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### **ASSEDEL's Assessment on the Committee of Ministers' Decision adopted at its 1531st Meeting on the Supervision of the *Yalçinkaya v. Türkiye* Judgment**

ASSEDEL (L'Association européenne pour la défense des droits et des libertés) closely monitors the implementation of judgments delivered by the European Court of Human Rights (ECtHR), especially those revealing structural and systemic deficiencies at the domestic level. ASSEDEL also documents and reports on fundamental rights violations globally and in Türkiye, including arbitrary detentions, restrictions on freedom of expression and association, and serious threats to the rule of law, particularly developments undermining judicial independence. In connection with the *Yalçinkaya v. Türkiye* judgment, ASSEDEL has submitted multiple communications under Rule 9.2, highlighting both positive, if any, and negative developments regarding its implementation in Türkiye.

Against this backdrop, ASSEDEL attached great importance to the Committee of Ministers' 1531st Human Rights meeting (10–12 June 2025) in supervising the execution of the *Yalçinkaya* judgment. While ASSEDEL welcomes the fact that the Committee reviewed this matter through a debated meeting within the enhanced supervision procedure, the decision adopted at this meeting regrettably conveyed an overly positive tone, which risks being interpreted by the Turkish authorities as a tacit endorsement of their ongoing non-compliant legal policies.

It appears that certain examples of domestic jurisprudence cited in the Turkish authorities' Action Plan were not thoroughly scrutinized by the Committee of Ministers. ASSEDEL observes with concern that the current jurisprudence in Türkiye remains far from addressing the systemic problems identified by the Court and may instead risk be obscuring a broader and worsening pattern of non-compliance.

Since the delivery of the Yalçinkaya judgment, credible reports from NGOs and other independent sources indicate that arrests and prosecutions continue unabated, often relying on the same types of evidence that the ECtHR found problematic — without properly assessing the existence of the material and moral elements required to establish terrorist offences. The Turkish authorities' presentation of a limited number of acquittals and reversals does not constitute meaningful progress towards execution of the judgment. Such acquittals and reversals have always existed in isolated instances even before the Yalçinkaya judgment. Moreover, most of the examples provided by the government concern decisions of first-instance courts, many of which predate the Yalçinkaya judgment and are thus not directly relevant.

It must be emphasized that over 300,000 individuals have been prosecuted on charges similar to those faced by Mr. Yalçinkaya, with more than 100,000 convicted. The ECtHR itself noted that there were over 100,000 other applications similar to Yalçinkaya were expected to be pending before it. Yet, whether the government's selected jurisprudence samples accurately reflect implementation of the Yalçinkaya judgment remains unanswered. The Committee's scrutiny should have been far more rigorous.

In stark contradiction to Yalçinkaya, the daily reality in Türkiye continues to involve broad and retroactive interpretations of anti-terror legislation, leading to widespread prosecutions and convictions incompatible with Convention standards.

Most concerning, the reopened trial of Mr. Yüksel Yalçinkaya, whose case led to this landmark judgment, has not resulted in his acquittal. Instead, his conviction was reaffirmed, and the proceedings remain pending on appeal. This fundamental fact was regrettably not addressed in the Committee's decision. The reopening of the case under individual measures aims at *restitutio in integrum*, which should have led to an unequivocal acquittal of Mr. Yalçinkaya, especially as the Court found a violation of Article 7 (no punishment without law). The domestic court tasked with redressing the violation has failed to do so. The Committee's silence on this point is deeply troubling and should have been explicitly condemned.

Furthermore, beyond Mr. Yalçinkaya's case, neither the lower courts nor the superior courts (including the Court of Cassation and the Constitutional Court) have cited or applied the Yalçinkaya judgment in their jurisprudence. Retrial requests by victims in similar situations have been uniformly rejected. The Turkish Minister of Justice has publicly rejected the application of the Yalçinkaya judgment's horizontal effect to other cases. This demonstrates that both the systemic nature of the problem and the solution proposed by the ECtHR have been openly dismissed by the Turkish judiciary.

The rejection of retrial requests in comparable cases, on the grounds that there is no individual ECtHR violation judgment in each case, directly contradicts the principle of *restitutio in integrum* and the obligations set out under Article 46 of the Convention. Nevertheless, the Committee of Ministers' decision appears to accept this alarming situation without challenge.

ASSEDEL emphasizes the vital role of the Committee of Ministers in safeguarding the integrity of the European human rights protection system. Decisions taken in the execution process must not rely on indirect diplomatic messaging, which carries the risk of being misinterpreted by governments as tacit approval but should clearly reflect the actual situation and unequivocally condemn ongoing violations. Otherwise, such messaging may be perceived as a green light for continued persecution.

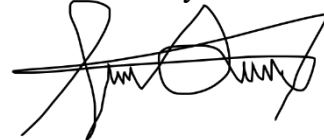
The Committee has granted the Turkish government an additional year to provide evidence of implementation. It should be recalled that more than 20 months have already passed since the delivery of the Yalçinkaya judgment, with no meaningful steps taken towards its execution.

Considering the foregoing, ASSEDEL urges the Committee of Ministers to seek concrete, verifiable assurances that the Turkish judiciary aligns its jurisprudence with the Convention's requirements in both pending and concluded cases. The coming year must not serve as a passive waiting period, but as an active phase for tangible legal reforms and genuine execution of the principles set forth in the Yalçinkaya judgment.

The credibility of the Convention system depends on effective implementation, not merely in form but in substance. ASSEDEL remains committed to monitoring this process and will continue to advocate for meaningful and durable compliance.

Teoman AYDOGAN

Secretary General

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