Advancing Human Rights, Justice and Democracy for Kurds and All Other Communities in Türkiye

Briefing to the National Solidarity, Sisterhood/Brotherhood and Democracy Commission (Milli Dayanışma, Kardeşlik ve Demokrasi Komisyonu)

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TLSP

TURKEY LITIGATION SUPPORT PROJECT

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By the Turkey Human Rights Litigation Support Project, Human Rights Watch and the International Commission of Jurists

Foreword

In the context of the ongoing negotiations to end the four-decade conflict between the Turkish state and the armed Kurdistan Workers' Party (PKK), the Parliament in August 2025 established a cross-party parliamentary National Solidarity, Sisterhood/Brotherhood and Democracy Commission (Milli Dayanışma, Kardeşlik ve Demokrasi Komisyonu). The Commission's stated aim is to identify the social and political foundations of unity, strengthen democratic participation, and propose legal and institutional reforms that can end polarization and foster peaceful coexistence.[1] The establishment of the Commission followed an agreement between the government and the jailed leader of the PKK, Abdullah Öcalan, which culminated in the PKK's statement of 12 May 2025 that the group intended to disarm and dissolve.[2]

This briefing to the Commission has been prepared by the Turkey Human Rights Litigation Support Project (TLSP),[3] Human Rights Watch (HRW),[4] and the International Commission of Jurists (ICJ);[5] the authors are a group of human rights non-governmental organizations with extensive experience in the protection of human rights internationally and in documenting Türkiye's human rights record and formulating concrete recommendations to address systemic problems. The submission identifies legal and policy reforms directly relevant to the Commission's work – especially relating to legislation whose stated aim is to counter terrorism – reforms that are prerequisite steps to address Türkiye's systematic non-compliance with its international human rights law obligations. The authors encourage the Commission in its final report to fulfill its mandate by recommending bold measures to ensure the protection of human

[1] See Turkish Parliament website entry detailing the aims of the Commission, https://www.tbmm.gov.tr/Milli-Dayanisma-Kardeslik-Demokrasi-Komisyonu/.

[2] BBC Türkçe, "PKK açıklamasının satır araları: Öcalan'ın şartları nasıl değişecek, Lozan referansı neden önemli?" May 12, 2025, https://www.bbc.com/turkce/articles/c989e68d8d1o.

[3] **The Turkey Human Rights Litigation Support Project (TLSP, https://www.turkeylitigationsupport.com/intro)** provides expertise and support to advance effective legal action on human rights issues in Türkiye. Bringing together leading academics, lawyers, and researchers from Türkiye and abroad, the project engages in litigation, research, advocacy, and capacity building. It supports lawyers and civil society actors in pursuing strategic litigation before national and international bodies, including the Constitutional Court, the European Court of Human Rights, and UN human rights expert bodies and mechanisms.

[4] **Human Rights Watch (HRW, https://www.hrw.org/europe/central-asia/turkey)** is a leading international human rights organisation that investigates, documents, and exposes abuses in more than 100 countries, including Türkiye. Established in 1978, HRW plays a prominent role in shaping global human rights advocacy through rigorous fact-finding, credible reporting, and strategic engagement with governments and international bodies. HRW has extensively documented systemic human rights and rule of law issues in Türkiye for over four decades and has been granted leave to intervene before the ECtHR in numerous cases concerning fundamental freedoms.

[5] **The International Commission of Jurists (ICJ, https://www.icj.org/country/turkey/)** was founded in 1952 and is based in Geneva; it is a non-governmental organisation dedicated to promoting the rule of law and protecting human rights worldwide. Comprising around 60 eminent jurists and supported by 90 national sections and affiliated organisations, the ICJ holds consultative status with the United Nations, UNESCO, the Council of Europe, and the African Union, and cooperates with the Organization of American States and the Inter-Parliamentary Union.

rights, justice and the rule of law, all of which, in turn, are fundamental elements in the process of building a sustainable peace.

I. Introduction

Throughout decades of armed clashes and repressive State policies and governance, Türkiye has been undergoing a profound and enduring rule of law and human rights crisis. This crisis is structural, deeply embedded in the legal and political architecture of the Republic. Successive governments have systemically undermined judicial independence, instrumentalized criminal law for political ends, arbitrarily repressed dissent and violated multiple human rights. While in the last year moves to close down democratic space have intensified, Kurds in Türkiye and other groups labelled by the authorities as politically oppositional have been targeted for many decades.

The depth of Türkiye's systemic rule of law crisis is starkly reflected in its record before the European Court of Human Rights (ECtHR). As of August 2025, Türkiye accounted for 21,800 of the 62,850 pending applications before the Court — representing a staggering 34.7% of the total caseload across all 46 Council of Europe member states, the highest by far.[6] Türkiye also continues to rank among the states with the highest number of violations found in ECtHR judgments. In 2024 alone, the Court delivered 73 judgments concerning Türkiye, many of which addressed multiple applications in a single ruling, resulting in findings of at least one violation in 67 of them. These included violations of the right to liberty and security, the right to a fair trial, and the rights to freedom of expression and assembly. [7]

Implementation of ECtHR judgments remains a critical concern. As of September 2025, Türkiye had 143 leading judgments still pending implementation, placing it among the weakest performers within the Council of Europe system.[8] These include landmark judgments such as *Kavala v. Türkiye*[9] and *Demirtaş (No. 2) v. Türkiye* [10] and *Yüksekdağ Şenoğlu v. Türkiye*,[11] where the Court found that detention pursued a political purpose, targeting human rights defenders, opposition politicians, pluralism and political freedoms.

The Parliamentary Assembly of the Council of Europe (PACE) has maintained Türkiye under its full monitoring procedure since 2017 — a process reserved for member states facing serious challenges in fulfilling fundamental democratic, legal, and institutional standards.[12] The monitoring reports have expressed grave concern about the deepening democratic backsliding,

[6] ECtHR, "Pending applications allocated to a judicial formation", September 30, 2025, https://www.echr.coe.int/documents/d/echr/stats-pending-month-2025-bil.
[7] ECtHR, "Violations by Article and State, 2024", https://www.echr.coe.int/documents/d/echr/stats-violation-2024-eng.
[8] Council of Europe, Department for the Execution of Judgments of the European Court of Human Rights, "Türkiye Factsheet", https://www.coe.int/en/web/execution/turkey.
[9] ECtHR, *Kavala v. Turkey*, App. no. 28749/18, December 10, 2019: https://hudoc.echr.coe.int/eng?i=001-199515.
[10] ECtHR, *Selahattin Demirtaş v. Turkey (no. 2) [GC],* App. no. 14305/17, December 22, 2020, https://hudoc.echr.coe.int/eng?i=001-207173.
[11] ECtHR, *Yüksekdağ Şenoğlu and others v. Türkiye*, App. no.14332/17, November 8, 2022, https://hudoc.echr.coe.int/eng?i=001-220958.
[12] See the PACE Monitoring Committee rapporteurs' information note following a fact-finding mission to Türkiye, June 11-14, 2024: AS/Mon (2024) 16, published September 11, 2024, https://rm.coe.int/as-mon-2024-16-information-note-the-honouring-of-obligations-and-commi/1680b19600.

the misuse of counter-terrorism laws, and the repression of political opposition, civil society, and the media.[13]

Parallel to this, Türkiye's relationship with the European Union (EU) remains stalled and deteriorating. Although Türkiye remains a formal EU candidate country, the accession process is effectively frozen, and no negotiation chapters have been opened since 2016.[14] The European Commission's annual Türkiye reports consistently highlight the same core concerns: the lack of judicial independence, pressure on civil society and human rights defenders, criminalization of dissent, and failure to comply with international human rights law obligations.[15] Türkiye's domestic legal framework and its application and implementation in practice continue to drift further from its international human rights law obligations, including as provided for in EU and Council of Europe standards.

At the heart of this enduring crisis lies the unresolved violent conflict between Türkiye and the PKK, which, for decades, has been used to justify and entrench legal exceptionalism, draconian emergency powers, and the systematic criminalization of non-violent Kurdish political opposition and activism.[16] From the military *coup* of 12 September 1980 to the state of emergency practices in the 1990s and early 2000s, to the sweeping emergency rule imposed following the 15 July 2016 *coup* attempt, the legal and institutional tools of repression have evolved — but the logic of exclusion and securitisation has remained constant.

The ongoing dialogue process between the parties to the conflict — alongside the establishment of the National Solidarity, Sisterhood/Brotherhood and Democracy Commission, and the PKK's declared intention to disarm and dissolve — present a historic opportunity to begin dismantling the entrenched legal exceptionalism and put an end to the cycle of violence. They also create space for comprehensive reforms to uphold human rights and strengthen the independence of the judiciary and the rule of law.

While the range of serious human rights, rule of law and democracy-related challenges in Türkiye is extensive, this briefing concentrates on a set of interrelated and systemic issues that the submitting organisations have examined in depth through years of documentation, litigation and advocacy. These issues were selected not only for their structural nature, but also because they fall squarely within the scope of the Commission's mandate. They provide a necessary starting point for addressing the broader democratic and legal transformation that Türkiye

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[13] See PACE, "The Honouring of Obligations and Commitments by Türkiye," resolution 2459(2022), adopted October 12, 2022, https://pace.coe.int/pdf/8e0fe2ce58604dee138ce6cca74b52048add0ca2c96f79a964728d3ee9476919?title=Res.%202459.pdf.

[14] See European Council, Conclusions of 26 June 2018 on Enlargement and Stabilisation and Association Process, paras. 31-35, https://www.consilium.europa.eu/media/35863/st10555-en18.pdf; European Parliament, "Türkiye's EU accession process must remain frozen", May 7, 2025, https://www.europarl.europa.eu/news/en/press-room/20250502IPR28215/turkiye-s-eu-accession-process-must-remain-frozen.

[15] See European Commission, Report on Türkiye 2024, pp. 4-5, https://enlargement.ec.europa.eu/document/download/8010c4db-6ef8-4c85-aa06-814408921c89_en?filename=T%C3%BCrkiye%20Report%202024.pdf.

[16] For examples, see HRW statements and reports: "Turkey: Terrorism Laws used to Jail Kurdish Protestors," November 1, 2010, https://www.hrw.org/news/2010/11/01/turkey-terrorism-laws-used-jail-kurdish-protesters; "Turkey: Crackdown on Kurdish Opposition", March 20, 2017, https://www.hrw.org/news/2017/03/20/turkey-crackdown-kurdish-opposition; "Turkey: Pre-election Crackdown on Kurds", April 24, 2023, https://www.hrw.org/news/2023/04/25/turkey-pre-election-crackdown-kurds; "Kurdish Songs and Dances are not Terrorist Propaganda", August 15, 2024, https://www.hrw.org/news/2024/08/15/turkiye-kurdish-songs-and-dances-are-not-terrorist-propaganda.

urgently requires. Specifically, the briefing highlights four key concerns that lie at the heart of Türkiye's ongoing human rights, rule of law and democracy crisis, and which the Commission should address in its final report with concrete recommendations for legal and policy reforms. These are:

(1) the abusive anti-terror laws and their arbitrary and discriminatory application;

(2) the abuse of criminal law against elected representatives and political dissent;

(3) the continuing violations of the right to freedom of peaceful assembly; and

(4) the violation of the prohibition of inhuman and degrading treatment as a result of the denial of "the right to hope" for prisoners serving aggravated life sentences without the possibility of review or release.

In addition, the briefing identifies two cross-cutting structural issues that underpin and affect all of them:

(5) the lack of judicial independence and impartiality; and

(6) the persistence of impunity and the absence of effective accountability for serious human rights violations.

The Commission's stated aim aligns closely with the need to address these systemic concerns. If pursued with courage, clarity and a genuine commitment to democratic transformation, the Commission's mandate can help lay the foundations for a political and legal order rooted in human rights, meaningful democratic participation and equality before the law — for all individuals and communities in Türkiye, including Kurds. This requires not only symbolic gestures of reconciliation, but concrete, structural reform.

II. Abusive Anti-Terror Laws and Their Arbitrary Application

1. Overview of the Issue

Türkiye's "anti-terror" legal framework has become a primary tool to criminalize dissent, punishing political opposition, and silencing civil society. Instead of serving as a narrowly tailored tool for addressing genuine security threats, the scope and application of anti-terror legislative provisions have expanded dramatically in recent decades resulting in their widespread use to investigate, prosecute, convict, and imprison individuals for whom there is no compelling evidence of material links to violent activities or armed groups.[17] These include people who have engaged in peaceful expression, journalism, political activity, or human rights work.

This systemic misuse is enabled by the broad and vague definitions enshrined in the Anti-Terror Law (Law No. 3713) and various articles of the Penal Code — particularly Articles 220 (offences related to criminal organizations), 314 (membership in an armed organization), and 302–312

[17] See Third Party Intervention by TLSP, HRW and the ICJ in the case of *Taner Kılıç v. Turkey* (App No. 208/18) pp.8-10, https://static1.squarespace.com/static/5b8bbe8c89c172835f9455fe/t/5d5a7b5ffbeeb000019c7c09/1566210920345/16082019+Kilic+v+Turkey.pdf; UN Special Rapporteur on the right to freedom of opinion and expression, Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression on his Mission to Turkey, A/HRC/35/22/Add.3, June 21, 2017, pp. 5-6; Venice Commission, Opinion on Articles 216, 299, 301 and 314 of the Penal Code of Turkey, CDL-AD(2016)002, March 15, 2016.

(crimes against the constitutional order or state security).[18] Individuals can be charged with "membership" in a terrorist organization based solely on their participation in demonstrations, social media posts, association with legal, political or civil society groups, or everyday communication.[19] Prosecutors and courts often treat such lawful conduct as indicative of "organic ties" to banned organizations — without any evidence of violent intent or criminal conduct.

This framework has also enabled the instrumentalization of the criminal justice system to suppress scrutiny of state conduct and silence independent voices. Human rights defenders, journalists, lawyers, and other actors engaged in public interest work are routinely targeted under anti-terror provisions — not for any unlawful activity, but for the nature of their work.[20]

Articles 6 (the disclosure or publication of information that could identify public officials involved in counter-terrorism, and the publication of statements "legitimizing or praising terrorist violence") and 7 ("propaganda for a terrorist organization") of the Anti-Terror Law, in conjunction with Articles 314 and 220 of the Penal Code,[21] have been used to criminalize legitimate speech, legal defense work, participation in peaceful protest, and engagement with international human rights bodies and mechanisms.

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[18] The Venice Commission recommended that membership of an armed organisation under Article 314 must be applied strictly; Venice Commission, CDL-AD(2016)002, para. 106; the Commissioner for Human Rights of the Council of Europe recommended that the Anti-Terror Law should be reviewed completely in order to make it ECHR-compliant; the Commissioner for Human Rights of the Council of Europe, CommDH (2017)5, para. 124. The UNHRC criticised the vagueness of the definition of a terrorist act in Turkish law; UNHRC, Concluding observations on the initial report of Turkey adopted by the Committee at its 106th session (November 13, 2012), UN Doc. CCPR/C/TUR/CO/1, para.16. See also Report of the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on his mission to Turkey, UN Doc. A/HRC/35/22/Add.3, adopted June 7, 2017.

[19] See Third Party Intervention by TLSP, HRW and the ICJ in the case of *Taner Kılıç v. Turkey* (App No. 208/18) (n 17) pp.8-10; UN Special Rapporteur on human rights defenders, World Report on the Situation of Human Rights Defenders, December 2018, p.381.

[20] See for example ECtHR, *Taner Kılıç v. Turkey*, App. no. 208/18, May 31, 2022 and *Kavala v. Turkey,* App. no. 28749/18, December 10, 2019; several cases concerning journalists arbitrarily detained and prosecuted for alleged terrorism-related offences involving publications critical of the government: ECtHR, *Mehmet Hasan Altan v. Turkey*, App. no. 13237/17, March 20, 2018; *Şahin Alpay v. Turkey*, App. no. 16538/17, March 20, 2018; *Sabuncu and Others v. Turkey*, App. no. 23199/17, November 10, 2020; *Şık v. Turkey* (no. 2), App. no. 36493/17, November 24, 2020; *Atilla Taş v. Turkey*, App. no. 72/17, January 19, 2021; *Ahmet Hüsrev Altan v. Turkey*, App. no. 13252/17, April 13, 2021; *Murat Aksoy v. Turkey*, App. no. 80/17, April 13, 2021; The Commissioner for Human Rights of the Council of Europe, Memorandum on freedom of expression and media freedom in Turkey, CommDH(2017)5, Section II; Thomas Hammarberg and John Howell, Parliamentary Assembly of the Council of Europe (PACE) Report on the functioning of democratic institutions in Turkey, Doc. 15272, April 21, 2021, paras. 36, 42 and 52.

[21] Article 220 of the Criminal Code proscribes the offence of "involvement in organisations established for the purpose of committing crimes". Article 220(6) of the TCC concerns "committing a crime on behalf of a terrorist organization without being a member of the organisation" and Article 220(7) of the TCC concerns "assisting terrorist organisations without being a member of them.

Article 314(1) and (2) of the Criminal Code proscribes forming, leading or membership of an armed terrorist organization.

The Grand Chamber in *Selahattin Demirtaş v. Turkey (no. 2)* held that the offences in Article 314(1) and (2) of the Criminal Code, were overly broadly interpreted by domestic courts. The Court stressed that "the content of Article 314 [...] coupled with its interpretation by the domestic courts, [did] not afford adequate protection against arbitrary interference by the national authorities" and that "such a broad interpretation of a provision of criminal law cannot be justified where it entails equating the exercise of the right to freedom of expression with belonging to, forming or leading an armed terrorist organisation, in the absence of any concrete evidence of such a link."

See also ECtHR, *Işıkırık v Turkey*, App. no. 41226/09, November 14, 2017 and *Bakır and Others v. Turkey*, App. 46713/10, July 10, 2018 (Articles 220/6 and 220/7 did not meet the requirement of the quality of law prescribed in the Convention).

Moreover, Articles 1 (definition of terrorism), 2 (terrorist offender), 3 (terrorist offences), and 4 (crimes committed with terrorist intent) of the Anti-Terror Law establish a vague and overly broad framework that creates a parallel criminal regime. This permits an arbitrary and inconsistent application of the law, where acts entirely devoid of violence or incitement are prosecuted as terrorism.

In addition to anti-terror provisions, other articles of the Penal Code, notably Articles 125 (insult), Article 215 (praising an offence or an offender), Article 216 (provoking the public to hatred and hostility), 299 (insulting the President), and 301 (insulting the Turkish nation and State institutions), are routinely invoked to criminalise peaceful expression.[22] The result is an environment in which critical civic actors face a credible threat of prosecution and detention simply for their professional advocacy.

2. Impact and Structural Consequences

The expansive, arbitrary and abusive use of Türkiye's anti-terror legislation has devastated civic space and produced a climate of fear and self-censorship. Tens of thousands of individuals — including politicians, journalists, lawyers, academics, students, and human rights defenders — have faced investigations and prosecutions under terrorism-related charges in recent years. Many of these cases rely on little more than anonymous or vague witness statements, intelligence reports, or routine political expression.

The courts have largely failed to act as an effective remedy against abuse. Pre-trial detention is frequently used as a form of punishment, particularly in politically sensitive cases. Convictions often rely on "evidence" that would not meet the minimum standards of criminal liability in a democratic society. A culture of deference to the executive and security institutions — coupled with structural deficiencies in judicial independence — has resulted in the normalization of arbitrary prosecutions and guilty verdicts unsupported by evidence, which, in turn, have led to the imposition of disproportionate sentences of imprisonment.

This environment has been particularly harmful for lawyers defending politically sensitive cases or victims of human rights violations. Thousands of lawyers have been prosecuted on terrorism charges since 2016, many based solely on their legitimate professional activities.[23] In this context, the recent prosecution of the Istanbul Bar Association Executive Board for "spreading terrorist propaganda" reflects a dangerous trend of extending criminal liability to representative institutions of the legal profession, threatening the independence of lawyers and the right to a fair trial.

Similarly, human rights defenders and journalists continue to face prosecution and prolonged pre-trial detention for engaging in peaceful protest, filing international complaints, or reporting on conflict-related abuses. In many instances, overlapping or repetitive charges have been used to prolong detention and evade release orders — as illustrated in the Kavala and Demirtaş cases. This weaponization of criminal law undermines the rule of law and violates Türkiye's

[22] See Council of Europe, Department of Execution of Judgments, *Öner and Türk group* (Application No. 51962/12), *Altuğ Taner Akçam group* (Application No. 27520/07), *Artun and Güvener group* (Application No. 75510/01) and *Işıkırık group* (Application No. 41226/09), https://hudoc.exec.coe.int/?i=004-36806.
[23] Amicus Curiae Brief, *The Istanbul 26th Heavy Penal Court*, Legal Proceedings Against the Istanbul Bar Association Executive Board, submitted by TLSP et al., August 19, 2025, https://www.turkeylitigationsupport.com/s/Amicus-brief-by-12-international-orgs-on-the-legal-proceedings-against-the-Istanbul-Bar-Eng-19082025.pdf.

obligations under the European Convention on Human Rights (the ECHR). It also generates a chilling effect on freedoms of expression, association and assembly across society.

Despite repeated calls from the ECtHR, other Council of Europe organs, EU institutions and at times Türkiye's own Constitutional Court to bring these laws in line with legality, necessity and proportionality standards, which constitute the three-part test for non-arbitrary, permissible limitations on Convention rights, including the right to freedom of expression, association, and peaceful assembly,[24] the authorities have failed to comprehensively overhaul these provisions. The Constitutional Court's decision to twice repeal Article 220/6 should prompt a decisive review of all the arbitrary criminal law provisions that continue to be widely and abusively applied to criminalize lawful conduct.[25]

3. Relevance to the Conflict and the Commission's Mandate

The origins of Türkiye's anti-terror legal regime lie in the institutional responses to the conflict of the 1980s and 1990s. Laws introduced during the state of emergency in the predominantly Kurdish Southeast — such as Law No. 3713 — were initially justified as measures to counter the PKK. However, instead of being repealed or revised in line with democratic standards, these provisions were retained, expanded, and integrated into the ordinary criminal justice framework.

After the collapse of the peace process in 2015, and especially following the 2016 *coup* attempt, the authorities further entrenched these powers. Emergency decrees expanded the scope of application of these arbitrary and abusive provisions, restricted fair trial guarantees, and enabled mass arrests and detentions. These practices remain in effect today, even after the formal end of the state of emergency, and continue to disproportionately target Kurdish political actors, human rights defenders, and critics of the government.

As a result, anti-terror legislation in Türkiye has evolved not as a targeted security instrument but as a cornerstone of a political and legal system that conflates dissent with "terrorism" and treats expressions of Kurdish identity and opposition politics as state security threats.

The systemic targeting of lawyers, human rights defenders, and journalists has further closed down the legal and democratic avenues necessary to resolve the Kurdish issue peacefully. The denial of legal defence to suspected and accused persons, the criminalization of conflict-related reporting, and the suppression of advocacy contrary to Türkiye's international human rights law obligations have deprived affected individuals and communities of visibility, representation, and voice — reinforcing mistrust, polarisation, and exclusion.

The Commission must confront the structural consequences of this legal architecture if it is to contribute meaningfully to ending the violent phase of the conflict and enabling a durable peace. As long as political expression, peaceful advocacy, and democratic participation continue to be at risk of being labelled as terrorism, and are thereby subject to both criminal

[24] Ibid, paras. 47-54.
[25] Bianet news website, "AYM aynı maddeyi ikinci kez iptal etti, düzenleme bir öncekiyle aynı", January 9, 2025, https://bianet.org/haber/aym-ayni-maddeyi-ikinci-kez-iptal-etti-duzenleme-bir-oncekiyle-ayni-303476. See also Amnesty International, "Türkiye: New Judicial Package Leaves People at Continued Risk of Human Rights Violations," February 29, 2024, https://www.amnesty.org/en/documents/eur44/7765/2024/en/.

and civil sanctions, any vision of societal reconciliation and inclusive democracy will remain unattainable.

4. Recommendations to the Commission

To address the systemic abuse of arbitrary anti-terror laws and enable the protection of human rights in Türkiye, in its final report the Commission should recommend:

1. Repealing or fundamentally revising Law No. 3713 (Anti-Terror Law) to bring it into full compliance with Türkiye's obligations under international human rights law, including the ECHR. This should include Articles 1 (definition of terrorism), 2 (terrorist offender), Articles 3 (terrorist offences), 4 (crimes committed with terrorist intent), 6 (disclosure of officials' identities and publication of statements legitimizing terrorist violence) and 7 (propaganda for a terrorist organization), which together create a vague and overly broad framework that enables the classification of a wide range of acts as terrorist crimes, resulting in a parallel criminal law and sentencing regime that is used to criminalise activities protected under the Convention.
2. Amending Articles 220 and 314 of the Turkish Penal Code, including by ensuring that the definitions of "membership of" and "support for" terrorist organizations comply with basic principles of criminal law (e.g., legality, harm, individual criminal liability, including by requiring that such liability may not be based on thoughts, intentions, beliefs or status alone) and with international human rights law and standards, requiring concrete evidence of criminal conduct.
3. Repealing or amending other Penal Code provisions used to suppress peaceful expression, in particular Articles 125 (insult), 215 (praising an offence or an offender), 216 (incitement to hatred and hostility), 299 (insulting the President), and 301 (insulting the Turkish nation and State institutions) to bring them in line with international human rights law and standards, including the case-law of the ECtHR, and to ensure that criminal law is not misused to silence dissent.
4. Ending the use of terrorism-related charges to criminalise the exercise of the rights to peaceful assembly, association, and expression that does not amount to incitement to violence, including in cases involving political actors, human rights defenders, and journalists.
5. Dropping ongoing prosecutions and reviewing -with a view to quashing - past convictions based on abusive enforcement of vague, overbroad otherwise arbitrary anti-terror provisions, including in the *Demirtaş, Yüksekdağ Şenoğlu*, and *Kavala* cases, in line with ECtHR judgments and international human rights law and standards, and ensuring the immediate release of all those wrongfully detained.
6. Preventing the reclassification of facts into new charges after acquittals or release orders, and ensuring the prompt execution of domestic and international court rulings ordering release.
7. Dropping charges against bar association members and other lawyers solely for the exercise of their professional functions, enacting legislative safeguards to ensure the independence and protection of the legal profession, and ratification of the Council of Europe Convention on the Protection of the Profession of Lawyer.

8. Ensuring full enjoyment of fair trial guarantees and protection against arbitrary detention, including the right to legal assistance, and the presumption of innocence.
9. Promoting legal and institutional safeguards that restore the separation of powers and ensure that national security concerns do not override democratic rights.

The Commission should seize this opportunity to help reverse Türkiye's trajectory of rights erosion. Addressing arbitrary anti-terror laws and their misuse is not only a legal imperative — it is a political and moral necessity for upholding the rule of law, ending discrimination against Kurds and other groups and ensuring a just and democratic future for all.

III. Abuse of Criminal Law Against Elected Representatives and Political Dissent

1. Overview of the Issue

The targeted use of criminal law to detain and silence opposition politicians — particularly those representing pro-Kurdish and minority rights political parties — reflects a deliberate and long-standing strategy to eliminate democratic pluralism in Türkiye.

Numerous political parties have been dissolved by the Constitutional Court.[26] The closure case against the Peoples' Democratic Party (HDP) is the most recent and remains pending.[27]

Elected representatives, including members of parliament (MPs), mayors and parliamentarians from pro-Kurdish rights and leftist parties, have routinely faced arrest, removal from office, prosecution, and imprisonment under vague and overly broad anti-terrorism provisions.[28] These repressive practices intensified sharply after the collapse of the peace process in 2015 and escalated further in the aftermath of the 2016 *coup* attempt, under the pretext of counter-terrorism.[29]

This abuse of criminal law gives rise to serious violations of internationally protected human rights — particularly the rights to freedom from arbitrary arrest and detention, fair trial, freedom of expression, freedom of association, and the right to political participation and to stand for election, as guaranteed under Article 10, Article 11, and Article 3 of Protocol No. 1 to the ECHR, and Articles 19, 22 and 25 of the International Covenant on Civil and Political Rights (ICCPR).[30] It is also central to the ongoing erosion of democratic space and directly undermines the principle of democratic representation. The instrumentalization of the judiciary in this context —

[26] TLSP et al, Intervention in the Case of the Peoples' Democratic Party (HDP) before the Constitutional Court of Turkey, Case No: 2021/2, June 7, 2021, paras. 39-40, https://www.turkeylitigationsupport.com/s/3rd-Party-Intervention-in-the-HDP-closure-case-before-the-Constitutional-Court.pdf.
[27] HRW et al, "Turkey: Closure Case Against Political Party Looms," January 10, 2023, https://www.hrw.org/news/2023/01/10/turkey-closure-case-against-political-party-looms.
[28] Third party intervention by the Council of Europe Commissioner for Human Rights in applications *Abdullah Zeydan v. Turkey* (no. 25453/17) and other applications, paras. 18 and 23; see also, the EU European Commission, Commission Staff Working Document Turkey 2020 Report, 6 October 2020.
[29] HRW, "Turkey: Crackdown on Kurdish Opposition," March 20, 2027, https://www.hrw.org/news/2017/03/20/turkey-crackdown-kurdish-opposition.
[30] See e.g. ECtHR, *Selahattin Demirtaş v. Turkey (no. 2)* [GC], App. no. 14305/17, December 22, 2020*; Kerestecioğlu Demir v. Turkey*, App. no. 68136/16, May 4, 2021; *Encü and Others v. Turkey*, App. nos. 56543/16 and 39 others, February 1, 2022; *Yüksekdağ Şenoğlu and Others v. Türkiye*, App. no. 14348/17, November 8, 2022; *Selahattin Demirtaş v. Türkiye (no. 4),* App. no. 13609/20, July 8, 2025.

combined with arbitrary administrative measures such as mayoral dismissals and government appointment of "trustees" in their place — signals a broader rejection of pluralism.[31]

Crucially, these measures cannot be decoupled from the historical conflict: the criminalization of elected officials has until recently overwhelmingly targeted MPs, mayors and municipal council members from pro-Kurdish and minority rights parties and those advocating a peaceful resolution of the conflict. These patterns fuel mistrust, deepen polarization, and deprive affected communities of a meaningful democratic voice. If the Commission is to achieve its stated aims of ending violence, promoting co-existence and reinforcing democracy, it must address as a matter of priority the criminalization of peaceful political activity.

2. Impact and Structural Consequences

Blanket criminalisation under security laws

MPs, mayors and party officials — particularly from the HDP, and now the DEM — have been systematically charged under Articles 314 and 220 of the Penal Code and Anti-Terror Law No. 3713, often based on political speeches, attendance at demonstrations, or other non-violent activism and affiliation with civil society groups.[32]

The Kobani trial exemplifies this approach: Numerous HDP members, including former co-chairs Selahattin Demirtaş and Figen Yüksekdağ Şenoğlu, are facing mass trials on charges of inciting violence during protests in 2014 — despite ECtHR rulings requesting their release and highlighting the political nature of the prosecutions.[33]

Arbitrary removal from office and appointment of trustees

Since 2016, hundreds of elected mayors and municipal council members in the predominantly Kurdish cities have been removed from office by administrative decisions, with no judicial process, and replaced by government-appointed trustees (kayyım).[34] This occurred in 2016-17, 2019-20 and 2024 affecting Kurdish mayors and municipal council members elected in three successive local elections. On the third occasion, after the March 31, 2024 local election, the government extended the same practice to mayors and council members from the main

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[31] Ibid, see also HRW, "Turkey: Three Kurdish Mayors Removed from Office," August 20, 2019, https://www.hrw.org/news/2019/08/20/turkey-3-kurdish-mayors-removed-office; and "Turkey: Kurdish Mayors' Removal Violates Voters' Rights," July 2, 2020, https://www.hrw.org/news/2020/02/07/turkey-kurdish-mayors-removal-violates-voters-rights; see also Congress of Local and Regional Authorities of the Council of Europe, "Local Elections in Türkiye (31 March 2024)", Monitoring Committee, Recommendation 519 (2024) and Explanatory Memorandum, paras. 10, 18 and 20, https://www.coe.int/en/web/congress/-/dismissal-of-mayor-of-van-statement-by-congress-co-rapporteurs-on-local-democracy-in-t%C3%BCrkiye.

[32] TLSP, HRW and ICJ, Third-Party Intervention in *Selahattin Demirtaş v. Türkiye (no. 4)*, App. no. 13609/20, paras. 12-24, https://www.turkeylitigationsupport.com/s/Demirtas-v-Turkey-3rd-Party-Intervention-of-the-TLSP-HRW-and-ICJ.pdf.

[33] HRW, "Türkiye: Kurdish Politicians Convicted in Unjust Mass Trial," April 16, 2024, https://www.hrw.org/news/2024/05/16/turkiye-kurdish-politicians-convicted-unjust-mass-trial. See also ECtHR, *Selahattin Demirtaş v. Turkey (no. 2)* [GC], App. no. 14305/17, December 22, 2020*; Yüksekdağ Şenoğlu and Others v. Türkiye*, App. no. 14348/17, November 8, 2022; *Selahattin Demirtaş v. Türkiye (no. 4),* App. no. 13609/20, July 8, 2025

[34] Congress of Local and Regional Authorities of the Council of Europe, "Local Elections in Türkiye (31 March 2024)", Monitoring Committee, Recommendation 519 (2024) and Explanatory Memorandum (n 31), paras. 19 and 20; European Commission, *Türkiye 2024 Report*, SWD(2024) 696 final, October 30, 2024, pp 20, 21, https://enlargement.ec.europa.eu/document/download/8010c4db-6ef8-4c85-aa06-814408921c89_en?filename=T%C3%BCrkiye%20Report%202024.pdf.

opposition Republican People's Party (CHP), signalling a willingness to suspend local democracy on a systematic basis.[35]

These measures violate both domestic and international norms concerning political participation, local democracy, due process, and the right of voters to choose their own representatives.[36] In the predominantly Kurdish southeast region, this practice has severed trust between Kurds and the state, reinforcing the perception of being politically excluded and subject to arbitrary and repeated state repression.

Retaliation for parliamentary activity and speech

Prosecutors have increasingly sought to lift the parliamentary immunity of MPs to enable their arrest and detention pursuant to criminal investigations. Even where immunity applies, courts have pursued arbitrary prosecutions retroactively after members' terms have ended.

In multiple cases, parliamentary speech and activities — including calls for peace, criticism of military operations, or participation in protests — have been treated as evidence of terrorist organization affiliation or "propaganda". This represents a direct attack on parliamentary independence, the principle of inviolability of MPs, and leads to violations of human rights, including freedom of expression and freedom of assembly.

3. Relevance to the Conflict and the Commission's Mandate

The criminalization of elected political representatives sends a clear message: democratic engagement, peaceful dissent, and advocacy for alternative approaches to solving the Kurdish issue or any other political matter will be punished. This is both a violation of human rights and profoundly antidemocratic.

By removing elected representatives, effectively dismantling representative institutions, such as municipalities and grassroots political party organization, the authorities have removed key actors and institutions that could otherwise serve as bridges between communities and between state and society.

In this context, the violent phase of the conflict is perpetuated not only by arms but also by the closure of democratic channels. Restoring political rights and reinstituting trust in the electoral process are therefore central reforms that must be undertaken as a matter of priority.

4. Recommendations to the Commission

We urge the Commission to include the following measures in its recommendations:

1. End the misuse of criminal law against elected officials:
    - Review, drop and quash criminal proceedings brought solely on the basis of political speech protected under international human rights law or peaceful activities.

[35] HRW, "Türkiye: Government Removes Elected Opposition Mayors," November 7, 2024, https://www.hrw.org/news/2024/11/07/turkiye-government-removes-elected-opposition-mayors.
[36] Council of Europe, Congress of Local and Regional Authorities, Monitoring of the Application of the European Charter of Local Self-Government in Turkey, CG(2022)42-14final, March 23, 2022, https://search.coe.int/congress?i=0900001680a5b1d3.

- Ensure that any charges brought against elected representatives comply with international human rights obligations, including strict requirements of legality, necessity, and proportionality.

2. Reinstate removed elected officials and end the trustee regime:
    - Abolish the practice of removing mayors by administrative decree without due process and appointing trustees (kayyım) in their place.
    - Reinstate elected representatives where no final and human rights compliant criminal conviction exists and guarantee local self-governance.
    - Reform the relevant provisions of the Municipalities Law permitting the removal of mayors under investigation or being prosecuted for terrorism crimes.
3. Reform the legal framework governing political expression:
    - Fundamentally review and amend the Penal Code and Anti-Terror Law to clearly exclude protected political speech, including criticism of state policy, calls for peace, and discussion of the Kurdish issue, from criminal sanction.
4. Guarantee freedom of association and participation in public life:
    - Cease the targeting of political parties and associations through closure cases, criminalization, or administrative harassment.
    - Ensure compliance with ECtHR case law on political pluralism, and Constitutional Court caselaw upholding it, including in implementation of the Demirtaş, Yüksekdağ Şenoğlu and Can Atalay judgments.
5. Ensure that Parliament upholds its duty to protect representation:
    - Introduce safeguards to limit politically motivated lifting of immunities.
    - Guarantee the autonomy and freedom of elected officials to perform their roles without fear of judicial reprisal.

Establishing democratic space and enabling meaningful representation are preconditions for a non-violent, rights-based resolution to Türkiye's long-standing conflict. The Commission should advocate for the full protection of political rights and democratic participation for all, particularly those from historically marginalised communities.

IV. Continuing Suppression of Freedom of Peaceful Assembly

1. Overview and Structural Nature of the Problem

The restriction of peaceful assembly in Türkiye represents one of the most visible and enduring manifestations of the country's broader human rights crisis. Authorities have increasingly treated peaceful demonstrations as threats to public order or national security rather than as expressions of democratic participation protected under domestic and international law. This has resulted in the routine criminalization, violent dispersal, and blanket banning of assemblies — particularly those led by actors perceived as oppositional or critical of state policies.[37] The

[37] Rule 9.2 - Communication by TLSP and 32 other NGOs and Bar associations to the Council of Europe, Committee of Ministers, in the case *of Oya Ataman v. Turkey* group of cases, App. no. 74552/01, January 23, 2023, https://hudoc.exec.coe.int/?i=DH-DD(2023)134E.

cumulative effect has been the near-erasure of the right to peaceful assembly, especially in Kurdish-majority provinces and in relation to protests on sensitive political, social, and historical issues.[38]

The crackdown is legally underpinned by restrictive provisions of Law No. 2911 on Meetings and Demonstrations, vague public order justifications, arbitrary limitations on public assemblies under Law No. 5442 on Provincial Administration, and broadly interpreted criminal laws — including Articles 220 and 314 of the Penal Code and provisions of the Anti-Terror Law.[39] Security forces routinely use unwarranted and excessive force — often when they resort to tear gas, water cannons, rubber bullets, beatings, — and arbitrary detention against peaceful demonstrators. Protest organizers and participants are frequently subjected to prosecution under unlawful assembly and terrorism-related charges.[40] The resulting chilling effect on civil society and the democratic opposition is profound.

2. Impact on Civil Society and Democracy

The ongoing suppression of peaceful assemblies has severely constrained the ability of civil society to advocate for justice, peace, and democratic reform. Protests demanding accountability for past atrocities, commemorations of victims of state violence and of violence resulting from the state's failure to protect (e.g. Roboski, Ankara, Suruç), calls for peace in the Kurdish conflict, or women's and LGBTI+ human rights marches have all been met with bans, police violence, and judicial harassment.[41] In Kurdish-majority provinces, such as Van, Mardin, and Hakkâri, provincial governors have imposed rolling bans on all demonstrations — in some cases lasting for several years — effectively suspending the right to protest altogether.

The criminalization of long-standing peaceful protest initiatives — such as the Saturday Mothers and their weekly vigils in Galatasaray Square — illustrates how the exercise of this right is no longer tolerated, even when pursued with dignity and in silence. Lawyers, journalists, and trade unionists who participate in or cover assemblies are increasingly targeted, further shrinking civic space.[42]

This sustained assault on peaceful assembly contributes to the erosion of pluralism, public accountability, and democratic resilience. It eliminates one of the last remaining avenues for expressing dissent and amplifying marginalized voices.

3. Relevance to the Conflict and the Commission's Mandate

The securitisation of protest is intimately tied to the Turkish state's long-standing reliance on emergency governance and its treatment of dissent as a threat to national unity. Throughout the conflict with the PKK, especially during the 1990s and again after the collapse of the peace process in 2015, assemblies in predominantly Kurdish regions were often framed as inherently "terrorist-linked." This perception has become embedded in policing, administrative practice, and legal interpretation.

[38] Ibid. paras. 52, 69.
[39] Ibid. paras. 20-26 and 60-71.
[40] Ibid, paras. 48-59.
[41] Ibid. paras. 28-34, 35-47.
[42] Rule 9.2 Communication from 22 NGOs to the Council of Europe, Committee of Ministers, in the *Oya Ataman* group of cases v. Türkiye, App. no. 74552/01, April 22, 2025, paras. 41-50, https://hudoc.exec.coe.int/?i=DH-DD(2025)499E.

Even after the formal end of the state of emergency in 2018, emergency powers and restrictive policies — including broad powers given to governors under the Provincial Administration Law — have been normalized and embedded into the ordinary legal framework. Demonstrations on issues related to peace, the Kurdish conflict, state violence, or minority rights continue to be disproportionately targeted.

The continued repression of peaceful assembly sustains the broader environment of fear and exclusion that allows cycles of violence to persist. It reflects and reproduces the logic of conflict rather than opening space for dialogue, acknowledgment, and redress.

The Commission has a unique opportunity to help reshape Türkiye's approach to public participation and democratic engagement. Peaceful assembly is not a threat to security — it is a means by which communities voice grievances, demand justice, and contribute to societal dialogue. Reclaiming this right is essential for enabling democratic evolution and building trust between the state and its citizens, particularly those affected by decades of conflict and marginalization.

Without safeguarding the space for peaceful dissent, any vision of national solidarity and democratic renewal will remain hollow. The Commission must explicitly recognise that the suppression of peaceful assembly is incompatible with efforts to end the violent phase of the conflict and construct a future based on inclusion, justice, and accountability.

4. Recommendations to the Commission

To end the systemic repression of peaceful assembly and align Türkiye's legal and administrative framework with its international human rights law obligations, the Commission should recommend:

1. Repealing or substantially amending Law No. 2911 on Meetings and Demonstrations, to ensure it facilitates rather than restricts the right to peaceful assembly in line with international human rights law and standards.
2. Ending all ongoing provincial bans on demonstrations, especially in Kurdish-majority provinces, and prohibiting the future imposition of region-wide or indefinite bans.
3. Recognizing and protecting the right to spontaneous assemblies, especially those in response to urgent developments or injustices.
4. Ensuring that policing of assemblies is strictly guided by the principles of necessity, proportionality, and non-discrimination, and ceasing the use of unwarranted and excessive force and arbitrary detentions.
5. Halting the prosecution of peaceful protestors under Law No. 2911, and articles 220, 314 and other related provisions of the Penal Code and the Anti-Terror Law, and reviewing past convictions for compatibility with international human rights law and standards.
6. Safeguarding the right to commemorate victims and demand justice, including for massacres and state violence, without fear of harassment or dispersal.
7. Ensuring full protection for journalists, lawyers, and human rights monitors who report on or participate in assemblies.

Guaranteeing the right to peaceful assembly is a legal and democratic necessity. It is also an indispensable part of healing the deep societal wounds caused by decades of conflict and repression. The Commission needs to treat this right as foundational to its work and central to the democratic future it seeks to promote.

V. "The Right to Hope": Ending Aggravated Life Prison Sentences without Review

1. Overview of the Issue

One of the most entrenched and least addressed forms of rights deprivation in Türkiye is the regime of aggravated life imprisonment without the possibility of release, a system that strips individuals of any realistic prospect of personal development, reintegration, or freedom. Under current law, prisoners sentenced to aggravated life imprisonment are not eligible for parole or conditional release and are subjected to some of the harshest prison conditions, including prolonged solitary confinement and limited access to social activities or family visits.

This regime effectively condemns prisoners to die in prison regardless of their individual conduct, progress, or change in circumstances. It contradicts the evolving international legal consensus that every person — regardless of the gravity of the offence they were convicted for— should retain a "right to hope", i.e. the right to a genuine opportunity to be released based on objective criteria and meaningful review.

The ECtHR has repeatedly found such irreducible life sentences to be in violation of Article 3 of the ECHR, which prohibits inhuman or degrading treatment. In its judgments against Türkiye — namely *Öcalan (No.2), Gurban, Boltan and Kaytan v. Türkiye* cases — the Court concluded that this aggravated life sentence regime violates Article 3, lacks foreseeability, reviewability, and mechanisms for individualised assessment.[43] Yet to date, the authorities in Türkiye have failed to implement the necessary reforms.

2. Impact and Structural Consequences

Civil society reports assess that as of 2024, over 4,000 people in Türkiye were serving aggravated life sentences with no realistic prospect of release.[44] The regime disproportionately affects prisoners convicted in relation to the PKK conflict.

In addition to violating international human rights norms with respect to the rights of the prisoners, it also exacerbates the crisis in Türkiye's prisons, where overcrowding, poor conditions, and inadequate access to healthcare are already widespread. The psychological and physical toll of irreducible life sentences — especially under conditions of prolonged isolation — amounts to a form of civil death.[45]

By denying individuals any prospect of change, the current system undermines the fundamental principle that human dignity must be respected at all stages of administration of justice, including during punishment. It disregards the essential purpose of criminal justice: to allow for

[43] TLSP et al., Rule 9.2 Submission on the Implementation of the *Gurban v. Türkiye* group of cases, July 21, 2025, paras. 4-9, https://hudoc.exec.coe.int/?i=DH-DD(2025)857E.
[44] Council of Europe Committee of Ministers, Notes on the Agenda, CM/Notes/1507/H46-35, *Gurban group v. Turkey,* App. no. 4947/04, 1507th meeting (DH), September 17-19, 2024, https://hudoc.exec.coe.int/?i=CM/Notes/1507/H46-35E.
[45] Rule 9.2 Communication from ÖHD, İHD and TİHV in the *Gurban group v. Türkiye*, October 12, 2021, para. 9, https://hudoc.exec.coe.int/?i=DH-DD(2021)1088E.

reintegration into public life when the necessary conditions are met and a certain portion of the sentence has been served.[46]

3. Relevance to the Conflict and the Commission's Mandate

The aggravated life sentence regime is closely linked to the history of exceptionalism and emergency governance in Türkiye. It gained prominence after the abolition of the death penalty and effectively replaced capital punishment, particularly in cases involving terrorist offences or crimes against state security. In this sense, it inherits the logic of permanent exclusion — treating certain individuals as irredeemable threats to the State.

This approach has profound consequences for any effort to move beyond the violent phase of the Kurdish conflict. By foreclosing the possibility of reconciliation, dialogue, or democratic resolution, it entrenches the divisions that have sustained the conflict for decades.

The Commission's mandate to promote solidarity, co-existence, and democracy requires confronting this legacy. Ending irreducible life imprisonment is not only a legal obligation — it is also a symbolic and structural step towards building a future based on shared dignity and rights.

4. Recommended Measures

To bring Türkiye's aggravated life sentence regime into compliance with Article 3 of the ECHR and the *Gurban group of judgments*, the Commission should propose the following reforms, grounded in international law and comparative best practices:

1. Recognize "the right to hope" as a legal and moral imperative, a fundamental safeguard of human dignity under Article 3 of the ECHR, and a core principle of any justice system committed to the rule of law; affirm that all persons deprived of liberty must have a genuine and reviewable prospect of release.
2. Recommend the abolition of aggravated life imprisonment without the possibility of release and propose legislative amendments, including to Article 107 of the Law on the Execution of Sentences and Security Measures (Law No. 5275), to bring Türkiye's sentencing and release regime in line with the standards developed by the ECtHR. These reforms should ensure that:
    - All individuals sentenced to aggravated life imprisonment are eligible for release consideration after a defined and reasonable period, which should not exceed 25 years;
    - The regime guarantees the right to a genuine, *de jure* and *de facto* prospect of release;
    - Clear, objective, publicly accessible, and non-discriminatory eligibility criteria and review procedures be provided — and not based on vague, ideological, or subjective assessments, such as expressions of remorse or political stance;

[46] See ECtHR, *Gurban v. Turkey,* App. no. 4947/04, *Öcalan (no. 2) v. Turkey,* App. no. 24069/03, *Kaytan v. Turkey,* App. no. 27422/05, and *Boltan v. Turkey,* App. no. 33056/16, *Hutchinson v. the United Kingdom* [GC], App. no. 57592/08, January 17, 2017; *Vinter and Others v. the United Kingdom* [GC], App. nos. 66069/09, 130/10 and 3896/10, July 9, 2013; *Murray v. the Netherlands* [GC], App. no. 10511/10, April 26, 2016; *László Magyar v. Hungary*, App. no. 73593/10, May 20, 2014.

- Reviews are periodic, fair, and based on individualised assessments;
- Release decisions serve legitimate and proportionate penological purposes — not blanket or retributive aims;
- The process is overseen by independent review bodies with full procedural safeguards;
- Prisoners are provided with a clear path to understand and demonstrate their readiness for release;

3. In light of these standards, propose the creation of an independent and impartial sentence review mechanism that should:
    - Be established in law and be structurally independent from the executive and prison administration;
    - Be accessible without discrimination to all persons serving life sentences, including those convicted under Penal Code Articles 309, 312, 314, and Anti-Terror Law No. 3713;
    - Guarantee an initial review no later than 25 years after sentencing, with further periodic reviews at reasonable intervals;
    - Be guided by individualized assessments, based on objective factors, such as conduct in detention, risk to society, time served, and other relevant developments;
    - Include full procedural safeguards, including access to legal assistance, the right to be heard, reasoned decisions, and judicial oversight or appeal;
    - Provide clear information to prisoners regarding what steps or conduct may be taken into account, and under what conditions release may be granted.
4. Emphasize the wider societal and peacebuilding relevance of recognizing "the right to hope".

Where long-term imprisonment is used as a political tool, eliminating the possibility of release undermines reconciliation efforts, deepens mistrust, and violates the very principles the Commission is tasked with restoring — equality, justice, and the rule of law.

VI. Judicial Independence as a Cross-Cutting Structural Issue

The systemic issues addressed in this briefing — including the application of anti-terror laws, the criminalisation of political expression, the restrictions on peaceful assembly, and the denial of "the right to hope" — all reflect a broader structural reality: the need to ensure the independence and impartiality of the judiciary. Across these areas, the courts have played a pivotal role in either enabling or failing to prevent human rights violations. This role, therefore, underscores the importance of a judiciary that is institutionally protected from undue influence and capable of upholding the rule of law for all.

International and regional human rights bodies, including the ECtHR and the Venice Commission, have raised concerns about the current legal and institutional framework, particularly regarding the structure and functioning of the Council of Judges and Prosecutors

and its compatibility with standards of judicial independence.[47] These concerns have direct implications for the Commission's mandate. Without a judiciary that can act independently and impartially, reforms to criminal legislation and broader human rights protections are unlikely to be effectively implemented or sustained.

While comprehensive judicial reform may fall beyond the Commission's immediate mandate, its relevance cuts across all the areas examined in this briefing. A credible and lasting transition will require not only legal and policy changes, but also institutional guarantees that ensure access to justice and equal protection under the law. The Commission may therefore wish to recognise that strengthening the independence of the judiciary is a necessary condition for addressing the root causes of the conflict and building a rights-based and democratic future.

It will be necessary to review the composition and functioning of the Council of Judges and Prosecutors to ensure institutional independence and alignment with international standards — including through increased participation of judicial and prosecutorial peers in appointments and oversight mechanisms. Transparent, merit-based procedures for judicial appointments, promotions and transfers should be introduced, reducing the potential for political influence and strengthening public trust. Legal safeguards should be established to prevent arbitrary disciplinary actions or reassignments of judges and prosecutors, and to ensure that judicial decisions are respected and enforced, particularly those of the Constitutional Court and the ECtHR.[48] Finally, steps should be taken to guarantee that the judiciary is equipped — both institutionally and culturally — to protect human rights and act independently in politically sensitive or conflict-related cases. These measures are essential not only for restoring judicial integrity, but for enabling broader legal and democratic reforms to take root.

VII. Accountability and Impunity as a Further Cross-Cutting Structural Issue

Testimonies heard by this Commission, including from groups such as the Saturday Mothers, as well as a large body of ECtHR caselaw relating to Türkiye and multiple reports by domestic and international human rights groups highlight a core structural concern: the persistence of impunity for serious human rights violations committed in the course of the conflict between the Turkish military and the PKK.[49] These violations include enforced disappearances, summary

[47] Venice Commission, Türkiye, Opinion on the amendments to the Constitution adopted by the Grand National Assembly on 21 January 2017 and to be submitted to a national referendum on 16 April 2017, No. 875/2017, March 13, 2017, para. 119. See also ECtHR, *Selahattin Demirtaş v Turkey (no. 2)*, App. no. 14305/17, December 22, 2020, para. 434; *Yüksekdağ Şenoğlu and others,* App. no. 14332/17 and 12 others, November 8, 2022, paras. 637-638; Venice Commission, Türkiye, Opinion on the composition of the Council of Judges and Prosecutors and the procedure for the election of its members, 141st Plenary Session (Venice, 6-7 December 2024),CDL-AD(2024)041, p. 12, https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2024)041-e.

[48] For a detailed analysis of these issues see HRW, ICJ and TLSP, *Defiance of European Court Judgments and Erosion of Judicial Independence*, Joint Briefing; Committee of Ministers 1492nd meeting (March 2024) (DH); Rule 9.2 - Communication from TLSP, HRW, the ICJ, concerning the case of *Kavala v. Türkiye* (App. no. 28749/18), January 26, 2024, https://hudoc.exec.coe.int/?i=DH-DD(2024)263E; The ICJ, "Turkey: the Judicial System in Peril: A briefing paper" (2016), https://www.icj.org/wp-content/uploads/2016/07/Turkey-Judiciary-in-Peril-Publications-Reports-Fact-Findings-Mission-Reports-2016-ENG.pdf. See also Transparency International, "Examining State Capture: Undue Influence on Law-Making and the Judiciary in the Western Balkans and Turkey," December 15, 2020, https://images.transparencycdn.org/images/2020_Report_ExaminingStateCapture_English.pdf.

[49] ECtHR decisions include: *Akdıvar and Others v. Turkey* [GC], App. no. 21893/93, September 16, 1996; *Çiçek v. Turkey*, App. no. 25704/94, February 27, 2001; *Ipek v. Turkey*, App. no. 25760/94, February 17, 2004; *Aksoy v. Turkey*, App. no. 21987/93, December 18, 1996; *Selçuk and Asker v. Turkey*, App. nos. 23184/94 23185/94, April 24, 1998. Reports by HRW on the issue of impunity for the egregious violations of human rights committed during the conflict include "Time for Justice: Ending impunity for killings and disappearances in 1990s Turkey," September 2, 2012, https://www.hrw.org/report/2012/09/03/time-justice/ending-impunity-killings-and-disappearances-1990s-turkey.

executions, and torture. The consistent failure to conduct effective investigations and prosecutions capable of securing justice for victims has shielded state perpetrators from accountability while deepening distrust in state institutions and weakening the rule of law. The large body of documented violations underscores the pressing need for legal and institutional mechanisms capable of delivering accountability, truth, and justice.

The current legal and institutional framework in Türkiye, including laws that require executive authorisation to prosecute public officials and security personnel, has created structural barriers to accountability. Investigations are frequently delayed, closed prematurely, or not initiated at all — particularly when alleged violations involve state actors. Prosecutorial inaction, a lack of judicial independence, and the absence of meaningful victim/survivor participation further exacerbate this pattern. Where cases concerning violations committed in the predominantly Kurdish southeast in the 1990s have gone to trial, in at least 12 instances closely documented by civil society organisation Memory Center (Hafıza Merkezi), courts failed to conduct a detailed review of a credible body of evidence levelled against members of the security force, implicating them in the perpetration of enforced disappearances and killings, and have instead acquitted defendants on the basis of insufficient evidence.[50]

These concerns have direct implications for the Commission's mandate. As reflected in testimonies heard by this Commission, the families of the disappeared and victims of state violence have consistently called for truth, justice, and institutional reform. While the establishment of a comprehensive transitional justice framework may lie beyond the Commission's immediate mandate, its relevance extends across all areas examined in this submission and the wide range of issues raised during the hearings held before the Commission. A credible and lasting transition will require not only legal and policy reform, but also truth-seeking, institutional reform, and guarantees of non-repetition. The Commission may therefore wish to recognise that dismantling impunity and ensuring accountability for serious human rights violations committed by perpetrators on all sides of the conflict are necessary conditions for addressing its root causes and building a rights-based and democratic future.

This includes reviewing legal provisions that shield public officials and security forces from prosecution — such as amendments introduced by Law No. 6722 and Law No. 7329 — and ensuring that all allegations of serious human rights violations are subject to prompt, independent, and impartial investigation. Institutional safeguards should be introduced to guarantee prosecutorial independence and protect victims' rights to participate in proceedings. An independent mechanism to address past and ongoing violations — including enforced disappearances and conflict-related abuses — could play a central role in establishing truth and fostering a relationship of trust between state and society. Finally, steps should be taken to ensure that victims and their families are recognised, their rights upheld, and their calls for justice meaningfully addressed.

[50] See Hafiza Merkezi, Infographic on 12 trials, December 10, 2019, https://hakikatadalethafiza.org/haberler/yuzlesme-davalari-kapatilirken-pekifailkim; and a full account of the 12 trials in "1990'lı Yıllardaki Ağır İnsan Hakları İhlallerinde Cezasızlık Sorunu: Kovuşturma Süreci", 2021, https://hakikatadalethafiza.org/sites/default/files/2022-12/cezasizlik_kovusturmasureci.pdf.