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January 2026

ASSEDEL Contribution to the European Parliament's 2026 Türkiye Report

Executive Summary

This contribution highlights persistent and systemic human rights violations in Türkiye, with particular attention to recent developments following the European Court of Human Rights' Grand Chamber judgment in *Yüksel Yalçınkaya v. Türkiye* and the subsequent judgment concerning 2,420 related applications. Despite binding rulings identifying structural deficiencies in the application of counter-terrorism legislation, Turkish authorities have failed to adopt the necessary general measures and have continued practices that undermine the rule of law. These concerns have been echoed by the Council of Europe Commissioner for Human Rights and by United Nations Special Procedures.

The report focuses on (i) the misuse of counter-terrorism laws against individuals with real or perceived affiliation with the Gülen Movement, (ii) the non-implementation of ECtHR judgments, notably *Yalçınkaya*, (iii) the persistence of arbitrary detention and fair trial violations, and (iv) the broader social and humanitarian consequences of these policies.

I. Continued Systemic Misuse of Counter-Terrorism Legislation

Since the attempted coup of July 2016, emergency measures initially presented as temporary have become embedded in ordinary law and judicial practice. Counter-terrorism provisions, particularly Article 314 of the Turkish Penal Code and related legislation, continue to be applied in an overly broad and unforeseeable manner.

Individuals are routinely investigated, prosecuted, and convicted on the basis of lawful conduct, including: - Use of encrypted communication applications; - Membership in legally registered trade unions or associations; - Participation in educational, charitable, or social activities; - Family or social ties to persons previously dismissed or prosecuted.

This practice reflects a departure from the principle of individual criminal responsibility and amounts to punishment based on real or perceived affiliation rather than personal culpability.

II. Non-Implementation of the *Yüksel Yalçınkaya v. Türkiye* Judgment

The Grand Chamber judgment of 26 September 2023 in *Yüksel Yalçınkaya v. Türkiye* constitutes a landmark ruling addressing systemic violations arising from terrorism-related prosecutions.

Key Findings of the Court

The Court found violations of: - **Article 7 ECHR (nullum crimen sine lege)**: The unforeseeable expansion of the offence of membership in a terrorist organisation, particularly through the decisive use of ByLock data without proof of criminal intent. - **Article 6 ECHR (right to a fair trial)**: Denial of effective access to evidence and inability to challenge the reliability of digital materials. - **Article 11 ECHR (freedom of association)**: Criminalisation of lawful trade union membership and associative activities.

The Court explicitly identified these violations as stemming from **structural problems** and indicated the need for **general measures**.

Lack of Execution and Ongoing Violations

Despite the binding nature of the judgment: - Domestic courts have continued to rely on the same evidentiary patterns condemned by the Court; - Mr Yalçinkaya himself was re-convicted and subjected to additional restrictive measures, including a travel ban; - No meaningful legislative or judicial reform has been adopted to align domestic practice with Convention standards.

The recent ECtHR judgment concerning 2,420 applications confirms that the violations identified in *Yalçinkaya* persist on a massive scale, underscoring the urgency of enhanced supervision by the Committee of Ministers.

III. Arbitrary Detention and Fair Trial Deficiencies

Arbitrary detention remains widespread, with pre-trial detention used routinely and without individualised assessment. Common features include: - Formulaic detention decisions; - Restricted access to case files under secrecy orders; - Reliance on anonymous witnesses and unverified digital material; - Denial of timely access to legal counsel.

These practices have been repeatedly criticised by the ECtHR, the UN Working Group on Arbitrary Detention, and other international bodies, yet continue unabated.

IV. Impact on Women, Students, and Minors

Recent operations have disproportionately affected women, university students, and, in some cases, minors. Arrests and prosecutions based on lawful educational or social activities have led to: - Disruption of education and exclusion from universities; - Pre-trial detention of young women far from their families; - Coercive questioning and procedural violations involving children.

These patterns raise serious concerns under the ECHR, the UN Convention on the Rights of the Child, and international standards on juvenile justice.

V. Criminalisation of Solidarity and Humanitarian Assistance

An alarming development is the prosecution of individuals for providing humanitarian assistance to families of detainees or dismissed people. Acts such as providing food, financial support, or legal assistance have been framed as terrorism-related offences.

This practice has: - Exacerbated poverty and social exclusion; - Disproportionately affected women and children; - Undermined the work of lawyers and civil society actors.

The criminalisation of solidarity further entrenches a policy of collective punishment and social exclusion.

VI. Converging International Concerns

The concerns outlined above are not isolated. They align with: - The findings of the Council of Europe Commissioner for Human Rights; - Repeated communications and opinions of UN Special Procedures, including recent communications highlighting arbitrary detention and misuse of counter-terrorism legislation against individuals with real or perceived affiliation with the Gülen Movement; - A growing body of repetitive cases before the ECtHR.

This convergence points to a sustained failure to comply with Türkiye's international human rights obligations.

VII. Conclusions and Recommendations

Considering the above, ASSEDEL invites the European Parliament to consider the following observations and priorities when preparing the forthcoming Türkiye Report:

1. **Reaffirm the centrality of the rule of law and judicial independence** as core benchmarks in EU–Türkiye relations, including full respect for the binding nature of judgments of the European Court of Human Rights.
2. **Underline the importance of the effective execution of the *Yüksel Yalçınkaya v. Türkiye* judgment**, given its pilot character and its relevance for a large number of pending and repetitive cases, and encourage sustained supervision by the Committee of Ministers of the Council of Europe.
3. **Encourage Türkiye to align its counter-terrorism legislation and judicial practice with European and international standards**, notably with regard to the principles of legality, proportionality, and individual criminal responsibility.
4. **Highlight the need to safeguard fundamental rights and freedoms**, including freedom of expression, association, and the right to a fair trial, as essential elements of democratic governance and societal resilience.
5. **Draw attention to the disproportionate impact of current practices on women, students, and young people**, and recall the importance of protecting the rights of children and ensuring access to education in line with international commitments.
6. **Recognise the role of civil society, lawyers, and humanitarian actors** in supporting social cohesion and the rule of law, and encourage an enabling environment for their legitimate activities.
7. **Maintain a constructive yet principled EU approach**, using political dialogue, monitoring mechanisms, and cooperation instruments to support reforms and promote compliance with Council of Europe standards.

A credible and forward-looking engagement by Türkiye with the European human rights system, including through tangible progress in the execution of ECtHR judgments, would represent an important step toward rebuilding trust and advancing alignment with the values underpinning the European Union.