 5237 (Former Article 159)

III. a.3.1. Legislative Amendments

45. One of the problematic areas identified in the Incal group of cases is related to the practice concerning the offence of insulting or vilifying the Turkishness, the Republic, the institutions and organizations of the State. The judgments finding a violation in connection with this offence generally stemmed from the wording of Article 159 of the Law no. 765. This offence was redefined with similar phrases under Article 301 of the Law no. 5237. This amendment was revised again by the legislative amendment adopted in April 2008. Through the new amendment, the term “Turkishness” was replaced by “Turkish nation” and what is the concept of Turkish nation was explained by the law-maker in the reasoning of the law. In this way, the elements of the offence have been specified. In addition to this, the upper limit for the sentence prescribed by the law has been reduced from three years to two years imprisonment and the initiation of investigation have been subjected to the permission of the Minister of Justice (MoJ). Upon the subjecting the initiation of an investigation to the permission of the MoJ, the number of cases investigated has been gradually decreased from 2008 onwards.

46. Moreover, the article in question had been amended in due course for a few time after the incidents occurred resulting violation. While the penalty prescribed in the Article in question was 1-6 years’ imprisonment, it was reduced to 1-3 years in 2002. The lower limit of the imprisonment sentence was reduced from “one year” to “six months” in 2003. Likewise, it was ensured that the acts described in the Article would not require the imposition of a penalty in the event that they involve expression of thoughts with the mere purpose of criticizing. The term “Turkishness” was replaced with “the Turkish Nation” while the word

“the Republic” was replaced with “the Republic of Turkey” in the Article in question in 2008. The upper limit of the imprisonment sentence was reduced to two years and the practice of imposing a higher penalty where debasing statements are used in a foreign country was abolished.

III a.3.2. Assessment made by the CM

47. The CM stated at the June 2014 meeting that the said amendments can be regarded as a positive change since with the amendments made to the said Article, the probable penalty to be imposed has been reduced and the term “Turkishness” was replaced by “Turkish nation”. Furthermore, it has been provided that the opening of an investigation shall be subject to an authorization from the MoJ and it has been explicitly stated in the law that statements made for the purposes of criticism cannot be considered as an offence.

48. On the other hand, the CM pointed out that subjecting the opening of an investigation into the offence to the authorization granting by the MoJ might not constitute a dependable and continuous guarantee against the abuse of the said Article. In this regard, the CM stated that it is desired for Article 301 of the Turkish Criminal Code to meet the “quality of law” requirement of the Court’s settled case-law.

III. a.3.3. An assessment as to the “Quality of Law” of Article 301 of the Law no. 5237

49. The Turkish Government is of the opinion that the imposition of an authorization requirement for opening an investigation is of significant importance and it would like to underline the following points in this regard.

50. No authorization system had been prescribed with regard to Article 301 in the initial version of the Law no. 5237. In the system of the Turkish Criminal Code, public prosecutors shall initiate investigation proceedings ex officio or following denouncements and complaints related to Article 301 of the Law no. 5237.

51. However, due to the serious divergent in the practice as to the interpretation and the implementation of the article in question, the authorization system was re-enacted on 8 May 2008 with a view to ensuring uniformity in the practice. Pursuant to the said amendment to the Law no. 5237, in order to be able to proceed with the investigation a request as to an authorization for investigation must be made to the MoJ. The fact that an authorization from the MoJ is required in order to conduct an investigation into that offence does not necessarily mean that a public prosecutor must charge the defendant. The prosecution office may issue a decision of non-prosecution even though an authorization is obtained. Similarly, no decision to convict is necessary when a charge was made by prosecution office. In other words, the

authority enjoyed by the MoJ in this regard has no negative influence on initiation of investigation. The authorization requirement meant to preclude initiation of investigation for every statements made by persons. Taking into view the former practices, some of which had been brought before the Court as in the Incal group of cases, the authorization process shall not affect in negative way, on the contrary, it will block posecution offices to open investigation for every statement. The importance of that prosedure emerges ex officio investigation system because any prosecutor shall initiate an investigation ex officio or on complaint or on denouncement. Whatever change makes in that article, any statement is able to be subject to an investigation. In addition, the data submitted below indicates that the authorization system is a legal procedure which is not disadvantageous, but actually advantageous to people who are suspects.

52. The existence of the authorization requirement has a positive impact with regard to making the decision. By ensuring uniformity in the practice, the disadvantages resulting from the differences in practice may accordingly be prevented. In this way, the different practices applied by the investigative bodies with regard to the interpretation of Article 301 of the Law no. 5237 are precluded.

53. Furthermore, this authority enjoyed by the MoJ is of a nature which could prevent the conduct of unnecessary investigations about the activities considered to fall within the freedom of expression. This procedure is in fact a mechanism which provides a guarantee for the freedom of expression.

Under Article 301 of the Law no. 5237 (The study conducted on the basis of the number of detainees in the penitentiary institutions as of 31 December 2015)					
Time Spent in a Penitentiary Institution	2012	2013	2014	2015	2016 (As of 1 June)
0 - 1 Year	1				
1 - 2 Years			1		
2 - 3 Years					
3 - 4 Years					
4 - 5 Years	1				

54. Between 01 January 2010 and 01 January 2015; while the number of the cases in respect of which a decision of no-prosecution was issued under Article 301 § 1 of the Turkish

Criminal Code by the Chief Public Prosecutors' Offices was 229 in 2010, 165 in 2011 and 305 in 2012, this number went up to 247 in 2013 and to 274 in 2014.

55. Between 01 January 2010 and 01 January 2015; while the number of the cases in respect of which a decision of non-prosecution was issued under Article 301 § 2 of the Turkish Criminal Code by the Chief Public Prosecutors' Offices was 240 in 2010, 144 in 2011 and 149 in 2012, this number went up to 195 in 2013 and to 216 in 2014.

III. a.3.4. Statistics on judgments of domestic courts

56. Between 30 April 2013 and 30 March 2015, only 11 case file resulted with convictions by operation of Article 301 § 1 of the Law no. 5237 and in 19 cases, defendants were acquitted. Moreover, only 14 cases resulted with convictions by operation of Article 301 § 2 of the Law no. 5237, and in 41 case file, the defendants were acquitted.

57. The detailed table on courts decision is as follows:

The number of criminal courts' decisions between 1 January 2010 and 1 May 2016 under Articles 301 (1), 301 (2) and 301 (3) of the Turkish Criminal Code by decision types and dates¹									
ARTICLE	DECISION	2010	2011	2012	2013	2014	2015	2016	Grand Total
301/1	Acquittal	14	12	4	6	12	9	8	65
	Conviction	5	3	7	1	5	8	14	43

¹ The numbers may be different from the permissions granted for the fact that trial may last for a couple of years.

	Criminal decree	1							1
	Decision of no need for determination of a penalty	1				1	1	1	4
	Decision not to impose a penalty		1						1
	Striking out	23	16	22	12	5	1	1	80
	Suspension of the pronouncement of the judgment and probation	2	1	8	4	9	17	11	52
	Decision of no need for delivering a judgment			1					1
	Suspension of prosecution			9	9	1			19
301/2	Acquittal	22	12	15	12	17	11	9	98
	Conviction	14	4	4	4	7	10	6	49

	Decision of no need for determination of a penalty				2	1	1		4
	Decision not to impose a penalty		1						1
	Striking out	48	35	34	19	8	4	1	149
	Suspension of the pronouncement of the judgment and probation	10	5	4	10	13	9	14	65
	Decision of no need for delivering a judgment		2	2		2			6
	Suspension of prosecution			14	9	4	1	1	29

III.a.4. Printing and publishing the declarations and statements of terrorist organizations (Art. 6 § 2 of the Anti-Terror Law)

III.a.4.1 Legislative Amendments

58. The ECtHR found violation in its judgments relating to this article that the practice concerning the offence of printing and publishing leaflets and statements which justify or praise the methods of terrorist organizations, as set out in Article 6 § 2 of the Anti-Terror Law, was not compatible with the ECHR standards set by the case-law of the ECtHR.

59. Following those judgments, the Turkish authorities amended Article 6 § 2 of the Law no. 3713 by adding another two prog on 30 April 2013. As per this amendments, the act of printing and publishing leaflets and statements may be penalized as long as those of which justify or praise or incite the terrorist organizations' methods. Moreover, those methods must be containing violence, force or threat. Accordingly, an act of pure publishing or printing leaflets of a terrorist organization will not be considered as an offence unless they include the progs aforementioned.

60. The former and current version of the Article reads as follow:

Article 6 § 2 (Former Version)	Article 6 § 2 (Amended Version)
Anyone who prints or publishes leaflets or declarations of terrorist organizations shall be sentenced to imprisonment for a term of one to three years.	Anyone who prints or publishes leaflets or declarations of terrorist organizations <u>which justify or praise or incite the terrorist organizations' methods containing violence, force or threat</u> shall be sentenced to imprisonment for a term of one to three years.

61. In this way, the elements of the offence have been made narrow and more concrete. The Current version ensures compliance with the standards of the ECtHR in the context of freedom of expression.

III. a.4.2. Case-law of the Court of Cassation

62. The CC has changed its case-law in line with the Court's Judgments. The Court of Cassation quashed the convictions and upheld the decisions of acquittal issued in respect of the accused, by examining the cases in the framework of the Court's case-law, taking superiority position of the Convention pursuant to Article 90 § 5 of the Turkish Constitution (see ANNEX XI).

III. a.4.3 Statistics in respect of that Article

63. The effect of the amendment may be understandable by using statistical data. In order to fethom the progress the Government would like to submit here a comparable period before and after the amendment.

The number of criminal courts' decisions between 21 April 2010 and 11 April 2013 under Article 6 (2) of the Law no. 3713 by decision types and dates						
ARTICLE	DECISION	2010	2011	2012	2013	Grand Total
6/2	Acquittal	37	73	26	17	153
	Conviction	51	130	41		222
	Suspension of criminal proceedings			31		31
	Decision of no need for determination of a penalty	1				1
	Striking out	6	3	24		33
	Suspension of pronouncement of the judgment and probation		9			9
	Suspension of prosecution		4	484	64	552

The number of criminal courts' decisions between 11 April 2013 and 1 May 2016 under Article 6 (2) of the Law no. 3713 by decision types and dates						
ARTICLE	DECISION	2013	2014	2015	2016	Grand Total
6/2	Acquittal	3	2	4	3	12
	Conviction	9				9

	Striking out	1	1		1	3
	Suspension of pronouncement of the judgment and probation	1				1
	Suspension of prosecution	28	10			38

64. The Government would like to take the CM attention in here that no detention order issued for those kinds of acts for 5 years.

65. The Turkish Government draws the CM attention to the fact that since the amendment made Article 6 § 2 of the Law no. 3713, any judgment could not be found which is finding a violation in connection with the implementation of this article by the ECtHR.

66. The Government therefore considers that all general measures have been taken for this sort of violation and no other general measures are required.

III.a.5. The offence of making propaganda of terrorist organizations (Article 7 § 2 of the Law no. 3713)

67. The ECtHR found in its judgments relating to this article that the practice of the Turkish courts was not compatible with the ECHR standards set by the case-law of the ECtHR. In this regard, the Court noted that the domestic courts had failed to duly take into account the element of incitement to violence, in compliance with the case-law of the ECtHR, in rendering decisions on conviction for such offences.

III. a.5.1. Legislative amendments

68. The violation in this heading stems from the wording of the Article. In order to settle this issue, the elements of the offence set out in Article 7 § 2 of the Anti-Terror Law were redefined on 30 April 2013. As per the amendment, the act of making propaganda of terrorist organizations by justifying or praising or inciting their methods has been recognized as an offence only if they contain violence, force or threat, which is in compliance with the case-law of the ECtHR.

69. Thus, the pros of the offence have been further concretized and the provision has been made narrowed in order to bring the judicial practice into line with the case-law of the ECtHR. Accordingly, peaceful enjoyment of freedom expression in this respect will not any more constitute a crime.

70. The Article reads before and after the amendment as follow:

Art. 7 § 2 (Former Version)	Art. 7 § 2 (Amended Version)
Anyone who makes propaganda of a terrorist organization shall be sentenced to imprisonment for a term of one to five years (...)	Anyone who makes propaganda of a terrorist organization <u>by justifying or praising or inciting the terrorist organizations' methods which contain violence, force or threat</u> shall be sentenced to imprisonment for a term of one to five years (...)

III. a.5.2. Case-law of the Court of Cassation

71. The CC has changed its case-law in line with the Court's Judgments. The Court of Cassation quashed the convictions and upheld the decisions of acquittal issued in respect of the accused, by examining the cases in the framework of the Court's case-law, taking superiority position of the Convention pursuant to Article 90 § 5 of the Turkish Constitution (see Annex XI).

72. As a result of the redefinition of the elements of the offence of making propaganda of a terrorist organization under Article 7 § 2 of the Anti-Terror Law, the first-instance courts and public prosecutors rendered decisions of acquittal and non-prosecution, respectively, in a great number of cases. For example, a member of a terrorist organization used the statements "I greet all martyrs of the party and revolution, foremost being ..." at the hearing of a case brought against him for his acts such as attempted murder of a public official and unauthorized transportation of explosives within the framework of actions intended for changing the constitutional order. Thereupon, in the criminal proceedings brought against him for making propaganda of a terrorist organization, the Malatya Special Assize Court, by its

decision no. 2013/42 of 2 September 2013, acquitted the accused on the ground that his statements did not justify or praise the methods of the terrorist organization or encourage the use of such methods. In delivering its decision, the Assize Court had regard to the ECHR and the case-law of the ECtHR and made a reference to Article 7 § 2 of the Anti-Terror Law amended by the Law no. 6459 in April 2013.

73. An investigation was initiated in respect of the offence of making propaganda of a terrorist organization through the statements "... In these streets, for weeks, we have wanted to draw attention to the captives in prisons... they have staged a hunger strike with three basic demands, namely, that the isolation on the esteemed Öcalan, the leader of the PKK, be ended; the Kurdish issue be solved by democratic means; and constitutional guarantees be provided for the use of mother-tongue, the Kurdish language... we will not leave the streets until these legitimate demands of our friends are satisfied..." and the banners stating "Prisons should not be places of death, political prisoners should not be left for dead" during a meeting organized by a human rights association in order to support the hunger strikes staged at the material time. The Van Chief Public Prosecutor's Office, by referring to the case-law of the ECtHR, issued a decision of non-prosecution (decision no. 2013/686 of 28 August 2013) on the ground that there existed no element which incites violence and goes beyond the exercise of the freedom of expression.

74. In an investigation launched upon the unfurling of banners stating "We condemn the Roboski massacre, let the perpetrators be tried immediately" during the protest held in front of the district building of the BDP, the Van Chief Public Prosecutor's Office issued a decision of non-prosecution (decision no. 2013/629 of 12 July 2013) on the ground that there existed no element which incites violence.

75. A criminal investigation was brought against a parliamentarian from the BDP due to his statements "... the houses of the Kurdish people were burned, some Kurdish people became victims of an attempted lynching... it will be a solution-based and cost-free step to benefit from the views of the esteemed Öcalan... the views of the DTP² and the PKK³ are similar... the Kurdish people were subject to an assimilation..." at a conference held in 2008 in the center for graduates of the New York University, USA. In this connection, the Ankara Chief Public Prosecutor's Office, by referring to the ECHR and the case-law of the ECtHR, issued a

² Democratic Society Party

³ The Kurdistan Workers Party, a terrorist organization

decision of non-prosecution (decision no. 2013/155 of 31 May 2013) on the ground that his statements did not incite violence within the framework of the amendments introduced by the Law no. 6459 to the Anti-Terror Law and the Turkish Criminal Code.

76. In another incident, a criminal proceedings were brought against the chairman of an association due to his statements “Europe and America, together, organized a conspiracy against Öcalan... the AKP should know that a person who throws himself in the fire may also do the same to others... but the Kurdish people say enough is enough... protect yourself and your people. Let all four parts of the Kurdistan rebel...” during his speech on a TV channel while he was calling for the people to participate in the demonstration planned to be held in a district. The domestic court convicted him of making propaganda of a terrorist organization under Article 7 § 2 of the Law no. 5237. However, the 9th Criminal Chamber of the Court of Cassation, by its judgment of 21 March 2012, quashed the conviction on the ground that the statements of the accused fell within the exercise of the right to freedom of expression under Article 26 of the Constitution of the Republic of Turkey, Article 10 of the ECHR, and the case-law of the ECtHR.

77. Moreover, in another criminal proceedings were brought against a person who delivered a speech related to the ceasefire process that allegedly existed at that period by using the statements “...Everybody should know well that the esteemed Öcalan is not an ordinary prisoner...” during the Newroz celebrations in the Tatvan district. The domestic court convicted the accused of making propaganda of a terrorist organization under Article 7 § 2 of the Anti-Terror Law. However, the 9th Criminal Chamber of the Court of Cassation, by its judgment no. 2011/29396 of 5 December 2011, quashed the conviction on the ground that the statements of the accused fell within the exercise of the right to freedom of expression under Article 26 of the Constitution of the Republic of Turkey, Article 10 of the ECHR, and the case-law of the ECtHR.

78. In its decision of 19 November 2015 concerning the offence of committing a crime on behalf a terrorist organization and making the propaganda of the terrorist organization, despite being a member of that organization, the Court of Cassation quashed on the ground that the legal situation of the accused had to be redesignated and reassessed due to the introduction of Paragraph 4 into Article 7 of the Law no. 3713 by Article 8 of the Law no. 6459 which came into force on the date of 30 April 2013, by making reference to Article 26 of the Turkish Constitution and Article 10 of the European Convention on Human Rights. The conditions for

legitimate interferences that may be made with the freedom of expression are listed in the content of the decision.

79. In another decision rendered by the 16th Criminal Chamber of the Court of Cassation on 12 January 2016, as a result of employing similar examination steps, it was held that convicting the accused persons, who had participated in the provincial congress of a legal political party, rather than acquitting them without having regard to the facts that the slogans chanted by them in the congress hall did not amount to incitement to armed resistance or rebellion and that the slogans in question could not be regarded as hate speech constituted a ground for quashing the decision of the first-instance court.

80. In another decision rendered by the 16th Criminal Chamber of the Court of Cassation, it held that conviction of the accused persons on unlawful grounds despite the fact that the slogans chanted had to be examined within the scope of freedom of expression by taking into account where the act had been committed, the circumstances of the act, the addressees and the audience and having regard to the facts that the slogans in question did not have the potential to stimulate the audience in question and that they were not of a nature legitimizing, praising or encouraging the terrorist organization's methods involving force, violence or threat constituted a ground for quashing the decision of the first-instance court (Annex II).

81. As is seen from the decisions of the Court of Cassation, the examination methods, ground and progs of the crime are similar to the methods and criterias used by the ECtHR.

III. a.5.3. Statistics in respect of this Article

82. The effect of the amendment may be comprehended by using statistical data. In order to fathom the progress the Government would like to submit here a comparable period before and after the amendment.

DESCRIPTION	NUMBER OF INVESTIGATION FILES
The number of investigations initiated by the Chief Public Prosecutors' Offices between 1 January 2011 and 11 April 2013 under Article 7 (2) of the Law no. 3713	17.797
The number of investigations initiated by the Chief Public Prosecutors' Offices between 11 April 2013 and 1 May 2016 under Article 7 (2) of the Law no. 3713	27.087

DESCRIPTION	NUMBER OF CASE FILES
The number of case files brought before the criminal courts between 1 January 2011 and 11 April 2013 under Article 7 (2) of the law no. 3713	13.822
The number of case files brought before the criminal courts between 11 April 2013 and 1 May 2016 under Article 7 (2) of the Law no. 3713	12.374

The number of the Chief Public Prosecutors' Offices' decisions between 1 January 2011 and 11 April 2013 under Article 7 (2) of the Law no. 3713 by decision types	
Decision type	Number of decisions
Indictment	6453
Non-prosecution	2282

The number of the Chief Public Prosecutors' Offices' decisions between 11 April 2013 and 1 May 2016 under Article 7 (2) of the Law no. 3713 by decision types	
Decision type	Number of decisions
Indictment	9182
Non-prosecution	4004

83. As it is seen from the statistics, following the amendment made by the Law no. 6459 on 11 April 2013, there has been an increase in the number of decisions of non-prosecution rendered by the Chief Public Prosecutors' Offices under Article 7 (2) of the Law no. 3713. On the other hand, while proceedings were brought on the basis of 13.822 out of 17.797 investigation files prior to the amendment in question, proceedings were brought on the basis of only 12.374 out of 27.087 investigation files subsequent to the amendment. As it is seen, while the ratio of bringing proceedings was 77% prior to the amendment, this ratio went down to 45% in the same time period following the amendment. As it is also seen in the table below, following the amendment, in 2015 and 2016 there were no individuals who had been

detained in a penitentiary institution for more than 2 years. In 2014, there were merely 4 persons who had been detained for more than 2 years.

Under Article 7 (2) of the Law no. 3713 (The study conducted on the basis of the detainees in the penitentiary institutions as of 31 December)					
Time Spent in a Penitentiary Institution	2012	2013	2014	2015	2016 (As of 1 June)
0 - 1 Year	146	11	103	85	180
1 - 2 Years	93	18		1	4
2 - 3 Years	40	15	1		
3 - 4 Years	30	5	3		
4 - 5 Years	12	7			

84. As it shall be seen in the table below, the types and numbers of the criminal courts' decisions under Article 7 (2) of the Law no. 3713 prior to its amendment differ from those rendered subsequent to the amendment in question. While the number of acquittal decisions was 4.789 prior to the amendment, it increased to 6.735 following the amendment; on the other hand, the number of convictions decreased to 5.462. A significant increase is also observed in the number of decisions on suspension of the pronouncement of judgment and probation. In other words, subsequent to the amendment, the number of convictions decreased approximately 50%.

The number of criminal courts' decisions between 21 March 2010 and 11 April 2013 under Article 7 (2) of the Law no. 3713 by decision types and dates					
DECISION	2010	2011	2012	2013	Grand Total
Acquittal	558	904	1.005	180	2.647
Conviction	1.307	1.591	1.190	199	4.287
Suspension of criminal proceedings			91	6	97
Decision of no need for determination of a penalty	12	7	25	10	54

Decision not to impose a penalty		7	5	2	14
Striking out	72	81	119	25	297
Suspension of the pronouncement of the judgment and probation	267	631	981	415	2.294
Decision of no need for delivering a judgment	4	14	33	5	56
Suspension of prosecution	36	86	3.634	1.254	5.010

The number of criminal courts' decisions between 1 January 2011 and 11 April 2013 under Article 7 (2) of the Law no. 3713 by decision types	
Decision type	Number of decisions
Acquittal	4.789
Suspension of criminal proceedings	192
Decision of no need for determination of a penalty	64
Decision not to impose a penalty	17
Striking out	466
Suspension of the pronouncement of the judgment and probation	3.734
Decision of no need for delivering a judgment	87
Suspension of prosecution	12.168
Conviction	11.849

The number of criminal courts' decisions between 11 April 2013 and 1 May 2016 under Article 7 (2) of the Law no. 3713 by decision types
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Decision type	Number of decisions
Acquittal	6735
Suspension of criminal proceedings	59
Decision of no need for determination of a penalty	193
Decision not to impose a penalty	1
Striking out	339
Suspension of the pronouncement of the judgment and probation	4381
Decision of no need for delivering a judgment	82
Suspension of prosecution	6349
Conviction	5462

85. These numbers and percentages demonstrate the effect of the amendment in practice.

86. Moreover, the Turkish Government draws the CM attention to the fact that since the amendment made Article 7 § 2 of the Law no. 3713, any judgment could not be found which is finding a violation in connection with the implementation of this article by the ECtHR.

87. The Government therefore considers that all general measures have been taken for this sort of violation and no other general measures are required.

III.a.6 Making propaganda for terrorism via written materials (Article 8 of Law no: 3713)

88. In some cases, the Court found that punishing propaganda for terrorism via written materials constituted violation of the Convention.

89. The Government would like to draw the Committees attention to the amendments made at Article 8 of the Law no: 3713. The Article was changed on 29 June 2006 at first; however, on 07 February 2013, this article abolished. The measures of repealing the Article will prevent reoccurrence of similar violation and no other measures required in this respect.

III.a.7 Making propaganda for terrorism by publishing books and periodicals (Article 7 § 5 of the Law no: 3713)

90. In *Ünsal Öztürk* and *Zarakolu* cases, the Court found that punishing propaganda for terrorism by publishing books and periodicals constituted violation of the Convention.

91. The Government would like to draw the Committees attention to the amendments made at Article 7 § 5 of the Law no: 3713. The Article was abolished on 18 July 2006.

92. The measures of repealing the Article will prevent reoccurrence of similar violation and no other measures required in this respect.

III.a.8 Measures aimed at the lack of adversarial proceedings and equality of arms

93. The measures aimed at preventing adversarial proceedings and equality of arms in this respect have been taken within the framework of the *Göç* group of cases. The Turkish authorities recall that the Committee of Ministers found these measures effective and decided to close the supervision of *Göç* group in 2011 (CM/ResDH(2011)307).

94. The authorities furthermore note that the impugned facts took place before the measures have been taken within the framework of the *Göç* group of cases. The authorities therefore consider that no further general measures are necessary.

III.a.9 Measures aimed at preventing excessive length of proceedings and introducing an effective remedy in this respect

95. The measures aimed at preventing excessive length of proceedings and introducing an effective remedy in this respect have been taken within the framework of the *Ormancı* group of cases. The Turkish authorities recall that the Committee of Ministers found these measures effective and decided to close the supervision of *Ormancı* group in 2014 (see CM/ResDH(2014)298).

96. The authorities furthermore note that the impugned facts took place before the measures have been taken within the framework of the *Ormancı* group of cases. The authorities therefore consider that no further general measures are necessary.

III.a.10. Measures aimed at lack of impartiality and independence of State Security Courts

97. The measures aimed at preventing excessive length of proceedings and introducing an effective remedy in this respect have been taken within the framework of the cases of *Sadak*, *Zana*, *Dicle and Dogan*. The Turkish authorities recall that the Committee of Ministers found these measures effective and decided to close the supervision of the cases of *Sadak*, *Zana*, *Dicle and Dogan* in 2004 (see ResDH(2004)86) and the *Gençel* group of cases (CM/ResDH(2013)256).

98. The authorities furthermore note that the impugned facts took place before the measures have been taken within the framework of the cases of *Sadak, Zana, Dicle and Dogan, Gençel*. The authorities therefore consider that no further general measures are necessary.

III.a.11. Concerning lack of support by a lawyer during police custody

99. There is only one case found violation of lack of support by a lawyer during police custody, the case of *Temel*. The Government wants to draw the Committee's attention to the *Salduz* group of cases in this respect. This kind of violations are being supervised under this group. Therefore, the Government of Turkey invites examination of this violation to be continued under that group.

III.b. Awareness-raising activities

III.b.1. Activities

III.b.1.1. The Justice Academy of Turkey

100. The Justice Academy which is the sole institution for pre-service and in-service training of judges and prosecutors was established in 2003 with a legal entity and scientific, financial and administrative autonomy. The Academy has been providing in-service and pre-service trainings on right to liberty and security since its establishment. In the curricula of the pre-service training, the following subjects are provided;

- a) Implementation of Protective Measures in the Light of the ECtHR Judgments,
- b) Grounds of the Court Judgments in the light of the ECtHR,
- c) Human Rights and Practices of the ECtHR,
- d) Arrest- Custody- Detention- undercover Witnessing,
- e) Reflections of the ECtHR Judgments in the Domestic Law,
- f) ECHR and Turkey,
- g) Arrest-Custody-Detention Practices,
- h) Freedom of Expression,
- i) European Union Law.

The following subjects are covered as an in-service training program;

- a) Freedom of Expression in the ECtHR Judgments and Procedure of Justification in the Detention Orders,
- b) Implementation Procedure of the Protective Measures
- c) Violations of Article 5 of the ECHR,
- d) Arrest- Custody- Detention- undercover Witnessing,
- e) A General View of Wiretapping-Techniques for Taking Statements-Protective Measures in Anti-Terrorism,

101. In the field of human rights 1349 books were obtained within the scope of the activities of the Human Rights Unit of the Academy. The books in question were made available for both the judge candidates and the professional judges, public prosecutors and lawyers.

III.b.1.2. The High Council of Judges and Prosecutors

102. On 2-3 October 2015 a workshop on raising awareness on the Court's case-law was held with the participation of three jurists of the Court within the scope of the preparations for the establishment of a Human Rights Bureau under the High Council of Judges and Prosecutors. Accordingly, on 14 January 2016 the Human Rights Bureau was established with a view to following the Court's case-law on disciplinary law and freedom of expression and raising the awareness of the Council's inspectors and rapporteur judges on the Court's decisions.

III.b.1.3. Ministry of Justice

103. In 2004, four seminars on "Freedom of Expression on the Basis of The European Convention on Human Rights and Implementation of the Amendments in the Turkish Law Expanding the Freedom of Expression" were held jointly by the Ministry of Justice and the TAIEX with the participation of 300 judges and public prosecutors.

104. On 25 July 2015 meetings on the subject of investigations into terrorist offences regarding the offence of making terrorist propaganda within the scope of the Anti-Terror Law no. 3713 and the Meetings and Demonstration Marches Act (Law no. 2911) were held with the Chief Public Prosecutors' Offices within the border provinces.

105. On 26-27 April 2006 a seminar on "Freedom of Expression" was held in Ankara with the cooperation of the European Commission and the Ministry for European Union Affairs within the scope of the TAIEX seminars in the field of International Human Rights Law.

106. On 6-7 October 2009 seminars on the subject of “Freedom of Expression” were held with the cooperation of the Ministry for European Union Affairs and the European Commission within the framework of the TAIEX mechanism.

107. From 22 April 2015 onwards, four study visits to the Office of the Organization for Security and Cooperation in Europe (OSCE) Representative on Media Freedom were organized with a view to raising the awareness of judges and public prosecutors on the international standards in the field of freedom of the media and expression, and a total of 170 persons participated in the study visits in question.

108. Likewise, from 22 April 2015 onwards, six study visits were organized with a view to enabling judges and public prosecutors to attain a different perspective while applying the legislation and ensuring that they take the Court’s case-law into account in the investigations and proceedings they conduct, and a total of 290 persons participated in the study visits in question.

III.b.2. Projects

III.b.2.1. The Project on Enhancing the Role of the Supreme Judicial Authorities in Respect of European Standards

109. The overall objective of the Project, which was implemented between 2010 and 2013, was to contribute to enhancing the role of the higher judiciary in Turkey in initiating further changes in the normative framework and its implementation in line with the rights and freedoms guaranteed by the European Convention on Human Rights and the European Social Charter as well as in compliance with the EU Acquis and other European standards.

110. The subjects of the fifth (5th) round table organized on 1-3 December 2010 were “Freedom of Expression”, “Freedom of Thought, Conscience, and Religion”, and “Freedom of Assembly and Association”.

III.b.2.2. The Project on Raising Awareness about Freedom of Expression in the Judiciary (MATRA)

111. This bilateral Project between the Embassy of the Netherlands and the Justice Academy of Turkey was completed between 2011-2013. A training module and a textbook on freedom of expression were prepared as project deliverables. 15 trainers were trained within the framework of the training module and the textbook in question. 150 judge and public prosecutor candidates were surveyed and 20 judges and public prosecutors were interviewed; the research techniques in question were published as a report. A closure workshop on the

subject of “Freedom of Expression: Problems in the Judiciary and Proposed Solutions” was organized at the closure of the Project. The content of the workshop was turned into a book.

III.b.2.3. Project on Improving the Efficiency of the Turkish Criminal Justice System

112. This Project for which the Ministry of Justice was the responsible authority was carried out in 2012-2014. The aim of the Project was to improve the efficiency of the Turkish Criminal Justice System in terms of European standards and to enhance the application of human rights standards in the Turkish Criminal System. In the course of the Project, training modules were created, and a pool of trainers was formed by virtue of the training-of-trainers seminars that were conducted. Within the scope of the Project, 492 judge and public prosecutor candidates and 100 judges and public prosecutors were provided with vocational training seminars. On 25-26 November 2014 an international symposium was held within the scope of the Project.

III.b.2.4. The Project on Strengthening the Capacity of Turkish Judiciary on Freedom of Expression

113. The objective of this project, which was planned to be carried out by the Justice Academy of Turkey between 2014 and 2016, namely for a two-year-period, was to strengthen the respect for freedom of expression in the Turkish judiciary in line with the provisions of the Convention and the case-law of the ECtHR.

114. With a view to addressing the issues concerning the interpretation and practice of freedom of expression and to ensuring the application of the European human rights standards, the project has been focusing on the training activities to be designed for a great number of judges and prosecutors (including candidates) in order to raise awareness about freedom of expression and the media.

115. It has been considered that the objectives specified would be achieved, in particular, by providing 1000 candidates of judges and prosecutors and also 2250 judges and prosecutors with training on freedom of expression and by providing training of trainers to 40 judges and prosecutors in respect of freedom of expression and the media.

III.b.3. The Action Plan on the Prevention of Human Rights Violations

116. The Action Plan which was set out after very long and comprehensive studies was prepared and submitted to the Board of Ministers for its adoption as an Action Plan and a reference document for all the public institutions with a view to prevent human rights violations. The Action Plan consists of 14 main aims, and 46 goals have been set in order to

materialize the aims in question. Short, medium and long terms have been envisaged for the activities that shall be carried out with a view to reaching these goals. In this context, the Action Plan also includes goals and activities under the aim of enabling freedom of expression and freedom of media in the widest sense.

III.c. Individual Application to the Constitutional Court

117. The Turkish authorities would also like to indicate that, in 2012, legislative amendments were adopted to introduce a possibility of an individual application before the Constitutional Court in respect of violation of human rights. Although this is not a major response to the shortcomings identified by the European Court in this case, the Turkish authorities would like to observe that an individual in the applicant's situation could today pursue the avenue of lodging an individual application to uphold his or her Convention rights, including in the present case. In this respect, the Turkish authorities would like to recall that the European Court indicated in *Hasan Uzun*(10755/13) case that the individual application to the Constitutional Court should be considered an effective remedy as of 23 September 2012.

118. The Constitutional Court established the important principles regarding freedom of expression in the judgments it delivered in 2014 and 2015 on the applications lodged by Abdullah Öcalan⁴ (Plenary Session), Fatih Taş⁵ (Plenary Session), İsa Yağbasan and Others⁶ (Second Section) and Mehmet Ali Aydın⁷ (Plenary Session).

119. With respect to the *Fatih Taş* application, the Constitutional Court found that subjecting the applicant to investigation and prosecution for a long period, namely more than approximately 11 years on account of the books he had published and continuing to leave him under the risk of receiving a penalty due to the decision on suspension of prosecution that had been issued had not been compatible with the aims sought and that therefore, it had not been “*necessary in a democratic society*”. Thus, the Constitutional Court held that the applicant's freedom of expression guaranteed under Article 26 of the Constitution had been violated. A similar conclusion was reached in the *Ali Gürbüz and Hasan Bayar*⁸ application. The

⁴ Decision of the Constitutional Court, (Docket no. 2013/409), dated 25 June 2014.

⁵ Decision of the Constitutional Court, (Docket no. 2013/1461), dated 12 November 2014.

⁶ Decision of the Constitutional Court, (Docket no. 2013/1481), dated 20 November 2014.

⁷ Decision of the Constitutional Court, (Docket no. 2013/9343) dated 4 June 2015.

⁸ Decision of the Constitutional Court (Docket no. 2013/568) dated 24 June 2015.

Constitutional Court held that there had been a violation in that case on the ground that the copies of the newspaper had been seized, the applicants had been subjected to investigation and prosecution for approximately 6 years and 5 months on account of a news item they had published and they had been left under the risk of receiving a penalty due to the decision on suspension of prosecution that had been issued without taking into account the annulment decisions of the Constitutional Court and the quashing decisions of the Court of Cassation. In its decision on the application in question, referring to the *Abdullah Öcalan* application, the Constitutional Court pointed out that an interference with an individual's freedom to express and disseminate his thoughts merely on his own behalf cannot be justified and that expression of thoughts by a member or a leader of a prohibited organization cannot on its own justify an interference with the freedom to express and disseminate one's thoughts, either.

120. Similarly, it is pointed out in the decision on the *Mehmet Ali Aydın* application that no restriction can be imposed on thoughts which are found unpleasant by the public authorities or a segment of the society unless they incite violence, seek to justify terrorist acts or support the emergence of hate. On the other hand, it was considered that the interference made with the applicant's freedom of expression had not been necessary in a democratic society since the risk that he might again be subjected to prosecution and punishment had persisted.

121. In its decision on the *Tuğrul Culfa* application, the Constitutional Court held that it had to be convincingly established how the interference made by the first-instance court with the applicant's freedom of expression on account of the statements included in the impugned news met a pressing need and why the punishment of the interference made with the complainant's honour and reputation weighed heavier than the applicant's freedom of expression. The Constitutional Court held that the interference had not been necessary in a democratic society under Article 13 of the Constitution since the reasons adduced by the first-instance court for the interference with the applicant's freedom of expression were not found to be sufficient and relevant.⁹

122. In its decision on the *İsa Yağbasan and Others* application, the Constitutional Court held that where a language, which is appropriate for properly conveying opinions and ideas, cannot be used due to criminal sanctions, it is not possible to mention the existence of individuals' right to express or hear opinions and ideas. Thus, it was considered that punishment of the applicants for printing leaflets including an invitation to the Newroz festival in Kurdish

⁹ Decision of the Constitutional Court (Docket no. 2013/2593) dated 11 March 2015.

language had not met a pressing social need. Therefore, the interference with the freedom of expression in that case was not considered to have been necessary in a democratic society.

III.d Translation of the ECtHR Judgments

123.The Turkish authorities ensured that the European Court’s judgment be translated into Turkish and published on its official website which was made available to the public and legal professionals alike (<http://hudoc.echr.coe.int/>).

124.The Turkish authorities also ensured that the European Court’s findings be disseminated among the competent bodies to ensure that similar violations be prevented. To this end, the European Court’s judgment was transmitted to the domestic court which rendered the impugned decision. It was also transmitted to the Constitutional Court, the Court of Cassation and the High Council of Judges and Prosecutors.

125.Besides the ECtHR judgments, “thematic information notes”, are also translated into Turkish by the Turkish Ministry of Justice, including freedom of expression. The translated thematic information notes are published both on the website of the Human Rights Department http://inhak.adalet.gov.tr/inhak_bilgi_bankasi/tematik_bilginotu/tematik.html and on the website of the Court http://echr.coe.int/ECHR/en/Header/Press/_Information+sheets/Factsheets/ with the Turkish language option.

VI. CONCLUSION

126.In the light of what the Government has submitted in the context of the individual and general measures about how the applicant was redressed for the negative consequences of the violation and how the probable future violations are to be prevented, save for the violations mentioned below, the Government at the outset considers that all necessary general and individual measures which Turkey is obliged to take under Article 46 § 1 of the Convention have been properly taken.

127.Accordingly, the Turkish Government requests from the Committee of Ministers to separate the cases found violation concerning Article 159 of the Law no. 765, namely the cases in list of Annex V, and combine them with the *Dink* group of cases.

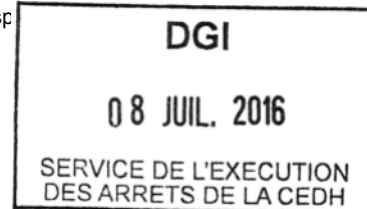
128.Moreover, the Turkish Government requests from the Committee of Ministers to separate the case found violation concerning Article 95/4-5 of the Law no. 1632, namely the

case of *Yaşar Kaplan*, and combine it with the case of *Dilipak*.

129. Furthermore, the Turkish Government requests from the Committee of Ministers to separate the case found violation concerning Article 158 of the Law no. 765, namely the case of *Güzel*, and combine it with the *Pakdemirli* group of cases.

130. Consequently, the Turkish Government respectfully invites the Committee of Ministers to close its examination for the rest of cases.

131. If the Committee of Ministers decides otherwise, the Government asks for to transfer this group to standard supervision.



ANNEX I

List of cases and just satisfaction

Application Number	English Case Title	
10037/03	DEMIREL and ATES v. Turkey	Non pecuniary
11461/03	FALAKAOGLU AND SAYGILI v. Turkey	Pecuniary and non pecuniary
11840/02	FALAKAOGLU v. Turkey (no. 2)	Pecuniary and non pecuniary
11976/03	DEMIREL AND ATES (no. 3) v. Turkey	Non pecuniary
12606/11	YAVUZ AND YAYLALI v. Turkey	Non pecuniary
13799/04	KANAT and BOZAN v. Turkey	Non pecuniary
15066/05	ASLAN AND SEZEN(No:2)	Pecuniary and non pecuniary
1544/07	BELEK AND ÖZKURT	Pecuniary and non pecuniary
15450/03	MUDUR DUMAN v. Turkey	Non pecuniary
15719/03	MEHMET CEVHER ILHAN v. Turkey	Non pecuniary
16229/03	FALAKAOGLU v. Turkey	Pecuniary and non pecuniary
16853/05	TEMEL	Non pecuniary
17445/02	ERDAL TAS v. Turkey (n°3)	Non pecuniary
18482/03	KARAKOYUN and TURAN v. Turkey	Pecuniary and non pecuniary
20863/02	AKTAN v. Turkey	Non pecuniary
22147/02	FALAKAOGLU AND SAYGILI v. Turkey	No
22479/93	OZTURK v. Turkey	Pecuniary
22678/93	INCAL v. Turkey	Non pecuniary
23144/93	OZGUR GUNDEM v. Turkey	Pecuniary and non pecuniary
23556/94	CEYLAN v. Turkey	Non pecuniary
23927/94	SUREK AND OZDEMIR v. Turquie	Pecuniary and non pecuniary
24122/94	SUREK v. Turkey (no. 2)	Pecuniary and non pecuniary
24748/03	IMZA v. Turkey	No

24874/04	UNSAI OZTURK No. 2	Non pecuniary
24914/94	OZTURK v. Turkey	Non pecuniary
26976/95	SUREK v. Turkey	Friendly settlement
27214/95	C.S.Y. v. Turkey	No
27215/95	GOKCELI v. Turkey	No
29365/95	Unsal OZTURK v. Turkey	Pecuniary and non pecuniary
29847/02	ERDAL TAS v. Turkey (n°4)	Non pecuniary
29849/02	CAPAN (2) v. Turkey	Non pecuniary
29910/96	TANIYAN v. Turkey	Friendly settlement
30007/96	HALIS v. Turkey	Non pecuniary
31080/02	DEMIREL AND ATEŞ No.2	Non pecuniary
31236/96	KALIN v. Turkey	Non pecuniary
31706/10	GULER AND UGUR v. Turkey	Non pecuniary
32455/96	ZARAKOLU v. Turkey (no. 1)	Friendly settlement
32985/96	ALTAN v. Turkey	Friendly settlement
33179/96	Seher KARATAS v. Turkey	Non pecuniary
33347/04	MENTES No. 2	No
34685/97	DICLE v. Turkey	Non pecuniary
35071/97	GUNDUZ v. Turkey	Non pecuniary
35076/97	EROL v. Turkey	Friendly settlement
35721/04	OZER v. Turkey (I)	Pecuniary and non pecuniary
36141/04	BINGÖL	Non pecuniary
36635/08	FATİH TAS	Pecuniary and non pecuniary
36827/06+	BELEK	Pecuniary and non pecuniary
37048/97	DEMİRTAS v. Turkey	Friendly settlement
37721/97	ERKANLI v. Turkey	Friendly settlement
3847/02	YILDIZ and TAS v. Turkey	Non pecuniary
39457/03	SAYGILI and FALAKAOĞLU v. Turkey	Pecuniary and non pecuniary
39708/98	PAMAK v. Turkey	Non pecuniary
40303/98	GUMUS and others v. Turkey	Non pecuniary
40987/98	KORKMAZ v. Turkey (n°1)	Pecuniary and non pecuniary
41445/04+	ÖNAL	Pecuniary and non pecuniary
41618/98	ODABASI v. Turkey	Non pecuniary

41959/02	CAMYAR AND BERKTAS	Non pecuniary
42119/98	OZKAYA v. Turkey	Non pecuniary
42435/98	AYDIN v. Turkey	Non pecuniary
42436/98	GERGER v. Turkey (no. 2)	Friendly settlement
42589/98	KORKMAZ v. Turkey (n°2)	Pecuniary and non pecuniary
42590/98	KORKMAZ v. Turkey (n°3)	Pecuniary and non pecuniary
42605/98	SAHIN v. Turkey	Non pecuniary
42779/98	CETIN v. Turkey	Non pecuniary
42920/98	Haydar YILDIRIM and Others v. Turkey	Non pecuniary
43217/04	ASLAN AND SEZEN	Non pecuniary
43452/12	DAGTEKIN v Turkey	Friendly settlement
43453/04	GOZEL v. Turkey GOZEL AND OZER	Pecuniary and non pecuniary
43807/07	KILIC AND EREN	No
43928/98	KARKIN v. Turkey	Non pecuniary
43996/98	KURKCU v. Turkey	Non pecuniary
44104/98	BIROL v. Turkey	Pecuniary and non pecuniary
44227/04	BELEK AND VELIOGLU v. Turkey	Pecuniary and non pecuniary
45585/99	AYHAN v. Turkey (no. 1)	Non pecuniary
46454/99	CEYLAN v. Turkey (n°2)	Pecuniary and non pecuniary
46733/99	DICLE v. Turkey (n° 2)	Non pecuniary
47520/99	Akin BIRDAL v. Turkey	Non pecuniary
477/02	YILDIZ and TAS v. Turkey	Non pecuniary
47796/99	EROL v. Turkey	Non pecuniary
48387/99	KAYA v. Turkey	Non pecuniary
4870/02	GUL and Others v. Turkey	Non pecuniary
48944/99	ERGIN v. Turkey (no. 1)	Pecuniary and non pecuniary
48988/99	BARAN v. Turkey	Non pecuniary
49566/99	ERGIN v. Turquie (no. 2)	Pecuniary and non pecuniary
50273/99	ERGIN AND KESKIN v. Turkey (no. 1)	Non pecuniary
50691/99	ERGIN v. Turkey (no. 3)	Non pecuniary
50934/99	KOC and TAMBAS v.	Non pecuniary

	Turkey	
51002/99	ZANA v. Turkey	Friendly settlement
51962/12	ONER AND TURK v. Turkey	Non pecuniary
52056/08	BULENT KAYA v. Turkey	Pecuniary and non pecuniary
53047/99	BIRDAL v. Turkey	Non pecuniary
53648/00	TURHAN v. Turkey	No
54916/00	BAKIR v. Turkey	Non pecuniary
56362/00	YUKSEL (GEYIK) v. Turkey	Non pecuniary
56566/00	YAŞAR KAPLAN	Non pecuniary
57103/00	CETIN AND SAKAR v. Turkey	Non pecuniary
57258/00	YARAR v. Turkey	Non pecuniary
57299/00	VARLI AND OTHERS v. Turkey	Non pecuniary
58756/00	KAR and Others v. Turkey	Pecuniary
59405/00	ERBAKAN v. Turkey	No
62230/00	YILMAZ v. Turkey	Non pecuniary
62677/00	SAYGILI AND SEYMAN v. Turkey	Non pecuniary
63733/00	ERGIN v. Turkey (no. 4)	Pecuniary and non pecuniary
63925/00	ERGIN v. Turkey (no. 5)	Pecuniary and non pecuniary
63926/00	ERGIN AND KESKIN v. Turkey (no. 2)	Non pecuniary
64116/00	YALCINER v. Turkey	Non pecuniary
64609/01	CAMLIBEL v. Turkey	Non pecuniary
65849/01	GUZEL v. Turkey (no. 2)	Non pecuniary
6586/05	GUZEL v. Turkey	No
71353/01	Yalcin KUCUK (no. 3) v. Turkey	Non pecuniary
71978/01	CAPAN (1) v. Turkey	Non pecuniary
71984/01	DOGAN v. Turkey (no. 2)	Non pecuniary
73715/01	KUTLULAR v. Turkey	Non pecuniary
77365/01	FALAKAOGLU v. Turkey	Pecuniary and non pecuniary
77641/01	YILDIZ and TAS v. Turkey	Non pecuniary
77642/01	YILDIZ and TAS v. Turkey	Non pecuniary
871/08	OZER v. Turkey (N° 2)	Pecuniary and non pecuniary

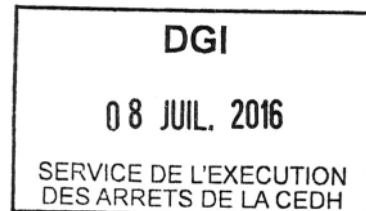
984/02	BURAN v. Turkey	No
9858/04	DICLE v. Turkey	Non pecuniary
Total number: 119		

ANNEX II

Violations due to the Article 6 of the Law no. 3713

Application Number	Violation
10037/03	Law.no 3713 - 6/2
11461/03	Law.no 3713 - 6/1
11976/03	Law.no 3713 - 6/2
13799/04	Law.no 3713 - 6/2
15066/05	Law.no 3713 - 6/2
1544/07	Law.no 3713 - 6/2
17445/02	Law.no 3713 - 6/2
18482/03	Law.no 3713 - 6/2 and 4
22147/02	Law.no 3713 - 6/2
23144/93	Law no. 765-311/2, 312, 159/1, Law no 3713- 6,8
23927/94	Law no. 765-142, 311/2, 312, Law no. 3713 Section 6, 8, 13, 17
24122/94	Law no. 3713 Section 6
24748/03	Law no. 3713- 6/2
26976/95	Law no. 3713- 8/1,2, 6/2 and 4
29847/02	Law no. 3713- 6/2
29849/02	Law no. 3713-6/2-4
31080/02	Law no. 3713-6/2-4
31236/96	Law no. 765- 312/2, Law no. 3713- 6/2
36635/08	Law no. 3713- 6/2
36827/06	Law no. 3713-6/2 and 4
3847/02	Law no. 3713-6/2 and 4
39457/03	Law no. 3713-6/1
40987/98	Law no. 3713- 6/2
42589/98	Law no. 3713- 6/1
42590/98	Law no. 3713- 6/2
43217/04	Law no. 3713-6/2
43453/04	Law no. 3713- 6/2 and 4
44227/04	Law no. 3713-6/2 and 4
477/02	Law no. 3713- 6/2 and 4
50934/99	Law no. 3713-6,8
63926/00	Law no. 3713- 6-1
71978/01	Law no. 3713-6/2, 8/1.
71984/01	Law no. 3713-8/2, 6/2
77641/01	Law no. 3713-6/2 and 4
77642/01	Law no. 3713- 6/2 and 4

Total number: 35	
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ANNEX III

Violations due to the Article 7 of the Law no. 3713

Application Number	Violation
12606/11	Law.no 3713 -7/2
16853/05	Law.no 3713 -7/2
22678/93	Law no. 765-312/2 and 3
24874/04	Law.no 3713 -7/2
29365/95	Law no. 3713- 8/2, 7/5
31706/10	Law no. 3713- 7/2
32455/96	Law no. 3713- 7/5 (7)
33347/04	Law.no 3713 -7/2
43452/12	Law no. 3713-7/2
45585/99	Law no. 765-312/2, Law no. 3713-8/1, 7/2
4870/02	Law no. 3713-7/2
51962/12	Law no. 3713-7/2
57103/00	Law no. 3713-8/1, 7/2,3,5
Total number: 13	

ANNEX IV

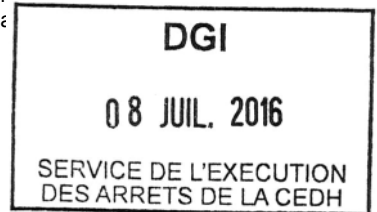
Violations due to the Article 312 of the Law no. 765

Application Number	Violation
11840/02	Law no. 765-312/2
15450/03	Law no. 765-312/1
15719/03	Law no. 765-312/2
16229/03	Law no. 765-312/2
20863/02	Law no. 765-312/2
22479/93	Law no. 765-142/4 and 6(repealed by Law no. 3713) 312/2 and 3
22678/93	Law no. 765-312/2 and 3, Law no. 3713 Section 3-4
23144/93	Law no. 765-311/2, 312, 159/1, Law no 3713-6, 8
23556/94	Law no. 765-311/2, 312
23927/94	Law no. 765-142, 311/2, 312, Law no. 3713 Section 6, 8, 13, 17
24914/94	Law no. 765-312/2, Law no. 3713-8/1
27214/95	Law no. 765-312/2
27215/95	Law no. 765-312/2
29910/96	Law no. 765-312
31236/96	Law no. 765- 312/2 , Law no. 3713- 6/2
32985/96	Law no. 765- 312
33179/96	Law no. 765- 312/1,2
34685/97	Law no. 765- 312/2-3
35071/97	Law no. 765- 311/2, 312/2 and 3
35076/97	Law no. 765- 312
35721/04	Law no. 765- 312/2 and 3
36141/04	Law no. 765- 312/2
39708/98	Law no. 765- 312/2
40303/98	Law no.765- 312/2 and 3, Law no. 3713-5(1991)
41445/04	Law no. 765-312/2
41618/98	Law no. 765/312-2
41959/02	Law no. 765-169, Law no. 3713- 7/2
42119/98	Law no. 765-169, 312/2
42435/98	Law no. 765-312 / 1 and 2
42436/98	Law no. 765-312/2 and 3
42605/98	Law no. 765-312/2
42779/98	Law no. 765-312/2 and 3

ANNEX IV

Violations due to the Article 312 of the Law no. 765

Application Number	Violation
11840/02	Law no. 765-312/2
15450/03	Law no. 765-312/1
15719/03	Law no. 765-312/2
16229/03	Law no. 765-312/2
20863/02	Law no. 765-312/2
22479/93	Law no. 765-142/4 and 6(repealed by Law no. 3713) 312/2 and 3
22678/93	Law no. 765-312/2 and 3, Law no. 3713 Section 3-4
23144/93	Law no. 765-311/2, 312, 159/1, Law no 3713-6, 8
23556/94	Law no. 765-311/2, 312
23927/94	Law no. 765-142, 311/2, 312, Law no. 3713 Section 6, 8, 13, 17
24914/94	Law no. 765-312/2, Law no. 3713-8/1
27214/95	Law no. 765-312/2
27215/95	Law no. 765-312/2
29910/96	Law no. 765-312
31236/96	Law no. 765- 312/2 , Law no. 3713- 6/2
32985/96	Law no. 765- 312
33179/96	Law no. 765- 312/1,2
34685/97	Law no. 765- 312/2-3
35071/97	Law no. 765- 311/2, 312/2 and 3
35076/97	Law no. 765- 312
35721/04	Law no. 765- 312/2 and 3
36141/04	Law no. 765- 312/2
39708/98	Law no. 765- 312/2
40303/98	Law no.765- 312/2 and 3, Law no. 3713-5(1991)
41445/04	Law no. 765-312/2
41618/98	Law no. 765/312-2
41959/02	Law no. 765-169, Law no. 3713- 7/2
42119/98	Law no. 765-169, 312/2
42435/98	Law no. 765-312 / 1 and 2
42436/98	Law no. 765-312/2 and 3
42605/98	Law no. 765-312/2
42779/98	Law no. 765-312/2 and 3



ANNEX V

Violations due to the Article 159 of the Law no. 765

Application Number	Violation
23144/93	Law no. 765-311/2, 312, 159/1, Law no 3713-6,8
37048/97	Law no. 765- 159
37721/97	Law no. 765- 159
43996/98	Law no. 765- 159/1
44104/98	Law no. 765-159/1
6586/05	Law no. 765/158, 159/1
871/08	Law no. 765/159/1
Total number: 7	

ANNEX VI

Violations due to the Article 8 of the Law no. 3713

Application Number	Violation
23144/93	Law no. 765-311/2, 312, 159/1, Law no 3713-6,8
23927/94	Law no. 765-142, 311/2, 312, Law no. 3713 - 6, 8, 13 and 17
24122/94	Law no. 3713 - 6
24914/94	Law no. 765-312/2 and 3, Law no. 3713-8/1
26976/95	Law no. 3713- 8/1 and 2, 6/2 and 4
29365/95	Law no. 3713- 8, 7/5
45585/99	Law no. 765-312/2, Law no. 3713-8/1, 7/2
50934/99	Law no. 3713-6,8
51002/99	Law no 3713-8/1, Law no. 765-312/2
53648/00	Law no. 3713-8/1.
57103/00	Law no. 3713-8/1, 7/2,3,5
71353/01	Law no. 765-312/2, 169, Law no. 3713-8/2
71978/01	Law no. 3713-6/2,8/1
71984/01	Law no. 3713-8/2, 6/2
Total number: 14	

ANNEX VII

Reopening of the Proceedings

No	ECtHR Applications	Applicant(s)	Reopening of the Proceedings
1	Bingöl (36141/04), 22/06/2010	Abdulkerim Bingöl	Acquittal
2	Mehmet Zeynettin Unay (5290/02)	Mehmet Zeynettin Unay	Acquittal
3	Yıldız and Taş (77642/01), 19/12/2006	Mehmet Emin Yıldız, Erdal Taş	Case No: 2001/207 Acquittal
4	Kar and Others (58756/00), 3/5/2007	Nazmi Kar, Zekeriya Özen, Fuat Başarılı, Osman Yavuz	Kar: Acquittal Özen, Başarılı and Yavuz: No reopening proceedings.
5	Kılıç and Eren (43807/07), 29/11/2011	Mehmet Fatih Kılıç, Kemal Eren	Acquittal
6	Fatih Taş (36635/08), 5/4/2011	Fatih Taş	Acquittal
7	Faruk Temel (16853/05)	Faruk Temel	Acquittal
8	Belek (36827/06, 36828/06, 36829/06)	Ahmet Sami Belek	Refusal of reopening request

ANNEX VIII

Cases concerning the lack of impartiality and independence of State Security Courts

Application Number	English Case Title
22678/93	INCAL v. Turkey
23927/94	SUREK AND OZDEMIR v. Turquie
24122/94	SUREK v. Turkey (no. 2)
30007/96	HALIS v. Turkey
31236/96	KALIN v. Turkey
33179/96	Seher KARATAS v. Turkey
34685/97	DICLE v. Turkey
39708/98	PAMAK v. Turkey
40303/98	GUMUS and others v. Turkey
40987/98	KORKMAZ v. Turkey (n°1)
41618/98	ODABASI v. Turkey
42119/98	OZKAYA v. Turkey
42435/98	AYDIN v. Turkey
42589/98	KORKMAZ v. Turkey (n°2)
42590/98	KORKMAZ v. Turkey (n°3)
42605/98	SAHIN v. Turkey
42920/98	Haydar YILDIRIM and Others v. Turkey
43928/98	KARKIN v. Turkey
45585/99	AYHAN v. Turkey (no. 1)
46454/99	CEYLAN v. Turkey (n°2)
47520/99	Akin BIRDAL v. Turkey
47796/99	EROL v. Turkey
48387/99	KAYA v. Turkey
48944/99	ERGIN v. Turkey (no. 1)
48988/99	BARAN v. Turkey
49566/99	ERGIN v. Turquie (no. 2)
50273/99	ERGIN AND KESKIN v. Turkey (no. 1)
50691/99	ERGIN v. Turkey (no. 3)
53047/99	BIRDAL v. Turkey
54916/00	BAKIR v. Turkey
56362/00	YUKSEL (GEYIK) v. Turkey
57258/00	YARAR v. Turkey
57299/00	VARLI AND OTHERS v. Turkey

58756/00	KAR and Others v. Turkey
59405/00	ERBAKAN v. Turkey
63733/00	ERGIN v. Turkey (no. 4)
63925/00	ERGIN v. Turkey (no. 5)
63926/00	ERGIN AND KESKIN v. Turkey (no. 2)
Total number: 38	

ANNEX IX

Cases concerning the lack of adversarial proceedings and equality of arms

Application Number	English Case Title
10037/03	DEMIREL and ATES v. Turkey
11461/03	FALAKAOGLU AND SAYGILI v. Turkey
11976/03	DEMIREL AND ATES (no. 3) v. Turkey
16229/03	FALAKAOGLU v. Turkey
17445/02	ERDAL TAS v. Turkey (n°3)
18482/03	KARAKOYUN and TURAN v. Turkey
22147/02	FALAKAOGLU AND SAYGILI v. Turkey
29847/02	ERDAL TAS v. Turkey (n°4)
29849/02	CAPAN (2) v. Turkey
31080/02	DEMIREL and ATES (no.2)
35721/04	OZER v. Turkey (I)
3847/02	YILDIZ and TAS v. Turkey
41959/02	CAMYAR and BERKTAS v Turkey
43453/04	GOZEL v. Turkey
477/02	YILDIZ and TAS v. Turkey
64116/00	YALCINER v. Turkey
65849/01	GUZEL v. Turkey (no. 2)
71978/01	CAPAN (1) v. Turkey
71984/01	DOGAN v. Turkey (no. 2)
77641/01	YILDIZ and TAS v. Turkey
77642/01	YILDIZ and TAS v. Turkey
Total number: 21	

ANNEX X

Cases concerning the excessive length of proceedings

Application Number	English Case Title
12606/11	YAVUZ and YAYLALI
36635/08	FATİH TAS v Turkey
Total number: 2	

ANNEX XII

Persons Whose Criminal Records Have Been Erased

No	Application Number	Name	Criminal Records
1	71984/01	Halis Doğan	Conviction Erased
2	71984/01	Halis Doğan	Conviction Erased
3	23556/94	Münir Ceylan	Conviction Erased
4	42779/98	Vedat Çetin	Conviction Erased
5	71978/01	Cihan Çapan	Conviction Erased
6	71978/01	Cihan Çapan	Conviction Erased
7	46733/99	Mehmet Hatip Dicle	Conviction Erased
8	46733/99	Mehmet Hatip Dicle	Conviction Erased
9	64609/01	Yılmaz Çamlıbel	Conviction Erased
10	984/02	Hasan Buran	Conviction Erased
11	10037/03	Hünkar Demirel Hıdır Ateş	Conviction Erased
12	34685/97	Mehmet Hatip Dicle	Conviction Erased
13	29849/02	Cihan Çapan	Conviction Erased
14	46454/99	Münir Ceylan	Conviction Erased
15	57103/00	Vedat Çetin Mahmut Şakar	Conviction Erased
16	11976/03	Hünkar Demirel Hıdır Ateş	Conviction Erased
17	40303/98	Fethi Gümüş	Conviction Erased
18	35071/97	Müslüm Gündüz	Conviction Erased
19	65849/01	Hasan Celal Güzel	Conviction Erased
20	6586/05	Hasan Celal Güzel	Conviction Erased
21	30007/96	Atilla Halis	Conviction Erased
22	42920/98	Haydar Yıldırım	Conviction Erased
23	15719/03	İlhan Mehmet Cevher	Conviction Erased
24	31236/98	Özkan Kalın	Conviction Erased
25	33179/96	Seher Karataş	Conviction Erased
26	43928/98	Bayram Karkın	Conviction Erased
27	48387/99	Haydar Kaya	Conviction Erased
28	27528/95	Kızılyaprak	Conviction Erased
29	50934/99	Tayfun Koç Musa Tambaş	Conviction Erased
30	40987/98	Vedat Korkmaz	Conviction Erased
31	42589/98	Vedat Korkmaz	Conviction Erased
32	42590/98	Vedat Korkmaz	Conviction Erased
33	71353/01	Yalçın Küçük	Conviction Erased
34	43996/98	Kürkçü	Conviction Erased
35	73715/01	Mehmet Kutlular	Conviction Erased
36	41618/98	Eşref Odabaşı	Conviction Erased
37	23144/93	Özgür Gündem Gurbetelli Ersöz, Fahri Ferda Çetin, Yaşar Kaya	Conviction Erased Fahri Ferda Çetin Yaşar Kaya
38	42119/98	Özkaya	Conviction Erased

39	24914/94	Ayşe Öztürk	Conviction Erased
40	29365/95	Ünsal Öztürk	Conviction Erased
41	34520/97	Mahmut Alınak	Conviction Erased
42	42435/98	Abdullah Aydın	Conviction Erased
43	45585/99	Medeni Ayhan	Conviction Erased
44	54916/00	Vedad Bakır	Conviction Erased
45	48988/99	Zeynep Baran	Conviction Erased
46	47520/99	Akın Birdal	Conviction Erased
47	53047/99	Akın Birdal	Conviction Erased
48	44104/98	İlknur Birol	Conviction Erased
49	16229/03	Bülent Falakoğlu	Conviction Erased
50	22479/93	Ünsal Öztürk	Conviction Erased
51	39708/98	Mehmet Pamak	Conviction Erased
52	42605/98	Fikret Şahin	Conviction Erased
53	39457/03	Fevzi Saygılı Bülent Falakoğlu	Conviction Erased
54	62677/00	Fevzi Saygılı Tuncay Sayman	Conviction Erased
55	53648/00	Veysel Turhan	Conviction Erased
56	57299/00	Abdullah Mehmet Varlı	Conviction Erased
57	47796/99	Ali Erol	Conviction Erased
58	63733/00	Ahmet Ergin	Conviction Erased
59	63926/08	Ahmet Ergin Halit Keskin	Conviction Erased
60	77365/01	Bülent Falakoğlu	Conviction Erased
61	25723/94	Ümit Erdoğan	Conviction Erased
62	59405/00	Necmettin Erbakan	Conviction Erased
63	49566/99	Ahmet Ergin	Conviction Erased
64	50691/99	Ahmet Ergin	Conviction Erased
65	11840/02	Bülent Falakoğlu	Conviction Erased
66	24972/03 22147/02	Bülent Falakoğlu Fevzi Saygılı	Conviction Erased
67	50273/99	Ahmet Ergin Halit Keskin	Conviction Erased
68	48944/99	Ahmet Ergin	Conviction Erased
69	77641/01	Mehmet Emin Yıldız Erdal Taş	Conviction Erased
70	62230/00	Sevgi Yılmaz	Conviction Erased
71	56362/00	Yüksel Geyik	Conviction Erased
72	22678/93	İbrahim İncal	Conviction Erased
73	63925/00	Ahmet Ergin	Conviction Erased
74	27215/95	Yaşar Kemal Gökçeli	Conviction Erased
75	43807/07	Mehmet Fatih Kılınç Kemal Eren	Conviction Erased
76	23927/94	Kamil Tekin Sürek Yücel Özdemir	Conviction Erased
77	24122/94	Kamil Tekin Sürek	Conviction Erased

78	57258/00	Mehmet Erol Yazar	Conviction Erased
79	5290/02	Mehmet Zeynettin Unay	Conviction Erased
80	24874/04	Ünsal Öztürk	Conviction Erased
81	13799/04	Kadriye Kanat (Koç) Gülşen Bozan	Conviction Erased
82	36141/04	Abdulkerim Bingöl	Conviction Erased
83	477/02	Mehmet Emin Yıldız, Erdal Taş	Conviction Erased
84	77642/01	Mehmet Emin Yıldız, Erdal Taş	Conviction Erased Mehmet Emin Yıldız,
85	35721/04, 3832/05	Aziz Özer	Conviction Erased
86	31080/02	Hıdır Ateş, Hünkar Demirel	Conviction Erased Hıdır Ateş
87	58756/00	Nazmi Kar, Zekeriya Özen, Fuat Başarılı, Osman Yavuz	Conviction Erased Nazmi Kar
88	4870/02	Ercan Gül, Deniz Kahraman, Zehra Delikurt(Karakuş), Erkan Arslanbenzer	Conviction Erased Zehra Delikurt(Karakuş)
89	41959/02	Elif Çamyar (Sevimli) ve Nevin Berktaş	Conviction Erased
90	43453/04+	Aylin Gözel ve Aziz Özer	Conviction Erased Aziz Özer
91	43217/04	Memet Aslan ve Zozan Sezen	Conviction Erased Memet Aslan
92	27214/95	C.S.Y. Erdal Öz, Yaşar Kemal Gökçeli	Conviction Erased