



Position paper on the Turkish Government's Submission to the United Nations Mechanisms on *Yasak v. Türkiye* (ECtHR)

Yasak v. Türkiye should not be interpreted as an authoritative precedent for dismissing applications before the United Nations treaty bodies, in particular the Human Rights Committee

International Association for Human Rights Advocacy in Geneva

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Introduction

1. This position paper has been prepared by the International Association for Human Rights Advocacy in Geneva (IAHRA Geneva) to address the annex titled “Additional Information concerning the communications before the Human Rights Committee” submitted by the Turkish Government as supplementary observations aiming to bolster the Government's stance in various communications currently under review by the Committee.
2. Firstly, it is important to highlight that the Second Chamber’s judgment in Yasak case has been referred to the Grand Chamber of the ECtHR for re-examination, following the acceptance of the applicant’s request for referral by a five-judge panel on 16 December 2024. As such, this judgment is legally void and holds no authoritative validity unless and until it is endorsed by the Grand Chamber. Therefore, any reliance on this judgment to dismiss or undermine claims before this Committee is procedurally and substantively unfounded.
3. The document focused mainly on the European Court of Human Rights (ECtHR/Court) judgment in Yasak v. Türkiye (Application no. 17389/20), delivered on 27 August 2024. The Yasak case concerns the applicant's conviction for membership in an armed terrorist organization (“FETÖ/PDY”¹) under Turkish law, and therein, the ECtHR concluded that there was no violation of Article 7 (no punishment without law) or Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights (ECHR). Although, the Yasak judgment is not yet final (as at the time of the writing of this paper), as the applicant has requested a referral to the ECtHR Grand Chamber, the Turkish Government has relied on this judgment to argue for the foreseeability of author's conviction and the fairness of domestic legal proceedings.
4. The following sections of the position paper will analyze the assessments presented in the “Additional Information” document within the broader context of the Yasak case. This analysis will address discrepancies, examine legal principles, and assess the implications of the ECtHR judgment as referenced by the Turkish Government.

1. The Classification of Hizmet/Gülen Movement as a Terrorist Organization at the Time of the Applicant’s Alleged Acts

5. The ECtHR in Yasak v. Türkiye case assessed whether the absence of the Hizmet/Gülen Movement’s formal classification as a terrorist organization at the time of the applicant’s alleged actions rendered his conviction incompatible with Article 7 of the ECHR. While the Court determined that formal classification was not a prerequisite for foreseeability under Article 7, a critical analysis of the judgment and its implications reveals inconsistencies with established principles of legality, foreseeability, and intent.

¹ "FETÖ/PDY" is an abbreviation used by the Turkish government and judiciary to label the Hizmet/Gülen Movement as a terrorist organization, serving to stigmatize its volunteers and sympathizers. This designation is a politically motivated and abusive mischaracterization, lacking any fair or objective legal basis. It is frequently employed as a tool to justify the widespread persecution of individuals associated with the movement.

a. Absence of Formal Classification and Foreseeability

6. The ECtHR contended that the absence of a finalized domestic judgment classifying the Hizmet/Gülen Movement as a terrorist organization did not preclude the foreseeability of the applicant's conviction. This reasoning, however, overlooks the fact that foreseeability under Article 7 requires not only the existence of legal provisions but also their clear and consistent application by domestic courts.

7. In the Yasak case, the Turkish judiciary had not previously identified the Hizmet/Gülen Movement as a terrorist organization during the relevant period, nor had it articulated criteria by which individuals could reasonably anticipate criminal liability for involvement in the organization's lawful activities. As highlighted in the Yalçınkaya v. Türkiye judgment, foreseeability requires that individuals must have sufficient clarity about the legal consequences of their actions at the time they were performed.

8. At the time of Mr. Yasak's actions (2010–2014), the Hizmet/Gülen Movement was not classified as a terrorist organization under Turkish law. Official recognition of the organization as a terrorist entity through a judicial decision following a sham trial and controversial proceedings, came only after the failed coup attempt of July 2016. Before this, the Hizmet/Gülen Movement, unfairly referred to as "FETÖ/PDY," functioned openly, engaging in educational, religious, charity and cultural activities widely endorsed by government officials and praised by the national and international community.

9. The Court referenced Turkish domestic law, particularly the case-law of the Court of Cassation, which mandates a thorough investigation to classify an organization as a terrorist. This process includes examining the organization's goals, operational plans, and use or credible threat of violence, which was lacking in the case of the Hizmet/Gülen movement's declaration as a terrorist organisation. However, during the applicant's period of alleged involvement, no such determination regarding the Hizmet/Gülen Movement had been made. Furthermore, the domestic courts failed to establish the requisite material and mental elements necessary for criminal liability under Article 314 § 2 of the Turkish Criminal Code.

10. Witness testimonies and circumstantial evidence, such as the applicant's use of a pseudonym and affiliation with student houses, were insufficient to demonstrate the applicant's knowledge of or intent to support a terrorist organization. These deficiencies undermine the legitimacy of the conviction and highlight the lack of adherence to procedural safeguards.

b. The ECtHR's Omission to Address the Retrospective Designation of the Movement as Terrorist Organization

11. In his application, Mr. Yasak submitted under Article 7 of the Convention that his conviction stemmed from activities that were lawful at the time they were carried out. He emphasized that these acts occurred during a period when the Turkish Government viewed the Hizmet/Gülen Movement as a religious organization rather than a terrorist group and were unrelated to the July 2016 coup attempt. Additionally, he argued that the relevant laws were interpreted in an overly broad manner, leading to his conviction for actions that were, at the time, entirely lawful.

12. In *Yalçinkaya* case, the Court determined that downloading and using the ByLock application alone was insufficient to establish the necessary "continuity, diversity, and intensity" of actions. As a result, the Court found that the applicant's conviction violated the principle of legality under Article 7. This conclusion rendered it unnecessary for the Court to examine whether the Hizmet/Gülen Movement was classified as a terrorist organization at the time. Since simply downloading an application on a mobile phone did not meet the threshold of sustained and varied actions, the Court chose not to revisit the applicant's initial claim. In *Yasak* case, however, the Court found that the applicant's actions—such as tutoring students, using code names, and holding discussions—met the required criteria, even though these activities were lawful and not inherently tied to violence. This notable difference in factual determinations highlights the importance of addressing whether the Hizmet/Gülen Movement qualified as a terrorist organization when the acts in question occurred.

13. The lack of such an assessment undermines the foreseeability of the applicant's conviction. The principle of legality requires that a person must be able to foresee, at the time of their conduct, that their actions could result in criminal liability. Without duly establishing that the Hizmet/Gülen Movement was recognized as a terrorist organization between 2010 and 2014, the applicant could not have anticipated that his lawful actions would later be construed as membership in a terrorist organization. The Chamber's endorsement of the Government's accounts without assessing the process of the Hizmet/Gülen Movement's designation as a terrorist organization, while inferring the applicant's knowledge and intent regarding the offence of membership in a terrorist organization, is highly problematic.

14. Even if one assumes that activities such as meeting with students to expand an organization's support network, using code names, or tutoring students could be construed as criminal, and even taking into account the allegations of stealing exam questions—an accusation the applicant categorically denied and which was neither raised by witnesses nor substantiated by the prosecutor—can these actions genuinely justify the conclusion that the applicant was a "member of a terrorist organization"? It is important to emphasize that the applicant was not convicted of stealing exam questions or organizing student meetings; rather, the conviction pertained to membership in a terrorist organization. The existence of the former cannot, by itself, serve as proof of the latter. Critically, for an individual to be considered a member of a terrorist organization, it must first be unequivocally established that the organization in question was recognized as a terrorist entity at the time the alleged acts occurred.

c. Inconsistencies with Previous Jurisprudence

15. The ECtHR's reliance on *Parmak and Bakır v. Türkiye* is misplaced in this context. While that case affirmed that criminal liability could attach to conduct predating an organization's classification as a terrorist, it also emphasized that such liability must be based on clear evidence of knowing and voluntary participation in criminal acts. In *Yasak* case, the evidence presented did not meet this standard, as the applicant's activities were lawful and nonviolent, and no material or mental connection to terrorism was demonstrated.

16. As mentioned above, in the Yalçinkaya decision, the Grand Chamber of the ECtHR found that automatically labelling someone as a member of a terrorist organization solely based on legal activities, without concrete evidence of intent or actual contribution to the organization, violated the principles of legality and individual criminal responsibility under Article 7. The Court emphasized that to establish membership in an armed terrorist organization, there must be evidence not only of an individual's actions contributing materially to the organization but also of specific intent, including awareness of the organization's methods and objectives and a willingness to submit to its hierarchy. In the absence of both mental and material elements, such a conviction fails to meet the foreseeability standard required by law and effectively presumes guilt. The ECtHR's failure to apply the standards established in Yalçinkaya represents a troubling inconsistency that risks undermining the coherence of its jurisprudence.

d. The UN Special Procedures' Observations on the Designation of the Hizmet Movement as a Terrorist Organization

17. Recent communications from the UN Special Rapporteurs, particularly the detailed allegation letter (#AL_TUR_5/2024),² underscore critical concerns about the Turkish Government's designation of the Hizmet/Gülen Movement as a terrorist organization. The Special Rapporteurs highlighted that this designation fails to meet international due process requirements and does not align with the model definition of terrorism established by the UN Special Rapporteur on counter-terrorism and human rights. They emphasized that Anti-Terror Law No. 3713 and provisions in the Turkish Penal Code are drafted with excessively broad language, enabling their misuse to target political dissidents, journalists, and individuals associated with the Hizmet/Gülen Movement. This systematic misapplication has resulted in arbitrary detentions and violations of fundamental rights, as evidenced in numerous cases brought before international human rights mechanisms.

18. The Rapporteurs also documented alarming trends, including transnational abductions, the use of vague "grey lists" to designate individuals as terrorists, and the absence of safeguards against the abuse of surveillance powers. These practices, combined with the Turkish Government's refusal to engage substantively with inquiries from UN human rights bodies, reflect a systematic pattern of repression against those linked to the Hizmet/Gülen Movement. Such findings challenge the validity of the Movement's designation as a terrorist organization and highlight Türkiye's failure to adhere to international human rights standards. These observations further undermine the foreseeability of convictions like those in the Yasak case, where lawful activities were retrospectively construed as criminal acts.

19. In summary, the ECtHR's reasoning in Yasak v. Türkiye regarding the classification of the Hizmet/Gülen Movement and its implications for the applicant's conviction raises significant concerns. By upholding a conviction based on ambiguous and retroactive standards, the judgment contravenes the principles of legality and foreseeability under Article 7 of the ECHR. Furthermore, recent findings by UN Special Rapporteurs highlight

² <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=29351>

that the designation of the Hizmet/Gülen Movement as a terrorist organization fails to meet international due process requirements and facilitates systematic repression through overly broad and misapplied anti-terrorism laws.

2. Constituent Elements of the Offense of Membership in an Armed Terrorist Organization

20. The ECtHR in *Yasak v. Türkiye* analyzed whether the applicant's conviction under Article 314 § 2 of the Turkish Criminal Code (CC), which criminalizes membership in an armed terrorist organization, adhered to the principles of legality, foreseeability, and fair trial. While acknowledging the accessibility of the relevant legal provisions, the Court's findings regarding their application raise significant concerns, particularly in light of the case's reliance on evidence and the broader implications of applying laws retroactively to organizations like the Hizmet/Gülen Movement.

a. Accessibility and Foreseeability of the Law

21. The Court emphasized that Article 314 § 2 of the CC had been in force since 2005, predating the applicant's alleged actions. While the formal accessibility of this provision is undisputed, the foreseeability of its application to the applicant's specific circumstances requires further scrutiny. As previously discussed, the Hizmet/Gülen Movement had not been classified as a terrorist organization during the relevant period. Consequently, the foreseeability of a conviction under Article 314 § 2 for lawful activities associated with the Hizmet/Gülen Movement is questionable.

22. Moreover, the Court failed to adequately address whether the legal framework, as interpreted by domestic courts, provided the applicant with sufficient clarity regarding the specific acts and intent required to constitute membership in an armed terrorist organization.

b. Organic Link and Hierarchical Structure

23. The ECtHR relied on the Turkish Court of Cassation's case-law, which requires an organic link between the accused and the organization, characterized by continuity, diversity, and intensity of the individual's activities. The Court also noted that membership involves adherence to the organization's hierarchy and a willingness to act within its structure.

24. In the *Yasak* case, however, these criteria were not convincingly established. The evidence against the applicant, such as his role in supervising student houses linked to the Hizmet/Gülen Movement, did not demonstrate criminal activities or any hierarchical connection to an armed organization. These actions were lawful, nonviolent, and consistent with the movement's openly acknowledged educational and social initiatives during the relevant period.

25. The applicant's alleged position as a "regional supervisor" of student houses does not inherently imply adherence to a secret hierarchy. Such responsibilities were common and did not constitute evidence of participation in or knowledge of any illicit activities.

c. Procedural Fairness and Reliability of Evidence

26. The domestic courts concluded that the applicant's conviction was based on reliable evidence and fair proceedings. However, this conclusion disregards significant procedural deficiencies:

- Witness testimonies were obtained under the "active repentance" regime, incentivizing incriminating statements without adequate safeguards.
- Key evidence, such as the applicant's alleged use of a pseudonym and contact with others linked to the Gülen Movement, was circumstantial and lacked corroboration.
- The applicant was denied the opportunity to challenge critical evidence, violating his right to a fair trial.

27. In a nutshell, while the ECtHR upheld the conviction as compatible with Article 7 of the ECHR, its reasoning fails to account for the significant gaps in the evidence and procedural fairness of the domestic proceedings. The application of Article 314 § 2 to the applicant's lawful activities, without credible proof of criminal intent or an organic link to an armed organization, contravenes the principles of legality and foreseeability. These deficiencies underscore the need for stricter scrutiny in politically sensitive cases and for ensuring that convictions are based on clear and consistent legal standards.

3. The Material Element (Actus Reus) of the Offense

28. In *Yasak v. Türkiye*, the ECtHR analyzed the material element (actus reus) of the applicant's alleged offense under Article 314 § 2 of the Turkish Criminal Code. This analysis focused on whether the applicant's activities could be considered acts of membership in an armed terrorist organization, as alleged by the Turkish courts.

29. The ECtHR noted that the applicant was found guilty of activities aimed at expanding the Hizmet/Gülen movement's" base of support, particularly among students, and facilitating infiltration into public institutions. According to the Court, these activities were allegedly conducted in a confidential manner to further the organization's objectives.

30. However, a closer examination of the evidence and findings reveals significant shortcomings in the establishment of the material element and its alignment with principles of fairness and legality under Article 7 of the ECHR.

a. Activities Alleged Against the Applicant

31. The applicant's role as a student mentor and supervisor of student houses, actions central to the conviction, were lawful at the time and openly conducted without any apparent secrecy or intent to support unlawful aims.

32. The alleged confidential nature of these activities and their connection to the organization's broader objectives were not substantiated by concrete evidence. Procedural flaws, such as the reliance on witness testimonies obtained under coercive conditions, further undermine these claims.

33. The ECtHR relied on generalized accusations against the Movement rather than evidence directly linking the applicant's specific actions to any unlawful activities. This

approach conflates the broader accusations against the organization with the individual's conduct, effectively applying "guilt by association," which contravenes the principles outlined in *Yalçınkaya v. Türkiye*.

b. Hierarchical Structure and Secretive Activities

34. The applicant's actions, such as organizing student houses and mentoring students, do not inherently imply integration into a secret or hierarchical structure. As noted earlier, such roles were common, openly conducted, and lawful, making it unreasonable to equate them with hierarchical adherence to an armed organization.

35. The applicant's activities were neither covert nor exclusive to the Hizmet/Gülen movement. Similar practices were widespread across various religious and educational communities in Türkiye and were widely accepted during the relevant period and even today for other faith-based organisations. The claim of secrecy appears speculative, lacking corroborative evidence specific to the applicant.

36. While the ECtHR cited accusations of exam fraud and unlawful infiltration by the organization, no evidence was presented to establish the applicant's involvement in or knowledge of such activities. This lack of individualization in the evidence undermines the validity of the findings against the applicant.

c. Rejection of the Applicant's Argument

37. The ECtHR dismissed the applicant's claim that his actions were lawful during the relevant period. However, this rejection fails to address the critical issue of foreseeability:

- At the time of the applicant's activities, the Hizmet/Gülen Movement was a legally recognized entity, widely engaged in educational and social initiatives with government support.
- The retroactive application of criminal liability based on activities that were not illegal at the time contravenes the principle of legality under Article 7 of the ECHR.

38. In brief, the ECtHR's assessment of the material element in *Yasak v. Türkiye* reveals a troubling reliance on generalized allegations and unsubstantiated claims of secrecy and hierarchical integration. By failing to establish a clear and individualized connection between the applicant's actions and the alleged unlawful objectives of the Hizmet/Gülen Movement the judgment undermines the principles of fairness and legality. This approach risks legitimizing convictions based on speculative and retroactive interpretations of lawful activities, raising serious concerns about the protection of fundamental rights under the Convention.

4. The Moral Element (Mens Rea) of the Offense

39. The ECtHR in *Yasak v. Türkiye* also assessed the mental of the offense under Article 314 § 2 of the Turkish Criminal Code. The Court determined that the applicant's intent was proven through his alleged position within the Hizmet/Gülen Movement and the nature of his activities, which were deemed secret, continuous, and aimed at achieving the organization's objectives.

40. However, a critical analysis of the findings reveals significant shortcomings in establishing the applicant's specific intent and knowledge of any criminal objectives.

a. Specific Intent and Knowledge

41. The Court relied on generalized claims that the applicant acted as an "executive" within the organization's secret structure, engaging in activities aimed at furthering its objectives. However, as detailed earlier, the evidence presented, including the applicant's role as a student mentor, does not inherently indicate criminal intent.

42. The applicant's lawful activities, such as supervising student houses, were retrospectively characterized as criminal, despite the lack of evidence that he knowingly or willingly contributed to any alleged illegal aims of the Hizmet/Gülen Movement

43. The Court concluded that the applicant was aware of the aims and methods of the Hizmet/Gülen Movement. However, during the relevant period (2010–2014), the organization was widely recognized as a legitimate entity. The applicant could not have reasonably foreseen its later designation as a terrorist organization, as previously discussed.

44. The reliance on circumstantial evidence, such as alleged secrecy in activities, failed to demonstrate that the applicant had actual knowledge of or intent to further any criminal objectives.

b. Res Judicata and Historical Context

45. The applicant referred to the 2000 acquittal of Fetullah Gülen, arguing that this decision should have bearing on his case. The Court dismissed this argument, citing the principle of res judicata and the emergence of new factors regarding the organization's alleged criminal nature.

46. The Court's dismissal of the acquittal as irrelevant is problematic given the lack of substantive evidence linking the applicant's actions to criminal objectives. The absence of new, credible evidence undermines the claim that the applicant acted with intent to support a terrorist organization.

47. The retroactive characterization of the Hizmet/Gülen Movement as a terrorist entity creates a conflict with the foreseeability principle. The applicant's alleged intent must be evaluated within the legal and factual context of the period, which did not support such a classification.

c. Fair Trial and Procedural Concerns

48. Although the ECtHR did not examine specific fair trial complaints in Yasak case, and despite the many irregularities in the proceedings that violated fair trial guarantees, it is noteworthy that the Chamber still reaches a conclusion regarding the fairness of the proceedings against the applicant.

49. Almost none of the fundamental principles of a fair trial, as guaranteed under Article 6 § 1 of the Convention, were respected in this case. First, none of the suspects, including the prosecution witnesses and the applicant, without exception, were provided with access to a lawyer of their choice during the first five days of their detention.

50. Throughout the trial, all meetings between the applicant and his lawyer in prison were recorded on camera and conducted under the supervision of prison staff. These practices constituted a clear violation of Article 6 § 3 of the Convention. The Court is undoubtedly aware of such practices, as they were authorized by emergency decrees adopted on July 23 and 27, 2016, under the state of emergency, and because thousands of applications before the Court raise similar grievances.

51. The applicant was heard via a video-conference system without the benefit of assistance from his lawyer. He was not given the opportunity to cross-examine the witnesses, who were not heard by the trial court but instead by courts in their respective places of residence.

52. Even if the applicant did not raise all these fair trial violations in the application, it was incumbent upon the Chamber to examine them proprio motu, as the Chamber predicates the absence of a violation of Article 7 on the condition of a fair trial. Moreover, some of the Article 6 violations are clearly evident from the judgment itself.

d. Deference to Domestic Courts and risks in cases of political allegations

53. The ECtHR emphasized its role in reviewing the fairness of domestic proceedings rather than determining individual criminal responsibility. While this principle is valid, it does not absolve the Court from ensuring that domestic judgments adhere to the ECHR's principles of legality and foreseeability.

54. The Court's reliance on the domestic courts' findings overlooks the speculative nature of the evidence used to infer the applicant's intent. The broad interpretation of mens rea risks undermining the fundamental protections under Article 7 of the ECHR, particularly in cases involving politically charged allegations.

55. In summary, the ECtHR's analysis of the moral element in *Yasak v. Türkiye* raises significant concerns regarding the evidentiary and procedural basis for inferring the applicant's intent. By relying on generalized accusations and circumstantial evidence, the judgment fails to meet the rigorous standards required to establish mens rea. The retroactive application of criminal liability based on lawful activities further contravenes the principles of legality and foreseeability.

5. As Regards Article 3 of the Convention

56. The ECtHR in *Yasak v. Türkiye* addressed complaints under Article 3 of the European Convention on Human Rights (ECHR), which prohibits inhuman or degrading treatment.

57. While the Court concluded that the applicant's detention conditions did not meet the threshold for a violation, this analysis, particularly in light of systemic overcrowding and inadequate detention conditions in Türkiye, raises significant concerns. The judgment appears to underestimate the cumulative impact of the applicant's detention conditions and sets a rigid standard that risks undermining Article 3 protections.

58. The Court's conclusion ignores the overwhelming evidence of severe overcrowding in Turkish penitentiaries post-2016. As noted by Judge Krenč in his concurring opinion, the Çorum penitentiary where the applicant was detained operated at four times its intended capacity, with 1,950 to 2,000 detainees in a facility designed for 477. This extreme overcrowding inevitably compromised the infrastructure, resulting in insufficient access

to basic amenities such as toilets and showers, inadequate water supply, and deteriorating hygiene standards. The applicant's prolonged exposure to these conditions over three years far exceeded the limits of tolerable suffering under Article 3, yet the Chamber failed to adequately consider the cumulative impact of these conditions.

59. The ECtHR also did not sufficiently weigh the prolonged lack of personal space endured by the applicant. The Court relied on its finding that the applicant's personal space ranged between 3.6 and 6 m² during his detention, which did not fall below the 3 m² threshold established in *Muršić v. Croatia*. However, as Judge Krenč emphasized, the applicant's lack of adequate space persisted for several years, exacerbating the detrimental effects of overcrowding on his mental and physical health. The Court's failure to account for the prolonged nature of this deprivation undermines the protection afforded by Article 3, which requires a holistic assessment of cumulative conditions rather than rigid adherence to numerical thresholds.

60. Another troubling aspect of the judgment is its dismissal of the applicant's complaints regarding sleeping conditions. The applicant was forced to sleep on a mattress on the floor for extended periods, a clear violation of the standard of "one detainee, one bed" established by the European Committee for the Prevention of Torture (CPT). The Chamber's conclusion that these conditions did not reach the threshold of severity required under Article 3 overlooks the prolonged nature of the applicant's suffering and the systemic failures of the penitentiary system. The inconsistency between this judgment and the ECtHR's prior case law, such as *Ananyev and Others v. Russia*, undermines the uniformity of protections guaranteed by the Convention.

Conclusion

61. The Turkish Government's reliance on the *Yasak v. Türkiye* judgment to advocate for the dismissal of similar complaints under the ICCPR not only lacks a basis but reveals malicious attempt to undermine the *Yalçınkaya* precedent. The judgment itself is marred by inconsistencies, both in its interpretation of key legal principles and its assessment of evidence.

62. Contrary to the Government's assertions, the ECtHR's findings in *Yasak* fail to convincingly address the retroactive and unforeseeable application of criminal law in the absence of formal classification of the Hizmet/Gülen Movement during the relevant period. Moreover, procedural deficiencies, including reliance on coerced testimony and denial of fundamental defense rights, undermine the claim that the applicant received a fair trial.

63. The judgment also dismisses the applicant's well-founded complaints regarding detention conditions without adequately considering the cumulative effect of systemic overcrowding, inadequate living standards, and prolonged deprivation. This dismissal not only contradicts established jurisprudence but also risks setting a dangerous precedent for future cases.

64. The systemic issues in Türkiye, including mass detentions and the politicized judiciary post-2016, cast doubt on the impartiality and fairness of domestic proceedings in cases involving politically charged allegations. These contextual factors must be

considered to ensure a proper evaluation of similar complaints before the United Nations mechanisms.

65. The Turkish Government selectively relies on the *Yasak v. Türkiye* judgment, which is an isolated case and lacks relevance to most applicants' situations, while ignoring the Grand Chamber's *Yalçınkaya* judgment, which directly addresses systemic issues in Türkiye. This selective approach disregards the concrete realities of mass detentions and retroactive prosecutions faced by hundreds of thousands of individuals.

66. For these reasons, the findings in *Yasak v. Türkiye* should not be relied upon as authoritative precedents for dismissing applications before the United Nations treaty bodies. Instead, the inconsistencies and procedural shortcomings in the judgment necessitate further scrutiny to uphold the principles of legality, fairness, and human dignity enshrined in international human rights law.