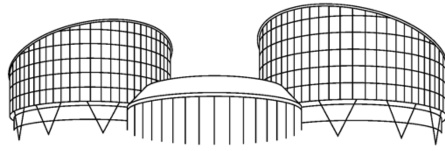


SECOND SECTION

**CASE OF TURAN AND OTHERS v. TURKEY**

*(Applications nos. 75805/16 and 426 others – see appended list)*

JUDGMENT

Art 5 § 1 • Lawful detention • Pre-trial detention of judges suspected of membership of an illegal organisation following a coup attempt, on the basis of an unreasonable extension of the concept of *in flagrante delicto*

STRASBOURG

23 November 2021

*This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.*

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

**In the case of Turan and Others v. Turkey,**

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Jon Fridrik Kjølbro, *President,*
Carlo Ranzoni,
Egidijus Kūris,
Branko Lubarda,
Pauliine Koskelo,
Marko Bošnjak,
Saadet Yüksel, *judges,*
and Hasan Bakırcı, *Deputy Section Registrar,*

Having regard to:

the applications (nos. 75805/16 and 426 others– see appended list) against the Republic of Turkey lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by 427 Turkish nationals ("the applicants"), on the various dates indicated in the appended table;

the decision to give notice to the Turkish Government ("the Government") of the complaints under Article 5 §§ 1, 3, 4 and 5 of the Convention and to declare inadmissible the remainder of the applications;

the parties' observations;

Having deliberated in private on 19 October 2021,

Delivers the following judgment, which was adopted on that date:

# INTRODUCTION

1. The present applications mainly concern the arrest and pre-trial detention of the applicants – all of whom were sitting as judges or prosecutors at different types and/or levels of court at the material time – on suspicion of their membership of an organisation described by the Turkish authorities as the "Fetullahist Terrorist Organisation / Parallel State Structure" (Fetullahçı Terör Örgütü / Paralel Devlet Yapılanması, hereinafter referred to as "FETÖ/PDY"), in the aftermath of the coup attempt of 15 July 2016.

# THE FACTS

2. A list of the applicants is set out in the appendix. At the time of the events giving rise to the present applications, they were members of the Court of Cassation or the Supreme Administrative Court, or served as judges in lower courts (hereinafter referred to as "ordinary judges") or as prosecutors.

3. Some of the applicants were represented by lawyers, whose names are listed in the appendix. The Government were represented by their Agent,

Mr Hacı Ali Açıkgül, Head of the Department of Human Rights of the Ministry of Justice of the Republic of Turkey.

4. The facts of the case, as submitted by the parties, may be summarised as follows.

# I. BACKGROUND TO THE CASE

## A. Attempted coup of 15 July 2016 and declaration of a state of emergency

5. During the night of 15 to 16 July 2016 a group of members of the Turkish armed forces calling themselves the "Peace at Home Council" attempted to carry out a military coup aimed at overthrowing the democratically installed National Assembly, government and President of Turkey. Further information regarding the events of that night may be found in the case of *Baş v. Turkey* (no. 66448/17, § 7, 3 March 2020).

6. The day after the attempted military coup, the national authorities blamed the attempt on the network linked to Fetullah Gülen, a Turkish citizen living in Pennsylvania (United States of America) and considered to be the leader of FETÖ/PDY.

7. On 16 July 2016 the Bureau for Crimes against the Constitutional Order at the Ankara public prosecutor's office initiated a criminal investigation *ex proprio motu* into, *inter alios*, the suspected members of FETÖ/PDY within the judiciary. According to the information provided by the Government, this investigation against judges and prosecutors, including members of high courts, was initiated in accordance with the provisions of the ordinary law, on the ground that there had been a case of discovery *in flagrante delicto* falling with the jurisdiction of the assize courts.

8. In instructions issued to the Directorate General of Security on the same day, the Ankara Chief Public Prosecutor noted that the offence of attempting to overthrow the government and the constitutional order by force was still ongoing and that there was a risk that members of the FETÖ/PDY terrorist organisation who were suspected of committing the offence in question might flee the country. He asked the Directorate General of Security to contact all the regional authorities with a view to taking into police custody all the judges and public prosecutors whose names were listed in the appendix to the instructions – including some of the applicants –, and to ensure that they were brought before a public prosecutor to be placed in pre-trial detention under Article 309 of the Criminal Code.

9. On 20 July 2016 the Government declared a state of emergency for a period of three months as from 21 July 2016; the state of emergency was subsequently extended for further periods of three months by the Council of Ministers.

10. On 21 July 2016 the Turkish authorities gave notice to the Secretary General of the Council of Europe of a derogation from the Convention

under Article 15 (for the contents of the notice, see *Alparslan Altan v. Turkey*, no. 12778/17, § 66, 16 April 2019, or *Baş*, cited above, § 109).

11. During the state of emergency, the Council of Ministers passed several legislative decrees under Article 121 of the Constitution (see *Baş*, cited above, § 52). One of them, Legislative Decree no. 667, published in the Official Gazette on 23 July 2016, provided in its Article 3 that the High Council of Judges and Prosecutors (*Hakimler ve Savcılar Yüksek Kurulu* -"the HSYK") was authorised to dismiss any judges or prosecutors who were considered to belong or to be affiliated or linked to terrorist organisations or organisations, structures or groups found by the National Security Council to have engaged in activities harmful to national security.

12. On 18 July 2018 the state of emergency was lifted.

## B. Suspensions and dismissals

### *1. Suspensions of ordinary judges and prosecutors*

13. On 16 July 2016 the 3rd Chamber of the HSYK noted that, in accordance with the instructions of the Ankara Chief Public Prosecutor, a criminal investigation had been initiated in respect of judges and prosecutors suspected of being members of FETÖ/PDY (see paragraph 7 above). It decided to submit a proposal to the chairman of the HSYK to approve the opening of an investigation, in accordance with section 82 of Law no. 2802 on judges and prosecutors ("Law no. 2802") (see *Baş*, cited above, § 67, for the relevant section of Law no. 2802).

14. On the same day, the 2nd Chamber of the HSYK held an extraordinary meeting. It noted that the proposal by the 3rd Chamber for the opening of an investigation had been accepted by the chairman of the HSYK and that the presidency of the Inspection Board of the Ministry of Justice had appointed a chief inspector. On the basis of the report drawn up by the chief inspector, the 2nd Chamber of the HSYK suspended 2,735 judges and prosecutors – including some of the applicants – from their duties for a period of three months, pursuant to sections 77(1) and 81(1) of Law no. 2802, on the grounds that there was strong suspicion that they were members of the terrorist organisation that had instigated the attempted coup and that keeping them in their posts would hinder the progress of the investigation and undermine the authority and reputation of the judiciary. Its decision was based on information and documents in the investigation files that it had been sent prior to the coup attempt and on information obtained following research by the intelligence services. Further details regarding the HSYK's decision may be found in the *Baş* case (ibid., §§ 17-20).

15. It appears from the information provided by the Government that by decisions taken on 19 and 22 July, 10 August and 13 October 2016, the HSYK decided to suspend more judges and prosecutors from their duties –including some of the applicants – on grounds similar to those in its earlier decision of 16 July 2016.

#### 2. *Suspensions of members of the Court of Cassation and the Supreme Administrative Court*

16. On 17 July 2016 the 1st Presidency Board of the Court of Cassation issued a decision (no. 244/a) revoking the existing authorities of the members of the Court of Cassation whose names had been indicated by the Chief Public Prosecutor's Office, including some of the applicants. A similar decision (no. 2016/27) was taken by the Presidency Board of the Supreme Administrative Court on the same date in respect of its members concerned, including, once again, some of the applicants.

#### 3. *Dismissals*

17. On 24 August 2016, applying Article 3 of Legislative Decree no. 667 (noted in paragraph 11 above), the plenary HSYK dismissed 2,847 judges and prosecutors – including many of the applicants – considered to be members of or affiliated or linked to FETÖ/PDY (decision no. 2016/426). The HSYK found that the position of the judges and prosecutors concerned within structures that were incompatible with the principles of independence and impartiality and their activities within the organisation's hierarchy, coupled with their underlying sense of allegiance, were likely to undermine the reputation and authority of the judiciary. It held that the fact that judges and prosecutors obeyed the instructions of a hierarchical structure outside the State apparatus presented a genuine obstacle to the right of citizens to a fair trial.

18. According to the information provided by the parties, a total of a further 1,393 judges and prosecutors were dismissed from the profession in the following months, including some of the applicants.

## II. APPLICANTS' ARREST AND PRE-TRIAL DETENTION

### A. Decisions for the applicants' arrest and pre-trial detention

19. Acting on the instructions of the Ankara Chief Public Prosecutor's Office (see paragraph 8 above), regional and provincial prosecutors' offices initiated criminal investigations in respect of individuals suspected of being involved in the coup attempt and/or alleged to have links to the FETÖ/PDY organisation, including the applicants.

20. Following their arrest and detention in police custody, the applicants were placed in pre-trial detention on various dates between 18 July 2016 and 19 October 2016, mainly on suspicion of membership of the FETÖ/PDY organisation, an offence punishable under Article 314 of the Criminal Code (see *Baş*, cited above, § 58). The pre-trial detention orders were issued by the magistrates' courts located at the respective places of the applicants' arrest.

21. When ordering the applicants' pre-trial detention, the magistrates' courts relied mainly on the fact that the applicants had been suspended from their duties as judges or prosecutors on the grounds of their membership of the organisation that had instigated the attempted coup and that the Ankara Chief Public Prosecutor's Office had requested the launching of a criminal investigation in their regard. The magistrates noted the existence of further incriminating evidence in respect of some of the applicants, such as witness statements or evidence suggesting their use of the ByLock messaging system. Regard being had to the state of the evidence, the nature of the alleged offence or offences – which were among the so-called 'catalogue' offences listed in Article 100 of the Code of Criminal Procedure (CCP) –, the potential sentences and the ongoing investigations into the coup attempt across the country, the magistrates' courts held that pre-trial detention was a proportionate measure. In the majority of the decisions, it was noted specifically that the criminal investigation was governed by the ordinary rules, given that the offence of which the suspects were accused, namely membership of an armed terrorist organisation, was a 'continuing offence' (*temadi olan suç*) and that there was a case of discovery *in flagrante delicto* governed by the relevant provisions of domestic law (see *Baş*, cited above, § 67, as regards the relevant section 94 of Law no. 2802, and paragraphs 30 and 31 below as regards Laws nos. 2797 or 2575, respectively).

22. On different dates the magistrates' courts dismissed the applicants' objections against the initial orders for their detention, mainly on the same grounds as those indicated in the initial detention orders.

23. The applicants' continued pre-trial detention was reviewed automatically pursuant to Article 108 of the CCP, which provides for a review every thirty days (see *Baş*, cited above, § 62). Their requests for release were examined at the same time as the automatic periodic review of their detention, as provided under Article 3, paragraph 1 (ç), of Legislative Decree no. 668 (ibid., § 81). The reviews, which were carried out on the basis of the case files, were not conducted on an individual basis but concerned a large group of suspects. Both the decisions to prolong the pre-trial detention and the dismissals of the applicants' objections to their detention essentially involved a repetition of the reasons put forth at the time of the initial pre-trial detention.

## B. Decisions concerning the applicants' continued pre-trial detention, and their indictment, trial and conviction

24. According to the information provided by the parties, on various dates the applicants were charged with membership of a terrorist organisation under Article 314 § 2 of the Criminal Code. During the subsequent trial stage, the first-instance courts, ruling either at the scheduled hearings or at periodic reviews carried out between the hearings, ordered the

applicants' continued detention and dismissed their requests for release on grounds similar to those noted above.

25. According to the latest information in the case file, the first-instance courts have concluded their examinations regarding all applicants, except for a few. Most of the applicants were convicted of membership of a terrorist organisation, and some sixteen applicants were acquitted. For the most part, the appeal proceedings are still pending before the regional courts of appeal or the Court of Cassation, as relevant, except in the case of a few applicants whose convictions or acquittals have become final.

### C. Individual applications to the Constitutional Court

26. In the meantime, the applicants lodged one or more individual applications with the Constitutional Court in respect of, *inter alia*, the alleged violation of their right to liberty and security on various accounts, all of which were declared inadmissible.

27. Amongst the complaints lodged by the applicants was the one concerning their detention in alleged breach of the procedural safeguards afforded to judges and prosecutors in domestic law and the lack of jurisdiction of the magistrates' courts that had ordered their detention, which the Constitutional Court found to be inadmissible. It held essentially that in view of the nature of the alleged offence and the manner in which it had been committed, it had been appropriate to accept the jurisdiction of the magistrates who had ordered the applicants' detention. In many of the decisions, it further stated expressly that there had been no error of assessment or any arbitrariness as regards the application of the provisions relating to discovery *in flagrante delicto*.

# RELEVANT LEGAL FRAMEWORK AND PRACTICE

## I. RELEVANT DOMESTIC LAW AND PRACTICE

28. The relevant domestic law and practice, including the pertinent case-law of the Court of Cassation and the Constitutional Court, have for the most part been set out in the cases of *Alparslan Altan v. Turkey* (cited above, §§ 46-48, 50-55 and 59-64) and *Baş v. Turkey* (cited above, §§ 52-67, 70, 81-90, 98-99, 101-103). Further elements of relevant domestic law and practice are summarised below.

### A. Code of Criminal Procedure (CCP) (Law no. 5271)

29. The relevant parts of Article 141 § 1 of the CCP provide:

> "Compensation for damage ... may be claimed from the State by anyone ...
>
> (a) who has been arrested or taken into or kept in detention under conditions or in circumstances not complying with the law;

...

(d) who, even if he or she was detained lawfully during the investigation or trial, has not been brought before a judicial authority within a reasonable time and has not obtained a judgment on the merits within a reasonable time;

(e) who, after being arrested or detained in accordance with the law, was not subsequently committed for trial or was acquitted; ...”

## B. Court of Cassation Act (Law no. 2797)

30. The relevant provision of the Court of Cassation Act (Law no. 2797) provides:

**Preliminary examination, investigation and prosecution of offences**
**Personal and duty-related offences**
**Section 46**

“The opening of an investigation against the First President, the first deputy presidents, the chamber presidents and the members of the Court of Cassation, as well as the Chief Public Prosecutor and the Deputy Chief Public Prosecutor at the Court of Cassation, in respect of offences related to their official duties or personal offences shall be subject to the decision of the First Presidency Board. However, in cases of discovery *in flagrante delicto* falling within the jurisdiction of the assize courts, the preliminary and initial investigation shall be conducted in accordance with the rules of ordinary law.”

## C. Supreme Administrative Court Act (Law no. 2575)

31. The relevant parts of the Supreme Administrative Court Act (Law no. 2575) provide:

**Investigation**
**Section 76**

“1. The initial investigation in respect of offences committed by the President, the Chief Public Prosecutor, the deputy presidents, the chamber presidents and the members of the Supreme Administrative Court in connection with or in the course of their official duties shall be conducted by a committee composed of a chamber president and two members selected by the President of the Supreme Administrative Court.

...”

**The procedure for the prosecution of personal offences**
**Section 82**

“1. The proceedings regarding the personal offences committed by the President, the Chief Public Prosecutor, the deputy presidents, the chamber presidents and the members of the Supreme Administrative Court shall be conducted in accordance with the provisions concerning the personal offences committed by the President, the Chief Public Prosecutor and the members of the Court of Cassation.

...”

### D. Case-law of the Court of Cassation

32. On 2 July 2019 the plenary criminal divisions of the Court of Cassation delivered a judgment (E. 2019/9.MD-312, K.2019/514) regarding a former member of the HSYK suspected of membership of FETÖ/PDY, where it addressed, *inter alia*, the question of the compatibility with domestic law of the conduct of the preliminary investigation in accordance with the rules of ordinary law. After summarising its case law relating to the elements of the offence of membership of an armed organisation, which it noted was a personal offence, and to the notion of "continuing offence" (see, in this regard, *Baş*, cited above, §§ 83-86 and 90), the Court of Cassation proceeded with the examination of the concept of "*in flagrante delicto*" and its application in the context of continuing offences. Referring to the prevalent view in Turkish legal doctrine, the Court of Cassation held that continuing offences could be committed *in flagrante delicto*, and that the situation of discovery *in flagrante delicto* would persist in respect of continuing offences as long as the offence continued to be committed. The Court of Cassation pronounced as follows:

> "... As indicated as part of the general remarks regarding membership of an organisation, in order to establish the presence of membership, it is sufficient that the perpetrator continually submits (...) to the hierarchy of the organisation by his concrete actions ... Accordingly, membership (...) does not need to be demonstrated by other acts ... On the other hand, in the event that the competent authorities have obtained evidence that raises a suspicion that the perpetrator is a member of a criminal organisation, and that the continuity of the membership can be established on the basis of that evidence ..., it is not contrary to the law to ... accept that the perpetrator had been [caught] while committing the offence [in question], within the meaning of Article 2 (j), paragraph 1 of the CCP, and that, therefore, [he or she] may be subject to the terms of discovery *in flagrante delicto*. It is not necessary here that the perpetrator's criminal act be observed by the general public; it is sufficient that the competent authorities know at the time of arrest that the acts demonstrating the continuity of the membership of the organisation persist and that the perpetrator had not left the organisation."

33. The Court of Cassation held that contrary to the Court's findings in the case of *Alparslan Altan*, its interpretation of the concept of "discovery *in flagrante delicto*" in the context of the arrest of judges and prosecutors for alleged membership of FETÖ/PDY was not based on an unreasonable and arbitrary judicial interpretation. Its approach, which had also found acceptance by the Constitutional Court, was rather grounded in doctrine, on the theory of organised crime and, above all, on domestic legal provisions that had been enacted by the legislature in a consistent and harmonious manner, which the Strasbourg Court had not taken into account.

34. Referring to Article 161 § 8 of the CCP, the Court of Cassation further stated that in view of their nature and gravity, the investigation of certain offences, including that of membership of an armed organisation, would be conducted directly by the public prosecutors in accordance with the terms of the ordinary law, even if the offence was committed during, or

in connection with, the performance of an official duty. Accordingly, where such grave offences were concerned, the requirements of Article 161 § 8 of the CCP would prevail and the special investigatory procedures envisaged in certain laws – such as Law no. 2797 in respect of the members of the Court of Cassation –, would not be applicable, regardless of whether there was a case of discovery *in flagrante delicto* or not. The Court of Cassation contended that in its *Alparslan Altan* judgment, the Court had failed to assess the issue of the lawfulness of the pre-trial detention from the standpoint of Article 161 § 8 of the CCP.

35. The Court of Cassation concluded, in the light of the foregoing, that the conduct of the investigation against the defendant under the terms of the ordinary law had been in accordance with the relevant legal framework, that it had not resulted from an extensive or arbitrary interpretation of the law, and that it had thus been compatible with the requirements of the "quality of law".

### E. Case-law of the Constitutional Court

#### *1. Selim Öztürk decision (application no. 2017/4834, 8 May 2019)*

36. In a decision delivered on 8 May 2019, the Constitutional Court examined a complaint relating to the alleged unlawfulness of the pre-trial detention on 21 July 2016 of Selim Öztürk, who served as an ordinary judge subject to Law no. 2802 at the material time. According to the excerpt provided in the Constitutional Court's decision, Mr Öztürk's pre-trial detention was ordered by the Ankara Magistrates' Court on the basis of Articles 100 and 101 of the CCP, without any specific reference to section 94 of Law no. 2802 or to the existence of a situation of a discovery *in flagrante delicto*. When upholding the lawfulness of that detention order, the Constitutional Court nevertheless found that it was factually and legally tenable to hold that the judge in question had been caught *in flagrante delicto*, having regard to the Court of Cassation's consistent case-law on the matter, according to which the existence of a situation of discovery *in flagrante delicto* was inferred at the moment of the arrest of judges and prosecutors suspected of the offence of membership of an armed terrorist organisation –, and to the fact that he had been detained amid efforts to quell the coup attempt for membership of the organisation behind that attempt.

#### *2. Yıldırım Turan decision (application no. 2017/10536, 4 June 2020)*

37. On 4 June 2020 the Plenary of the Constitutional Court delivered a decision of inadmissibility in the case of *Yıldırım Turan*, which concerned the pre-trial detention of an ordinary judge – subject to Law no. 2802 – in the aftermath of the coup attempt on suspicion of membership of FETÖ/PDY. Like the present applicants, the applicant in that case

complained, *inter alia*, that his pre-trial detention had been ordered without respect for the special procedural guarantees granted to the members of the judiciary in his position under Law no. 2802.

38. The Constitutional Court stated at the outset that it had delivered many decisions where it had addressed this issue, both in respect of the members of the high courts (such as *Alparslan Altan*, no. 2016/15586, 11 January 2018, *Salih Sönmez*, no. 2016/25431, 28 November 2018, and *Hannan Yılbaşı*, no. 2016/37380, 17 July 2019, concerning members of the Constitutional Court, the Court of Cassation and the Supreme Administrative Court, respectively) and ordinary judges (such as *Adem Türkel*, no. 2017/632, 23 January 2019). Relying on the relevant legal framework and the case-law of the Court of Cassation, it had found in all those decisions that the offence in question – that is, membership of an armed terrorist organisation – was a personal offence of a continuing nature. This effectively meant that the commission of the crime had been continuing at the time of arrest, and that, therefore, there had been a situation entailing discovery *in flagrante delicto* falling within the jurisdiction of the assize courts in all the cases concerned, which had rendered inapplicable the special procedural guarantees envisaged under different laws governing the members of the judiciary in question.

39. In two further judgments delivered on 31 October 2019 (namely, *A.B.*, no. 2016/22702, and *Mustafa Özterzi*, no. 2016/14597, concerning a member of the Court of Cassation and an ordinary judge, respectively), it had consolidated this case-law and had underlined the fact that the assessment regarding the existence of a situation of discovery *in flagrante delicto* in the prevailing circumstances could not be deemed unfounded, given that the persons arrested were considered to have an organisational relation with FETÖ/PDY, which was behind the coup attempt, and that the arrests had taken place at a time when the efforts to avert that attempt were still ongoing and the threat against national security and public order persisted. The Constitutional Court therefore reiterated that in accepting the existence of a case of discovery *in flagrante delicto* with respect to the members of the judiciary arrested after the attempted coup, its main reference point had been the coup attempt itself.

40. The Constitutional Court then went on to review the judgment in the *Baş* case (cited above), where the Court had found a violation of Article 5 § 1 on the basis of its earlier conclusions in *Alparslan Altan* (cited above) regarding the extensive interpretation of the concept of *in flagrante delicto* by the domestic courts. According to the Constitutional Court, the Court's findings in that case involved an assessment not of the application of the Convention, but of the interpretation of the relevant Turkish law. While it acknowledged the binding nature of the Court's judgments, the Constitutional Court stressed that it was up to the Turkish public authorities, and ultimately to the domestic courts, to interpret the provisions of domestic law relating to the pre-trial detention of members of the judiciary. It held

that although the Court was entitled to consider whether the interpretation given by Turkish courts to domestic law violated the rights and freedoms guaranteed by the Convention, it should not replace the domestic courts and interpret domestic law first-hand. It therefore deemed it useful to recapitulate the relevant domestic legal framework and practice governing the investigation and pre-trial detention of the members of the judiciary.

41. The Constitutional Court noted essentially that the existence of the element of discovery *in flagrante delicto* falling within the jurisdiction of the assize courts constituted an exception to the procedural safeguards afforded to all judges and prosecutors, regardless of the level or type of court in which they served. However, unlike the legal framework governing the members of high courts and the elected judicial members of the HSYK, where the distinction between personal and duty-related offences was immaterial for the application of the relevant procedural safeguards, the "personal offences" committed by ordinary judges and prosecutors within the meaning of section 93 of Law no. 2802 would fall outside the protection afforded to them under the same law by reason of their profession. Measures taken in respect of such offences would therefore be subject to the rules of ordinary law, whether there was a case of discovery *in flagrante delicto* or not.

42. Accordingly, when assessing the lawfulness of the pre-trial detention of an ordinary judge or prosecutor in the present context, it was of decisive importance to determine whether the offence attributed to him or her was a personal offence or an offence committed during or in connection with the performance of duties. Relying on a number of judgments delivered by the Court of Cassation in the aftermath of the attempted coup, as well as its own relevant case-law from the same period, it reiterated that the offence of membership of a terrorist organisation could not be committed by public officials as part of their duties and, for that reason, the initiation of a criminal investigation against Mr Yıldırım Turan, and his pre-trial detention, were not subject to authorisation by an administrative authority. There was, therefore, no legal obstacle to his arrest pursuant to the terms of the ordinary law.

43. That being so, the Constitutional Court emphasised that the question as to whether there was a case of discovery *in flagrante delicto* within the meaning of section 94 of Law no. 2802 had no bearing on the lawfulness of Mr Yıldırım Turan's arrest, but was only relevant for the determination of the judicial authority with jurisdiction *ratione loci* to carry out the investigation and order the pre-trial detention. It accordingly dismissed Mr Yıldırım Turan's allegation that his deprivation of liberty had lacked a legal basis.

## II. INTERNATIONAL MATERIAL

44. The Government referred to Recommendation CM/Rec(2010)12 of the Committee of Ministers to member States, entitled "Judges: independence, efficiency and responsibilities" and adopted on 17 November 2010. The relevant parts of the Recommendation have been noted in the case of *Alparslan Altan* (cited above, § 65).

45. They further brought to the Court's attention Opinion no. 3 of the Consultative Council of European Judges (CCJE) on the "Principles and Rules Governing Judges' Professional Conduct, in Particular Ethics, Incompatible Behaviour and Impartiality", dated 19 November 2002, which provided as follows in its relevant part:

> "Article 75: As regards criminal liability, the CCJE considers that:
>
> i) judges should be criminally liable in ordinary law for offences committed outside their judicial office;
>
> ..."

## III. NOTICE OF DEROGATION BY TURKEY

46. On 21 July 2016 the Permanent Representative of Turkey to the Council of Europe sent the Secretary General of the Council of Europe a notice of derogation (see, for the text of the notice of derogation, *Alparslan Altan*, cited above, § 66, or *Baş*, cited above, § 109).

47. The notice of derogation was withdrawn on 8 August 2018, following the end of the state of emergency.

# THE LAW

## I. JOINDER OF THE APPLICATIONS

48. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment, pursuant to Rule 42 § 1 of the Rules of Court.

## II. PRELIMINARY QUESTION CONCERNING THE DEROGATION BY TURKEY

49. The Government emphasised at the outset that all of the applicants' complaints should be examined with due regard to the derogation of which the Secretary General of the Council of Europe had been notified on 21 July 2016 under Article 15 of the Convention. Article 15 provides:

> "1. In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under [the] Convention to the extent strictly required by the exigencies of the situation, provided

that such measures are not inconsistent with its other obligations under international law.

2. No derogation from Article 2, except in respect of deaths resulting from lawful acts of war, or from Articles 3, 4 (paragraph 1) and 7 shall be made under this provision.

3. Any High Contracting Party availing itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary General of the Council of Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed."

50. The parties made submissions regarding the derogation under Article 15 of the Convention along the same lines as those noted in the cases of *Alparslan Altan v. Turkey* (cited above, §§ 68-70) and *Baş v. Turkey* (*Baş v. Turkey*, cited above, §§ 112-114).

51. The Court notes that in *Mehmet Hasan Altan v. Turkey* (no. 13237/17, § 93, 20 March 2018) it held, in the light of the Constitutional Court's findings on this point and all the other material in its possession, that the attempted military coup had disclosed the existence of a "public emergency threatening the life of the nation" within the meaning of the Convention. With regard to the scope *ratione temporis* and *ratione materiae* of the derogation by Turkey – a question which the Court could raise of its own motion – the Court observes that the applicants were detained a short time after the coup attempt, the event that prompted the declaration of the state of emergency. It considers that this is undoubtedly a contextual factor that should be fully taken into account in interpreting and applying Article 5 of the Convention in the present case (see, *mutatis mutandis*, *Hassan v. the United Kingdom* [GC], no. 29750/09, § 103, ECHR 2014, and *Alparslan Altan*, cited above, § 75).

52. As to whether the measures taken in the present case were strictly required by the exigencies of the situation and consistent with the other obligations under international law, the Court considers it necessary to examine the applicants' complaints on the merits (see *Baş*, cited above, § 116).

## III. ALLEGED VIOLATION OF ARTICLE 5 § 1 OF THE CONVENTION AS REGARDS THE LAWFULNESS OF THE APPLICANTS' PRE-TRIAL DETENTION

53. The applicants complained mainly that they had been placed in pre-trial detention in breach of the domestic law governing the arrest and pre-trial detention of the members of the judiciary, and disputed that there had been a case of discovery *in flagrante delicto* for the purposes of section 94 of Law no. 2802 and section 46 of Law no. 2797. They further argued that the magistrates' courts had lacked competence and territorial jurisdiction to decide on their detention.

54. The Court considers it appropriate to examine these complaints under Article 5 § 1 of the Convention, the relevant part of which provides as follows:

> "1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: ..."

## A. Admissibility

### *1. The parties' submissions*

55. The Government urged the Court to declare this complaint inadmissible for non-exhaustion of domestic remedies in respect of the applicants who had not made use of the relevant compensatory remedy under Article 141 § 1 (a) of the CCP, which provided for an award of compensation to anyone who had been unlawfully deprived of his liberty, as well as the applicants whose claims under that provision were still pending before the domestic courts. The Government further claimed that one of the applicants (application no. 55057/17) had been granted compensation pursuant to Article 141 § 1 (e) of the CCP following his acquittal and had therefore lost his victim status. In the Government's view, any other applicants whose claims for compensation were pending before the competent courts could similarly obtain redress and lose their victim status, which the Court had to take into account in examining the admissibility of their complaints. The Government lastly asked the Court to declare the applications inadmissible for abuse of the right of application to the extent that the applicants had not informed the Court of the developments in their cases following the lodging of their applications.

56. The applicants contested the Government's arguments.

### *2. The Court's assessment*

#### (a) Non-exhaustion of domestic remedies

57. Referring to the general principles developed in its case-law regarding the rule of exhaustion of domestic remedies under Article 35 § 1 of the Convention (see, for instance, *Sargsyan v. Azerbaijan* [GC], no. 40167/06, §§ 115-116, ECHR 2015), the Court reiterates firstly that for a remedy in respect of the lawfulness of an ongoing deprivation of liberty to be effective, it must offer a prospect of release (see *Mustafa Avcı v. Turkey*, no. 39322/12, § 60, 23 May 2017). It notes in this respect that it has already found that the remedy provided for in Article 141 of the CCP is not capable of terminating the deprivation of liberty (see, for instance, *Alparslan Altan*, cited above, § 84). It therefore rejects the Government's preliminary objection insofar as it concerns the applicants who are still deprived of their liberty for the purposes of Article 5 § 1 of the Convention.

58. Secondly, with regard to the remaining applicants who are no longer in pre-trial detention, the Court recalls that where an applicant, who is no longer in detention, complains that he or she was detained in breach of domestic law, a compensation claim capable of leading to an acknowledgment of the alleged violation and an award of compensation is in principle an effective remedy which needs to be pursued if its effectiveness in practice has been convincingly established (see *Selahattin Demirtaş v. Turkey (no. 2)* [GC], no. 14305/17, § 208, 22 December 2020).

59. The Government do not dispute the fact that the applicants have challenged the lawfulness of their pre-trial detention before various domestic instances, including the Constitutional Court, and that on none of those occasions was the unlawfulness of their pre-trial detention acknowledged (see paragraph 27 above). Moreover, the examples of case-law provided by the Government regarding the domestic courts' interpretation of the concept of "*in flagranto delicto*" in the present context demonstrate unequivocally that the applicants' detention in accordance with the ordinary law provisions, as opposed to the special procedure pertaining to the detention of judges and prosecutors envisaged under the applicable laws, was considered to be compatible with the relevant domestic law by the highest courts of the land (see the case-law cited in paragraphs 32-43 below).

60. The Court considers, in the light of the foregoing, that a compensation claim under Article 141 § 1 (a) of the CCP would have had no prospects of success in respect of the applicants' complaint under Article 5 § 1 regarding the unlawfulness of their pre-trial detention. Accordingly, the Court considers that the applicants were not required to make use of that compensatory remedy for the purposes of Article 35 § 1 of the Convention (see, for a similar finding, *Baş*, cited above, § 121, and *Sabuncu and Others v. Turkey*, no. 23199/17, § 126, 10 November 2020). It therefore dismisses the Government's objection in this regard.

**(b) Victim status**

61. As for the question whether the applicant in application no. 55057/17 may be considered to have lost his victim status on account of the compensation awarded to him under Article 141 § 1 (e) of the CCP, the Court refers to its consistent and well-established case-law to the effect that a favourable decision or measure is not, in principle, sufficient to deprive applicants of their status as a "victim" for the purposes of Article 34 of the Convention, unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for the breach of the Convention (see, among other authorities, *Gäfgen v. Germany* [GC], no. 22978/05, § 115, ECHR 2010, and *Alparslan Altan*, cited above, § 85).

62. The Court notes in this connection that the award in question was made in view of the said applicant's acquittal and involved no acknowledgment of unlawfulness of his pre-trial detention. The wording of

Article 141 § 1 (e) of the CCP is indeed very clear that compensation under that provision is awarded to those who have been acquitted after being arrested or detained "in accordance with the law". For this reason, and bearing also in mind the assessment made in paragraph 59 above regarding the domestic courts' consistent approach to the issue of "lawfulness" in the present context, the award made to the applicant may not be considered as constituting an acknowledgement of the alleged breach of the right to liberty and removing his victim status. For that reason, the Court rejects the Government's objection in this regard, both in relation to application no. 55057/17 and to any other applicants who may have in the meantime received compensation on the same ground.

#### (c) Abuse of the right of application

63. The Court reiterates that under Article 35 § 3 (a) of the Convention, an application may be rejected for abuse if, among other reasons, it was knowingly based on untrue facts (see *X and Others v. Bulgaria* [GC], no. 22457/16, § 145, 2 February 2021). Incomplete and therefore misleading information may also amount to abuse of the right of application, especially if the information concerns the very core of the case and no sufficient explanation is given for the failure to disclose that information (see, for instance, *Predescu v. Romania*, no. 21447/03, § 25, 2 December 2008). The same applies where new, significant developments occur during the proceedings before the Court and where – despite being expressly required to do so by Rule 47 § 6 of the Rules of Court – the applicant fails to disclose that information to the Court, thereby preventing it from ruling on the case in full knowledge of the facts. However, even in such cases, the applicant's intention to mislead the Court must always be established with sufficient certainty (see *Centro Europa 7 S.r.l. and Di Stefano v. Italy* [GC], no. 38433/09, § 97, ECHR 2012).

64. Having examined the case files and the parties' submissions in the light of the foregoing principles, the Court does not find any indication to lead it to conclude that the applicants have withheld information in a deliberate attempt to mislead it, or have otherwise abused the right of petition in respect of their complaint in question. The Government's objection in that connection should, therefore, be dismissed.

#### (d) Conclusion

65. The Court notes accordingly that the applicants' complaint regarding the lawfulness of their pre-trial detention is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

## B. Merits

### 1. *The parties' submissions*

#### (a) The applicants

66. The applicants claimed that they had been placed in pre-trial detention in breach of the special rules of procedure prescribed in domestic law in relation to the arrest and pre-trial detention of the members of the judiciary.

67. The observations submitted by the applicants who were subject to Law no. 2802 at the time of their detention – that is, ordinary judges and public prosecutors – were largely along the same lines as those noted in the case of *Baş* (cited above, §§ 133-135).

68. As for the remaining applicants, who were members of the Court of Cassation and the Supreme Administrative Court at the material time, they mainly noted that under the relevant provisions governing their respective status – namely section 46 of Law no. 2797 and section 76 of Law no. 2575 – the opening of a criminal investigation in their regard was in principle subject to a decision of their relevant Presidency Boards. They accepted that in cases of discovery *in flagrante delicto* falling within the jurisdiction of the assize courts, the preliminary and initial investigations in their respect could be conducted under the rules of ordinary law, but contested the finding that their detention involved a situation of discovery *in flagrante delicto*. They therefore requested that the Court follow the approach it had taken in its judgment in *Alparslan Altan* (cited above). Some of the applicants stressed that while there was no doubt as to the "continuing" nature of the offence of membership of an armed organisation under Turkish law, the correlation made in the recent Court of Cassation judgments between such offences and the notion of "discovery *in flagrante delicto*" was quite far-fetched and even unlawful.

69. Some applicants further added that the offence of which they had been accused could only have been committed in connection with the performance of their official duties, given that the offence was said to relate to judicial actions that they had allegedly carried out under the instructions of the terrorist organisation in question.

#### (b) The Government

70. The Government largely repeated the observations that they had lodged in the cases of *Alparslan Altan* and *Baş* (both cited above, §§ 92-98 and §§ 136-141 respectively), as relevant, and argued that, contrary to the Court's findings in those cases, the pre-trial detention of the applicants had been in compliance with the applicable domestic legislation.

71. The Government stated at the outset that investigations had been initiated and detention orders had been issued against the applicants pursuant to the general provisions of the CCP on the basis of the

consideration that there had been a case of discovery *in flagrante delicto*. The Government explained in particular that although Laws nos. 2797 and 2575 provided for a special procedure for conducting criminal proceedings against members of the Court of Cassation and the Supreme Administrative Court, in cases of discovery *in flagrante delicto* falling within the assize courts' jurisdiction, the investigations would be conducted in accordance with the rules of ordinary law and it would be possible to order preventive measures. Section 94 of Law no. 2802 pertaining to ordinary judges and prosecutors similarly provided for the application of the rules of ordinary law in the event of discovery *in flagrante delicto* falling within the assize courts' jurisdiction.

72. The Government noted that in the present cases, the investigation conducted against the applicants had concerned their suspected membership of an armed terrorist organisation under Article 314 § 2 of the Criminal Code, which fell within the jurisdiction of the assize courts. They further noted that, in view of the "continuing" nature of the offence of membership of an armed terrorist organisation, the magistrates' courts had found that there had been a case of discovery *in flagrante delicto* at the time of the applicants' arrest and had accordingly ordered their detention in accordance with the rules of ordinary law – i.e. Articles 100 et seq. of the CCP – as per the relevant provisions of Laws nos. 2797, 2575 and 2802. In the context of the individual applications brought before it, the Constitutional Court had moreover not accepted the applicants' argument that the investigating authorities' assessment – that there had been a case of discovery *in flagrante delicto* in respect of the offence of membership of a terrorist organisation imputed to them – had lacked a factual and legal basis and had thus been arbitrary. The Government therefore considered that the primary issue to be resolved before the Court was whether there was a situation of "*in flagrante delicto*" in respect of the offence imputed to the applicants.

73. Noting that it was incumbent on the domestic judicial authorities to interpret legal concepts provided in domestic law and to determine their scope, the Government claimed that the decisions of the magistrates' courts at issue had been in accordance with the settled case-law of the Court of Cassation. They referred in this connection to the well-established practice of that court, according to which the offence of membership of an armed terrorist organisation was a "continuing offence" falling within the jurisdiction of the assize courts. They also referred to the conclusion reached by the plenary criminal divisions of the Court of Cassation in a leading judgment of 10 October 2017 (E.2017/YYB-997, K.2017/404), where it was held that "there is a situation of discovery *in flagrante delicto* at the time of the arrest of judges suspected of the offence of membership of an armed organisation, and [consequently] the investigation must be carried out in accordance with the provisions of ordinary law" (see *Alparslan Altan*, cited above, § 63; for a similar finding, see also the judgment delivered by the plenary criminal divisions of the Court of Cassation on 26 September

2017 (E. 2017/16-956, K. 2017/370), noted in *Baş*, cited above, § 88). The Government emphasised in this regard that the Court of Cassation's jurisprudence on the matter was by no means a product of the post-15 July 2016 period, as that court had interpreted the concepts of "continuing offence" and "*in flagrante delicto*" in a similar manner in cases that concerned the offence of membership of terrorist organisations other than FETÖ/PDY and that predated the cases at issue. The application of those concepts in the present context had not, therefore, involved a new judicial interpretation that could be regarded as arbitrary.

74. The Government moreover stressed that in accepting the existence of "discovery *in flagrante delicto*" in respect of the members of the judiciary placed in detention subsequent to the coup attempt of 15 July, the Constitutional Court had taken the coup attempt itself as its main reference point, rather than the continuing nature of the offence of membership of a terrorist organisation, having regard to the fact that the judges concerned were arrested at a time when the efforts to avert the coup attempt were still ongoing.

75. Referring to the relevant international material (see paragraphs 44-45 above), the Government further noted that judges and prosecutors were criminally liable for offences committed outside their judicial office in the same way as any other citizen. They submitted in this connection that the offence of which the applicants had been accused, namely membership of an armed terrorist organisation, was a personal offence, and not one that could be regarded as an offence committed in connection with or in the course of official duties. They relied in support of this argument on a judgment delivered on 28 September 2010 by the plenary criminal divisions of the Court of Cassation (E.2010/162-K.210/179), where the offence of membership of an armed terrorist organisation, of which the defendant had also been accused, had not been treated as an offence committed in connection with or in the course of official duties (see, for further information regarding that judgment, *Baş*, cited above, § 137).

76. The Government acknowledged that Laws nos. 2797 and 2575 pertaining to the members of the Court of Cassation and the Supreme Administrative Court, as well as Law no. 6216 governing the members of the Constitutional Court as outlined by the Court in *Alparslan Altan* (cited above, §§ 49 and 106-107), did not differentiate between offences committed in an official or personal capacity, and that the special procedures envisaged under the relevant laws would apply in both circumstances, unless there had been a case of discovery *in flagrante delicto* as indicated above. The situation was different, however, in respect of ordinary judges and prosecutors subject to the provisions of Law no. 2802, which provided that personal offences governed by section 93 would be treated in accordance with the requirements of the ordinary law. Relying on the positions taken by the Court of Cassation and the Constitutional Court in this regard (see, for instance, the references made in *Baş*, cited above, § 137,

and *Alparslan Altan*, cited above, § 94, respectively, to the relevant courts' case-law; see also the judgments noted in paragraphs 32-43 above), the Government therefore argued that even if the Court were to conclude that there had not been a case of discovery *in flagrante delicto* in respect of the ordinary judges and prosecutors in the present case, their detention would still be subject to the rules of ordinary law by reason of the "personal" nature of the offence imputed to them within the meaning of section 93 of Law no. 2802. The Government therefore argued that the Court's reliance in *Baş* (cited above) on the conclusions that it had previously made in *Alparslan Altan* (cited above), in disregard of the clear distinction between the safeguards afforded to ordinary judges and prosecutors and the members of the Constitutional Court, had been erroneous.

77. They further emphasised in this regard that the decisions taken by the HSYK on 16 July 2016 and afterwards on the suspension of these judges and prosecutors from office did not as such amount to an authorisation for the opening of a criminal investigation due to a duty-related offence; those decisions rather pertained to the disciplinary investigations initiated by the HSYK following the criminal investigation launched *ex proprio motu* by the Ankara Chief Public Prosecutor's Office.

78. The Government lastly contended that consideration should also be given to Article 161 § 8 of the CCP, which provided that investigations into certain offences – including the offence of membership of an armed terrorist organisation imputed to the applicants – would be conducted directly by the public prosecutor pursuant to general provisions, even if the offence had been committed in connection with or in the course of official duties. In other words, Article 161 § 8 would bar the application of the special procedural safeguards afforded to judges and prosecutors under various laws.

*2. The Court's assessment*

79. The Court refers at the outset to the relevant principles established in its case-law regarding the right to liberty and security under Article 5 § 1 of the Convention (see, for instance, *Alparslan Altan*, cited above, §§ 99-103, and *Baş*, cited above, § 143, and the cases cited therein).

80. It reiterates in particular that where the "lawfulness" of detention is at issue, including the question whether "a procedure prescribed by law" has been followed, the Convention refers essentially to national law and lays down the obligation to conform to the substantive and procedural rules thereof. This primarily requires any arrest or detention to have a legal basis in domestic law. Compliance with national law is not, however, sufficient: Article 5 § 1 requires in addition that any deprivation of liberty should be in keeping with the purpose of protecting the individual from arbitrariness. The Court must further ascertain in this connection whether domestic law itself is in conformity with the Convention, including the general principles expressed or implied therein, notably the principle of legal certainty (see

*Mooren v. Germany* [GC], no. 11364/03, § 72, 9 July 2009, with further references).

81. On this last point, the Court stresses that where deprivation of liberty is concerned, it is particularly important that the general principle of legal certainty be satisfied. It is therefore essential that the conditions for deprivation of liberty under domestic law be clearly defined and that the law itself be foreseeable in its application, so that it meets the standard of "lawfulness" set by the Convention, a standard which requires that all law be sufficiently precise to allow the person – if need be, with appropriate advice – to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail (see, for instance, *Khlaifia and Others v. Italy* [GC], no. 16483/12, § 92, 15 December 2016, and the cases cited therein).

82. The Court notes, moreover, that it has on many occasions emphasised the special role in society of the judiciary, which, as the guarantor of justice, a fundamental value in a State governed by the rule of law, must enjoy public confidence if it is to be successful in carrying out its duties (see *Baka v. Hungary* [GC], no. 20261/12, § 164, 23 June 2016, with further references). This consideration, set out in particular in cases concerning the right of judges to freedom of expression, is equally relevant in relation to the adoption of a measure affecting the right to liberty of a member of the judiciary. In particular, where domestic law has granted judicial protection to members of the judiciary in order to safeguard the independent exercise of their functions, it is essential that such arrangements should be properly complied with. Given the prominent place that the judiciary occupies among State organs in a democratic society and the growing importance attached to the separation of powers and to the necessity of safeguarding the independence of the judiciary (see *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], nos. 55391/13 and 2 others, § 196, 6 November 2018), the Court must be particularly attentive to the protection of members of the judiciary when reviewing the manner in which a detention order was implemented from the standpoint of the provisions of the Convention (see *Alparslan Altan*, cited above, § 102, and *Baş*, cited above, § 144).

83. Turning to the specific circumstances of the present case, the Court notes, and the parties do not dispute, that the applicants were all arrested and placed in pre-trial detention in accordance with the rules of the ordinary law, more specifically, on the basis of Articles 100 et seq. of the CCP. The parties diverge, however, on the question of whether the initial pre-trial detention of the applicants – as serving judges and prosecutors enjoying a special status at the time of the events – under the rules of the ordinary law may be said to have satisfied the "quality of the law" requirement. Having regard to the different legal regulations applicable to ordinary judges and prosecutors and members of high courts, respectively, the Court will address this question separately for each group.

**(a) Ordinary judges and prosecutors subject to Law no. 2802**

84. The Court notes, as indicated above, that despite the special procedural safeguards flowing from their status as judges or prosecutors at the material time, the applicants were placed in pre-trial detention in accordance with the ordinary law, for they were deemed to have been caught *in flagrante delicto*, as per section 94 of Law no. 2802. The Court further notes that the application of the notion of "*in flagrante delicto*" in the specific context of the pre-trial detention of an ordinary judge subject to Law no. 2802 has already led to a finding of violation of Article 5 § 1 in *Baş*, where the Court found that that notion had been interpreted by the national courts in an extensive manner that was not in conformity with the requirements of the Convention (cited above, §§ 145-162). Having reviewed the parties' submissions, as well as the recent judgments of the Court of Cassation and the Constitutional Court on this matter (see paragraphs 32-43 above), the Court sees no reason to depart from its findings in the *Baş* case (cited above, §§ 145-162).

85. The Court notes, as the Government have also pointed out, that in acknowledging the existence of "discovery *in flagrante delicto*" in the present circumstances, the Constitutional Court has adopted a slightly different approach from that followed by the Court of Cassation (see *Baş*, cited above, §§ 150-156 for a detailed examination of the Court of Cassation's approach). More specifically, the Constitutional Court has taken the coup attempt as its main reference point, rather than relying solely on the continuing nature of the offence of membership of a terrorist organisation, in view of the factual context in which the relevant members of the judiciary had been arrested (see paragraph 39 above; see also the Government's argument noted in paragraph 74 above). According to the Constitutional Court, the applicants, and all members of the judiciary caught in the aftermath of the coup attempt, could be considered to have been caught *in flagrante delicto* solely on the basis of their alleged organisational ties with the terrorist organisation behind that attempt. While the Court is aware of the unique circumstances that surrounded the applicants' arrest, it considers that the Constitutional Court's conjectural approach appears likewise to stretch the concept of "*in flagrante delicto*" beyond the conventional definition provided in Article 2 of the CCP (see *Baş*, cited above, §§ 59 and 152), noting in particular the absence of an affirmation on the part of the Constitutional Court or the Government that the applicants were arrested and placed in pre-trial detention while in the process of, or immediately after, committing an act linked directly to the coup attempt (see, for a similar finding, ibid., §§ 149 and 152).

86. The Court further notes the Government's argument that the pre-trial detention of the relevant applicants under ordinary rules did not necessarily hinge on their discovery *in flagrante delicto*, but that it was also justified under section 93 of Law no. 2802, as the offence of which they had been accused was a personal offence governed by that section and not a

duty-related one. As indicated in the *Baş* case (ibid., § 158), it is not for the Court to determine into which category of offences the applicants' alleged conduct falls. The Court will therefore limit its examination to assessing whether the relevant law was applied in the present circumstances in a manner that complied with the requirements of legal certainty (ibid., § 158).

87. The Court observes in this connection that in the detention orders issued regarding the applicants, no position was taken on the "personal" or "duty-related" nature of the offence at issue and that reference was made, if any, only to section 94 of the Law, which applies to both types of offences. For the reasons enunciated in the *Baş* case (ibid.), the Court considers that the presence of a case of discovery *in flagrante delicto* appears to have been decisive for depriving the applicants of the safeguards afforded under the relevant law. The Court further notes that even in those applications where the detention orders did not make an express reference to section 94, it is clear from the relevant case-law of the Court of Cassation and the Constitutional Court that in the event of the arrest of a member of the judiciary for membership of an armed terrorist organisation, the conditions for "discovery *in flagrante delicto* falling within the jurisdiction of the assize courts" within the meaning of section 94 of Law no. 2802 would be considered to have materialised at the time of apprehension, in view of the continuing nature of the offence of membership of an armed terrorist organisation attributed to them (see, for instance, the leading Court of Cassation judgments referred to in *Baş*, cited above, §§ 88 and 150, and in paragraph 73 above; see also the Constitutional Court judgment noted in paragraph 36 above, where the existence of a situation "*in flagrante delicto*" was endorsed by that court even in the absence of an express reference to section 94 or a recognition of such situation in the detention order). The Government have moreover acknowledged in their observations that the applicants' pre-trial detention had been conducted in accordance with the general provisions of the CCP on account of their apprehension *in flagrante delicto* (see paragraphs 71-72 above).

88. The Court is, therefore, not convinced that the finding as regards the existence of a case of "*in flagrante delicto*" within the meaning of section 94 of Law no. 2802 may foreseeably have been considered as relevant only for determining the jurisdiction *ratione loci* of the court ordering the detention, without any bearing on the lawfulness of that detention (see *Baş*, cited above, § 158).

89. The Court also notes the argument made by the Court of Cassation (see paragraphs 32-35 above), and repeated in the Government's observations (see paragraph 78 above), that the special procedure set out in Law no. 2802 would in any event not apply in the applicants' cases, since the investigation against them would be conducted directly by the public prosecutors by virtue of Article 161 § 8 of the CCP, regardless of whether the offence had been committed in a personal or official capacity or whether they had been caught *in flagrante delicto*. The Court considers in this regard

that the interplay between the relevant provisions of Law no. 2802 and Article 161 § 8, and the effect of the latter on preventive measures that can be taken against members of the judiciary, remains unclear in the present context, noting in particular that Article 161 § 8 appears to relate solely to the designation of the authority responsible for conducting a criminal investigation. The Court further observes from the material before it that this argument advanced under Article 161 § 8 was not taken up by the Constitutional Court (see paragraphs 37-43 above). In these circumstances, the Court may not take that provision into consideration for the purposes of determining the lawfulness of the applicants' pre-trial detention under Article 5 § 1 of the Convention.

90. The Court reiterates, as also indicated by the Government in their observations, that it is primarily for the national authorities, notably the courts, to interpret and apply domestic law. It also reiterates, however, that it falls ultimately to the Court to determine whether the way in which that law is interpreted and applied produces consequences that are consistent with the principles of the Convention (see, for instance, *Guðmundur Andri Ástráðsson v. Iceland* [GC], no. 26374/18, § 250, 1 December 2020, and the cases cited therein). As the Government rightly pointed out, the judicial protection provided under Law no. 2802 does not mean impunity. That said, having regard to the importance of the judiciary in a democratic State governed by the rule of law, and to the fact that protection of this kind is granted to judges and prosecutors not for their own personal benefit but in order to safeguard the independent exercise of their functions, the requirements of legal certainty become even more paramount where a member of the judiciary has been deprived of his or her liberty (see *Baş*, cited above, § 158).

91. Having regard to the foregoing, and to its considerations in the *Baş* case, the Court cannot conclude that the pre-trial detention of the applicants who were subject to Law no. 2802 took place in accordance with a procedure prescribed by law within the meaning of Article 5 § 1 of the Convention. Moreover, for the reasons set out above, the Court considers that the measure at issue cannot be said to have been strictly required by the exigencies of the situation (ibid., §§ 159-162).

92. There has therefore been a violation of Article 5 § 1 of the Convention on account of the unlawfulness of the pre-trial detention of the applicants who were ordinary judges or prosecutors subject to Law no. 2802 at the time of their detention.

#### (b) Members of the Court of Cassation and the Supreme Administrative Court subject to Law no. 2797 and Law no. 2575

93. The Court notes that according to Article 46 of Law no. 2797 governing the members of the Court of Cassation, which is also applicable to members of the Supreme Administrative Court, the initiation of an investigation against these high court judges is subject to the decision of

their relevant Presidency Boards, unless in the case of discovery *in flagrante delicto* falling within the jurisdiction of the assize courts, which triggers the application of the rules of the ordinary law (see paragraphs 30-31 above).

94. The Court observes that the legal framework noted above is similar to that applicable to members of the Constitutional Court as laid out in the case of *Alparslan Altan* (cited above, § 49). It further observes that, just as in that case, the present applicants' pre-trial detention was carried out in accordance with the terms of the ordinary law by reason of the judicial authorities' finding that they had been caught *in flagrante delicto*.

95. The Court notes that the extensive application of the notion of "*in flagrante delicto*" resulted in the finding of violation of Article 5 § 1 in the aforementioned case of *Alparslan Altan* (ibid., §§ 104-115). Having regard to the information and documents before it, and to the argument in paragraphs 85 and 89-90 above, as relevant, the Court sees no reason to depart from its findings in *Alparslan Altan* (cited above). It finds accordingly that the applicants who were members of the Court of Cassation or the Supreme Administrative Court at the time of their pre-trial detention were similarly not deprived of their liberty in accordance with a procedure prescribed by law, as required under Article 5 § 1. The decision to place these applicants in pre-trial detention may not, moreover, be said to have been strictly required by the exigencies of the situation (ibid., §§ 116-119).

96. There has therefore been a violation of Article 5 § 1 of the Convention on account of the unlawfulness of the pre-trial detention of the applicants who were members of the Court of Cassation or the Supreme Administrative Court subject to Law no. 2797 or Law no. 2575 at the time of their detention.

## IV. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

97. Some of the applicants also complained under Article 5 § 1 (c) and 3 of the Convention that they had been placed in pre-trial detention in the absence of reasonable suspicion that they had committed the offence of which they had been accused, that the decisions for their detention had not been accompanied by relevant and sufficient reasons, and that the length of their pre-trial detention had been excessive. Some applicants further argued under Article 5 § 4 that the reviews conducted by the domestic courts into their detention had not complied with certain procedural safeguards, and/or under Article 5 § 5 that there had been no effective domestic remedies to allow them to obtain compensation for the alleged breaches of their rights under Article 5[1].

98. The Court has found above that the applicants' detention was not prescribed by law, which runs counter to the fundamental principle of the

[1] For a full list of the complaints raised by the applicants, see the communication report of 17 May 2019 in the case of *Altun v. Turkey* (no. 60065/16) and 545 others.

rule of law and to the purpose of Article 5 to protect every individual from arbitrariness. Having regard to the significance and implications of this finding, which goes to the heart of the protection afforded under Article 5 and entails a violation of one of the core rights guaranteed by the Convention, and to the accumulation of thousands of similar applications on its docket concerning detentions in the aftermath of the attempted coup d'état in Turkey, which puts a considerable strain on its limited resources, the Court considers – as a matter of judicial policy – that it is justified in these compelling circumstances to dispense with the separate examination of the admissibility and merits of each remaining complaint raised by each individual applicant under Article 5. The Court also points out in this connection that an individualised examination of the remaining complaints brought by each applicant would significantly delay the processing of these cases, without a commensurate benefit to the applicants or contribution to the development of the case-law. It notes furthermore that it has already addressed the legal issues raised by these complaints for the most part (see, in particular, *Selahattin Demirtaş (no 2)*, *Alparslan Altan* and *Baş*, all cited above; *Atilla Taş v. Turkey*, no. 72/17, 19 January 2021)**.** It is precisely within this exceptional context that the Court, guided by the overriding interest to ensure the long-term effectiveness of the Convention system, which is under threat by the constantly growing inflow of applications (see, *mutatis mutandis*, *Burmych and Others v. Ukraine* (striking out) [GC], nos. 46852/13 et al, §§ 111, 119 et seq., 157 and 210, 12 October 2017), decides not to examine the applicants' remaining complaints under Article 5.

## V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

99. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

100. The applicants requested compensation in varying amounts in respect of non-pecuniary damage for the alleged violation of their rights under Article 5. Most of the applicants also claimed pecuniary damage, corresponding mainly to their loss of earnings resulting from their dismissal, as well as the legal costs and expenses incurred before the domestic courts and the Court.

101. The Government considered that the applicants' claims were unsubstantiated and excessive.

### A. Relevant general principles

102. The Court reiterates at the outset that Article 41 of the Convention empowers it to afford the injured party such satisfaction as appears to it to be appropriate (see *Karácsony and Others v. Hungary* [GC], nos. 42461/13 and 44357/13, § 179, 17 May 2016).

103. The Court also reiterates, however, that it is not its role under Article 41 to function akin to a domestic tort mechanism court in apportioning fault and compensatory damages between civil parties (see *Al Jedda v. the United Kingdom* [GC], no. 27021/08, § 114, ECHR 2011). The Court is an international judicial authority contingent on the consent of the States signatory to the Convention, and its principal task is to secure respect for human rights, rather than compensate applicants' losses minutely and exhaustively. Unlike in national jurisdictions, the emphasis of the Court's activity is on passing public judgments that set human rights standards across Europe (see, *mutatis mutandis*, *Goncharova and other "Privileged Pensioners" cases v. Russia*, nos. 23113/08 and 68 others, § 22, 15 October 2009, and *Nosov and Others v. Russia*, nos. 9117/04 and 10441/04, § 68, 20 February 2014). Accordingly, the awarding of sums of money to applicants by way of just satisfaction is not one of the Court's main duties but is incidental to its task under Article 19 of the Convention of ensuring the observance by States of their obligations under the Convention (see, for instance, *Nagmetov v. Russia* [GC], no. 35589/08, § 64, 30 March 2017).

104. The Court further notes that it enjoys a certain discretion in the exercise of the power conferred by Article 41, as is borne out by the adjective "just" and the phrase "if necessary" (see, for instance, *Arvanitaki-Roboti and Others v. Greece* [GC], no. 27278/03, § 32, 15 February 2008). The exercise of such discretion encompasses such decisions as to refuse monetary compensation or to reduce the amount that it awards (see *Arvanitaki-Roboti and Others v. Greece* [GC], no. 27278/03, § 32, 15 February 2008). The Court's guiding principle in this respect is equity, which above all involves flexibility and an objective consideration of what is just, fair and reasonable in all the circumstances of the case, including not only the position of the applicant but the overall context in which the breach occurred (see *Varnava and Others v. Turkey* [GC], nos. 16064/90 and 8 others, § 224, ECHR 2009, and *Al-Jedda*, cited above, § 114).

### B. Application of these principles to the circumstances of the present case

105. As regards the applicants' request for pecuniary damage, which they claim to have sustained as a result of their loss of earnings following their dismissal, the Court observes that the present judgment concerns the

applicants' pre-trial detention and not their dismissal from the office of judge or prosecutor. Accordingly, it cannot discern a causal link between the violation found and the pecuniary damage alleged, and it therefore rejects any claims under that head (see, for a similar finding, *Alparslan Altan*, cited above, § 154, and *Baş*, cited above, § 289).

106. As for the remainder of the applicants' claims for non-pecuniary damage and costs and expenses, the Court finds it appropriate to rule in equity and make a global and uniform assessment in that respect, having regard to the general principles noted above, as well as to the materials in its possession, its case-law, the repetitive nature of the legal issues examined in the present case and the number of similar applications pending before it. Accordingly, it considers it reasonable to award each of the applicants a lump sum of 5,000 euros (EUR), covering non-pecuniary damage and costs and expenses, plus any tax that may be chargeable on that amount.

107. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

## FOR THESE REASONS, THE COURT

1. *Decides*, unanimously, to join the applications;

2. *Declares*, unanimously, the complaint under Article 5 § 1 of the Convention concerning the lawfulness of the applicants' initial pre-trial detention admissible;

3. *Holds*, unanimously, that there has been a violation of Article 5 § 1 of the Convention on account of the unlawfulness of the initial pre-trial detention of the applicants who were ordinary judges and prosecutors at the time of their detention;

4. *Holds*, unanimously, that there has been a violation of Article 5 § 1 of the Convention on account of the unlawfulness of the initial pre-trial detention of the applicants who were members of the Court of Cassation or the Supreme Administrative Court at the time of their detention;

5. *Holds*, by six votes to one, that there is no need to examine the admissibility and merits of the applicants' remaining complaints under Article 5 of the Convention;

6. *Holds*, unanimously,

   (a) that the respondent State is to pay each of the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 5,000 (five thousand euros) in respect of non-pecuniary damage and costs and

expenses, plus any tax that may be chargeable on these amounts, which are to be converted into the currency of the respondent State at the rate applicable at the date of settlement;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

7. *Dismisses*, unanimously, the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 23 November 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı
Deputy Registrar

Jon Fridrik Kjølbro
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the following separate opinions are annexed to this judgment:

(a) Concurring opinion of Judge Koskelo, joined by Judge Ranzoni;
(b) Partly concurring opinion of Judge Yüksel;
(c) Partly dissenting opinion of Judge Kūris.

J.F.K.
H.B.

# CONCURRING OPINION OF JUDGE KOSKELO, JOINED BY JUDGE RANZONI

108. The present judgment is remarkable in an unusual and highly problematic sense. The Court concludes, in effect, that it is faced with a situation that renders it unable to fulfil its function, and this conclusion is reached, moreover, in the context of core aspects of core rights enshrined in Article 5 of the Convention. Having found a violation of Article 5 § 1 on the ground of the unlawfulness, in terms of domestic law, of the applicants' initial pre-trial detention (points 3 and 4 of the operative provisions), the Court leaves the other complaints raised by the applicants under Article 5 unexamined (point 5).

109. I have voted in favour of this extraordinary outcome, reluctantly and with great misgivings. Why so?

110. It is well established that there are situations where complaints raised under different provisions of the Convention rely on a factual basis and on legal arguments which present similarities, to the extent that the Court may be justified in considering that, once a violation is found under one provision, it is not necessary to separately examine the issue from the standpoint of another provision also invoked by the applicant. The present joined cases, however, do not fall into that category of situations because, in this instance, the Court refrains from examining all other complaints raised under Article 5 apart from the issue of lawfulness. This exclusion covers, in particular, complaints pertaining to the requirement of reasonable suspicion, which under the Court's well-established case-law is an essential and necessary condition for pre-trial detention to be in accordance with Article 5 § 1 (c) of the Convention, and thus at the very core of one of the core rights. The issues raised under those complaints and the complaints based on the lack of lawfulness are not "overlapping". In fact they concern Convention safeguards which are distinct and fundamentally important.

111. Furthermore, based on the cases already examined by the Court, such as *Alparslan Altan v. Turkey* and *Baş v. Turkey* (both cited in the present judgment), as well as the related circumstances transpiring from them, it must be presumed that many of those other complaints might be well-founded.

112. Nor can it be said, under such circumstances, that the present situation would fall within the criterion used by the Court in certain cases where it may find it appropriate to limit its examination to the "main legal questions" raised by the complaints before it (see, for instance, *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

113. It is also quite clear that the present situation is not comparable with so-called pilot judgment proceedings, where the Court may strike out applications in the same series for the purpose of "returning" the issues to

be addressed at the domestic level. In the present situation, it is already evident that the applicants' recourse to domestic remedies failed and that no further domestic action can be expected to address the alleged violations of Article 5.

114. From a strictly legal point of view, there is hardly any plausible justification for leaving all the other complaints, including those relating to the core issue of reasonable suspicion, unexamined.

115. Moreover, the complaints arise from the detention of judges and prosecutors in very large numbers, which makes the situation even more serious. At the same time, it is precisely the volume of the problem which lies at the heart of the Court's dilemma (see paragraph 98 of the judgment).

116. The decision not to examine the applicants' other complaints raised under Article 5 of the Convention thus has a critically novel quality. I have nonetheless arrived at the conclusion that the time has come to acknowledge the reality as it presents itself: if alleged violations occur on a large scale and the rights concerned are no longer protected through domestic remedies, even the international supervision entrusted to the Court reaches its practical limits. The fact that core rights are at stake renders the state of affairs particularly sad and serious but cannot in itself change it. In circumstances where it has become clear that the complaints cannot, and therefore will not, be processed within a reasonable time-frame, or without paralysing the Court's activity more generally, it is better to make this impasse transparent rather than maintain illusions about the situation. Any further conclusions remain for other bodies to consider.

117. For the reasons set out above (and in paragraph 98 of the judgment itself), the wording used in the operative provision (point 5 – "no need to examine") is not, in my view, appropriate in the present context. Despite this, however, I voted in favour of this provision as I agree with its outcome.

118. As a final point, I affirm my agreement with the finding of a violation on the grounds that the applicants' pre-trial detention was not lawful within the meaning of Article 5 § 1, albeit with one additional remark. It concerns the Government's argument that the lawfulness of the detention of those applicants who were ordinary judges or prosecutors did not, under the relevant domestic law, depend on the existence of discovery *in flagrante delicto* but on whether the offence in question was a "personal" offence or a "duty-related" one, i.e. an offence committed in connection with or in the course of official duties (see paragraphs 41 and 76 of the present judgment). The Government have submitted that under domestic law, the offence of membership in a terrorist organisation – of which the applicants were suspected – qualifies as a "personal offence", rendering the specific procedural safeguards and rules governing ordinary judges and prosecutors inapplicable.

119. While acknowledging that it is primarily a prerogative of the domestic courts to interpret domestic law, the position relied on by the

Government nonetheless raises a fundamental question in the present context. In their observations before the Court, the Government have consistently described the organisation in question ("FETÖ/PDY") as one which had the aim of infiltrating various public institutions, including the judicial system, and of creating a "parallel State", the latter expression being also used in the wording adopted by the Government to denote that organisation. More specifically, the Government have submitted that judges and prosecutors belonging to that organisation took instructions from its hierarchy when dealing with cases entrusted to them. It is difficult to understand how such submissions can be reconciled with the proposition that membership of this particular organisation nonetheless remains to be characterised as a "personal offence" which is not linked with the exercise of the suspects' duties as judges or prosecutors. In the specific circumstances of these cases, such an interpretation of domestic law appears neither reasonable nor consistent with the Convention requirements of foreseeability and legal certainty.

# PARTLY CONCURRING OPINION OF JUDGE YÜKSEL

120. In the present case, I voted with the other members of the Chamber to find a violation of Article 5 § 1 of the Convention as regards ordinary judges and prosecutors subject to Law no. 2802. Nevertheless, and with all due respect to my colleagues, I submit this concurring opinion to: (a) share the reasons for which I am unable to agree with the Chamber's reasoning in reaching that conclusion; and (b) emphasise that the discord between the Court and the highest domestic courts on the question of the lawfulness of the detentions of ordinary judges and prosecutors subject to Law no. 2802 remains unresolved.

121. The Chamber's reasoning in the present case follows the findings of the majority in *Baş v. Turkey* (no. 66448/17, 3 March 2020) in respect of the lawfulness of the pre-trial detention of an ordinary judge pursuant to Law no. 2802. In *Baş* the Court held by a majority that the Turkish national courts' expansive interpretation of the scope of the concept of *in flagrante delicto* and their application of section 94 of Law no. 2802 was manifestly unreasonable and incompatible with Article 5 § 1. The Court held therefore that the applicant's detention had been unlawful (see *Baş*, cited above, § 158).

122. In my partly dissenting opinion in *Baş*, I set out the reasons for my disagreement with the majority's finding that the applicant's detention was unlawful. The crux of my reasoning was that I did not share the majority's view that the shortcomings in the applicant's case amounted to such a "gross or obvious irregularity" (see *Mooren v. Germany* [GC], no. 11364/03, § 84, 9 July 2009) as to render the detention unlawful within the meaning of Article 5 § 1 of the Convention. With the utmost respect to my colleagues, I maintain that my view as set out in my partly dissenting opinion in *Baş* is the legally correct interpretation of Article 5 § 1 of the Convention in the context of detentions pursuant to Law no. 2802.

123. In the present case, however, I made the decision to vote in favour of finding that the detention of the applicants subject to Law no. 2802 was unlawful and a violation of Article 5 § 1 of the Convention. While I maintain the validity of my view as expressed in my partly dissenting opinion in *Baş*, I cannot ignore the fact that the majority's view in *Baş* is now final and is the settled law of the Court for the time being on the issues presented in the present application. As a judge of this Court who believes that applications before the Court should be dealt with in a manner that sustains judicial integrity and the coherence of its case-law, and without prejudice to my view as expressed in my partly dissenting opinion in *Baş*, I concur with the majority in the present case.

124. I would nevertheless like to stress that the divergence that has emerged between this Court and the highest courts of Turkey on the question whether the arrest and pre-trial detention of ordinary judges and

prosecutors subject to Law no. 2802 have been effected in accordance with a "procedure prescribed by law", within the meaning of Article 5 § 1, continues to persist (see, to this effect, the latest decision delivered by the Constitutional Court on 4 June 2020 in the case of *Yıldırım Turan*, referred to in paragraphs 37-43 of the present judgment). Bearing particularly in mind the high number of applications pending before the Court which raise the same legal issue, I consider that it falls to the Grand Chamber, as the highest judicial formation of the Court, to address this state of contradiction and to clarify and consolidate the Court's position in this regard.

# PARTLY DISSENTING OPINION OF JUDGE KŪRIS

1. I voted against point 5 of the operative part of the judgment. At the same time, I agree with the outcome, because, hard as I try, I am unable to propose any pragmatic alternative to the majority's audacious decision to terminate the examination of the numerous applicants' complaints under Article 5 § 1 (c), 5 § 3, 5 § 4 and 5 § 5 of the Convention. My disagreement thus concerns not the very outcome but the wording of operative point 5: had it been worded without using the formula "no need to examine", which it now contains, and had it thus corresponded to the reasoning intended to substantiate it (paragraph 98 of the judgment), I would have voted for it (and whatever misgivings, if any, I might have had, I would have expressed them in a much shorter concurring opinion). Regrettably, the formula "no need to examine" is certainly not adequate for the extraordinary situation in which the Court has found itself in the present case. That formula had to be avoided – and it could have been avoided at no cost. It is most unfortunate. It is faulty. It is misleading, because its employment in the operative part suggests that the respective complaints are not meritorious.

But they certainly are.

## I

2. The Court does not owe any examination of the admissibility, let alone of the merits, in response to all the complaints that it receives. There is a vast array of legal grounds – and good reasons – for leaving certain complaints, even whole applications, unexamined.

3. To begin with, some non-examination is rather routine. Quite a lot of the complaints submitted to the Court do not meet the admissibility criteria defined in Article 35 and must be rejected on these formal grounds. Others are struck out of the Court's list of cases, when the Court establishes that they meet the conditions set out in Article 37.

4. Apart from the above, in the Court's practice there are also some not so routine, indeed quite exceptional, cases where the applications (or at least some complaints) are left unexamined.

5. A telling example would be the so-called pilot-judgment procedure. It is undertaken when the Court finds a systemic (or structural) problem raised by the applicant's individual case and underlying the violation found in it. In view of the growing number of similar applications and of the potential finding of an analogous violation in the respective cases, the examination of those similar applications which have not yet been communicated to the respondent Government is adjourned until that State adopts the general measures aimed at resolving that systemic (structural) problem which gave rise to the violation found in the pilot judgment, and only those applications which have already been communicated continue to be examined under the

normal procedure (see, for example, *Broniowski v. Poland* (merits), [GC], no. 31443/96, ECHR 2004-V; and, in the Turkish context, *Ümmühan Kaplan v. Turkey*, no. 24240/07, 20 March 2012). After the successful implementation of the general measures required by the pilot judgment, the adjourned applications are struck out of the Court's list of cases, and the pilot-judgment procedure is closed. This procedure is therefore designed to assist the member States in resolving, at national level, the systemic (structural) problems found by the Court, securing to all actual and potential victims of the respective deficiencies the rights and freedoms guaranteed by the Convention, offering to them more rapid redress and easing the burden on the Court, which would otherwise have to take to judgment large numbers of applications which are similar in substance, as a rule, at the expense of other meritorious cases. The pilot-judgment procedure was conceived as a response to the growth in the Court's caseload, caused by a series of cases deriving from the same systemic (structural) dysfunction, and to ensure the long-term effectiveness of the Convention machinery.

6. Alas, it does happen that the State fails to execute the pilot judgment. This may generate large numbers of follow-up applications which raise issues that are identical in substance to those raised in the case in which the pilot judgment was adopted. Perhaps the most well-known example of a pilot judgment which the respondent State failed to execute would be the one adopted in the case of *Yuriy Nikolayevich Ivanov v. Ukraine* (no. 40450/04, 15 October 2009), which otherwise would have been an inconspicuous case. That failure led the Court to adopt what it called a "new approach" in dealing with the massive influx of as many as 12,143 *Ivanov*-type follow-up applications, plus those of the five applicants specifically in the case of *Burmych and Others v. Ukraine* ((striking out) [GC], nos. 46852/13, 12 October 2017)). In *Burmych and Others* the Court proceeded in a thitherto unheard of and most extraordinary way. It concluded that the said *Ivanov*-type applications had to be dealt with in compliance with the respondent State's obligation deriving from the pilot judgment adopted in *Yuriy Nikolayevich Ivanov*, struck them out of its list of cases, considering that the circumstances justified such a course, and transmitted them to the Committee of Ministers of the Council of Europe in order for them to be dealt with in the framework of the general measures of execution of the above-mentioned pilot judgment. At the same time the Court underlined that this strike-out decision was without prejudice to its power to restore to the list of its cases, pursuant to Article 37 § 2, the respective applications "or any other similar future applications, if the circumstances justify such a course". The Court also envisaged that it might be appropriate to reassess the situation within two years from the delivery of the *Burmych and Others* judgment "with a view to considering whether in the meantime there have occurred circumstances such as to justify its exercising this power" (§ 223).

7. The *Burmych and Others* precedent was indeed instrumental for the purposes of substantially unclogging the Court's docket. Whether it was in any way instrumental also to the applicants, who sought justice in Strasbourg, but were sent back to their domestic authorities against whose (in)action they had complained, and thus whether it fulfilled its purpose, is yet to be seen. It will have successfully served its purpose if those applicants, whose applications the Court resolved not to examine, have received any tangible satisfaction at the domestic level. It is reported that today, with four years having passed since the adoption of the judgment in *Burmych and Others*, there are more indications to the contrary. Be that as it may, the above-mentioned "reassessment of the situation" by the Court has not yet taken place.

But this is not my point here.

8. My point – pertinent to the present case – is that, as was rightly pointed out by the seven dissenters in *Burmych and Others* (Judges Yudkivska, Sajó, Bianku, Karakaş, De Gaetano, Laffranque and Motoc), that judgment was one of *judicial policy*. The approach of the dissenters (which, in my reading, underlies their whole joint dissenting opinion) is that, as a matter of principle, judicial policy considerations cannot be a substitute for legal reasoning and, consequently, a judgment based on judicial policy considerations alone is *per se* incompatible with the "legal interpretation of human rights" (see paragraph 1 of their opinion).

Ideally, yes. In real life, it depends. In an ideal world, judgments indeed should be substantiated solely or at least primarily by legal argument. But the world is not a perfect place. When one proclaims the august, majestic maxim that *fiat iustitia, pereat mundus*, one should also ask oneself: what would *iustitia* be in a *mundus* which *periit*? What sense would *iustitia* make in such a *mundus*? Would it make any *practical* sense at all? And would it be at all possible?

In *Burmych and Others* the Court considered that it was left with no choice other than to depart from the ideal(istic) standards of application-processing and to disengage itself from thousands of potentially meritorious applications, the examination of which would have paralysed its activities, while still providing some (even if not, as it seems to have turned out, efficient) redress procedure to the applicants at the domestic level. The Court reasoned that any alternative would have been worse. If *Burmych and Others* was not legally justifiable, then it was at least explicable and therefore defensible from the standpoint of the pressing need to secure the broader mission of the Court. That course was taken grudgingly, *nolens volens*, the Court being cognisant of the possibility of fallouts of all sorts.

9. It must be noted that the *Burmych and Others* judgment, just like the pilot judgments, does not contain the "no need to examine" (or its twin sister "not necessary to examine") formula. *Nowhere* in the whole text. The Court did not see the complaints which it resolved not to examine as

undeserving, i.e. not requiring examination. Not at all. Rather, it considered that those complaints *merited* examination, but *could not* be effectively examined by the Court in those circumstances. It struck the unexamined applications out of its list of cases pursuant to Article 37 § 1 (c) and transmitted them to the Committee of Ministers "in order for them to be dealt with in the framework of the general measures of execution of the [relevant, unimplemented] pilot judgment" (point 4 of the operative part). Instead of using the formula "no need to examine", the Court ratiocinated as to "whether it [was] justified to continue to examine [those] applications" (§ 175), i.e. employed the exact wording of Article 37 § 1 (c). But even the word "justified", perhaps because it has a connotation of justice, the latter not being merely a formal legal term, does not appear in the operative part of the *Burmych and Others* judgment.

10. What makes the *Burmych and Others* precedent so pertinent to the present case is that in that judgment the Court *legitimised judicial policy* as the principal or, rather, the sole ground for one of its judgments. And it not only decided to refrain from examining the respective complaints, but also openly and transparently conceptualised that decision. Whoever reproaches the Court for that unclogging of its docket, at least cannot reproach it for being evasive as to the reasons underlying that decision. From then on, the Court's resolve to leave certain complaints unexamined *in principle* can be substantiated – if not duly legally reasoned, then at least factually explained – by referring to judicial policy considerations pertaining to very exceptional circumstances occurring *in the realm of real life, not in that of pure law*. Such a course is, to put it mildly, not a neat one from the purely legal(istic) perspective. But now it is part of the Court's case-law. Needless to say that the circumstances in which the Court's recourse to this method is defensible must be exceptional, indeed extraordinary.

II

11. The pilot judgments and the *Burmych and Others* precedent concern non-examination of certain complaints (applications) in very exceptional situations. However, the Court routinely, having examined one or several complaints, resolves not to examine certain "other" complaints raised in the same application.

12. In particular situations the "no need to examine" approach is legally tenable and is legitimately professed by the Court. This is so when the "other" complaints, although formulated as separate, are interrelated, as they overlap with the complaint(s) already examined in that case. They overlap, because they either share the same factual background or invoke such provisions of the Convention which are interrelated. The overlapping of one or another kind allows or even requires the Court to treat such complaints as raising the same legal issue and not requiring their re-examination from yet

another angle, once that issue has already been examined from one angle, factual or legal.

13. A "factual overlap" of the complaints may prompt the Court to resolve that it would be pragmatic, and in that sense justified, not to examine anew what is essentially the same complaint, and that non-examination would not be to the detriment of the applicant or of the development of Convention law.

The Court uses various techniques to establish, and various phraseologies to designate, this "factual overlap". Those techniques and phraseologies are so diverse that it would be very difficult, if not impossible, to arrange them in any typology. Here are a couple of very recent examples from their infinite variety. In *Dareskizb Ltd. v. Armenia* (no. 61737/08, § 93, 21 September 2021, not yet final), the Court decided that, having regard to its findings under Article 6 § 1 that the applicant company had been denied access to a court, it was "not necessary" to examine whether, in that case, there had been a violation of that Article also as regards the composition of that court. In *C. v. Croatia* (no. 80117/17, § 81, 8 October 2020), which concerned the right of a child to be heard in custody proceedings and the need to appoint a special guardian *ad litem* to protect the child's interests, the Court held that the combination of flawed representation and the failure to duly present and hear the applicant's views in the proceedings had irremediably undermined the decision-making process in the case and that obviated "the need ... to examine whether the applicant's best interests were properly assessed by adopting the decision to grant custody to his father without any preparation or adaptation period or whether the enforcement of that decision had been compatible with Article 8".

14. A typical example of a "legal overlap" is the interrelatedness of ostensibly separate complaints, by which the Court is requested to assess the same factual situation under two different provisions of the Convention, one of which subsumes (or absorbs) the other at least in part, e.g. under Article 6 § 1 and Article 13, respectively as *lex specialis* and *lex generalis*; or Article 11, *lex specialis*, and Article 10, *lex generalis*. If a violation of the Convention based on its special provision is found, the re-examination of the same matter under a general provision would normally be redundant.

15. In deciding whether to take that self-restricting course, the Court has a discretion that is not narrow. The case-law in which the second, third, etc., of the overlapping complaints are left unexamined is abundant.

In such cases the formula "no need to examine" (or "not necessary to examine") means exactly what it says on the tin. It does not mislead or deceive, for it adequately represents the Court's approach and reasons behind its resolve not to examine certain complaints.

16. In parallel, the formula "no need to examine" has been employed also in such instances where the examination of the applicants' complaints clearly merited examination.

Roughly, all such cases in which the formula in question is employed fall into one of three categories.

17. The first category includes the politically sensitive cases, in which an applicant complains under Article 18. It happens that the Court, having found a violation of a Convention provision, nevertheless decides that it is "not necessary" to examine whether that violation resulted from a "hidden agenda". If this question is answered in the affirmative (which is often too evident), this could trigger the formal finding of a violation of Article 18. This should be all the more so where the Court has found violations of not one but of several Convention provisions.

One example (indeed one out of many) of such regrettable over-reluctance to examine the applicants' well-founded complaints under Article 18 would be *Kasparov and Others v. Russia (no. 2)* (no. 51988/07, 13 December 2016), where the Court found violations of Articles 5 § 1, 6 § 1 and 11, which, in the Court's own words, "had the effect of preventing and discouraging [the applicants] and others from ... actively engaging in opposition politics". Then the Court pulled the brake. It concluded that "in view of this" it was "not necessary to examine whether ... there has been a violation of Article 18" (§ 55).

Such evasive judgments have been adopted in some politically sensitive cases against Russia and Turkey. Regarding Turkey (which is the respondent State in the present case), one could mention, for example, *Şahin Alpay v. Turkey* (no. 16538/17, 20 March 2018), *Mehmet Hasan Altan v. Turkey* (no. 13237/17, 20 March 2018), or *Atilla Taş v. Turkey* (no. 72/17, 19 January 2021). I have made clear my disagreement with that approach in my partly dissenting opinions in *Sabuncu v. Turkey* (no. 23199/17, 10 November 2020) and *Ahmet Hüsrev Altan v. Turkey* (no. 13252/17, 13 April 2021).

Yet, here this matter is touched upon for the sake of comprehensiveness only. The applicants in the present case did not complain under Article 18. This category of "undeserving" complaints therefore can be put aside.

18. The second category of the Court's indisposition to the examination of duly substantiated complaints includes the cases which are, so to say, more mundane – in that sense that they are not related to alleged ulterior political motives prohibited by Article 18. These are not instances where the non-examination of the complaints is justified owing to their "factual" or "legal overlapping". They are left without examination solely *because the Court has so decided*, without providing (at least not explicitly) any reasons for such a course and often without such legitimate reasons being in place at all. The Court justifies this by the fact that it has already examined some of the applicant's complaints (and, as a rule, has found violations of some Convention provisions), so, bluntly put, it should be enough.

In such cases, the (in)famous *Câmpeanu* formula is employed. I refer to the case of *Centre for Legal Resources on behalf of Valentin Câmpeanu*

([GC], no. 47848/08, 17 July 2014). That judgment gave the name to the formula in question, for it was that judgment in which this approach was consolidated. The formula goes that the Court, having examined certain "main" legal questions raised by the applicants, leaves the "remaining" complaints unexamined. It is as if a dentist says to his patient: "I fixed the big holes, so please do not overburden me also with small holes, for you will survive somehow". The examination of the "main" legal questions ostensibly justifies the non-examination of the others, even if they are not interrelated with those actually examined.

Like the *Burmych and Others* solution, the *Câmpeanu* formula stems from a certain pragmatism in such situations, where the Court has to economise its human, time and other resources, and the respective judicial policy considerations. Even so, *Burmych and Others* was adopted in a situation which hardly anyone would deny was a truly exceptional one. In that judgment, the Court's stance is explained in great detail. One would find not the slightest trace of such open and detailed explanation either in *Centre for Legal Resources on behalf of Valentin Câmpeanu* or in other judgments where the *Câmpeanu* formula is employed, in fact copy-pasted. That formula has become self-justifying. The seven dissenters in *Burmych and Others* criticised that judgment as being adopted for the sake of "momentary judicial convenience" (§ 39 of the joint dissenting opinion). Although there is a grain of truth – and not a tiny one at that – in such a characterisation, I would be quite reluctant to follow, at least to the end, that criticism regarding *Burmych and Others* itself, because, contrary to the assertions of those colleagues, that decision in fact *did have* something to do with "judicial economy, judicial efficiency, or the Brighton philosophy". But I think that this characterisation would indeed be congenial if applied to the *Câmpeanu*-type (non-)findings. There is nothing behind the *Câmpeanu* formula, except mere "momentary judicial convenience". Perhaps too momentary.

Luckily, the *Câmpeanu* formula is not accepted as a normal, justifiable judicial practice by all judges of the Court. On this I refer to Judge Pastor Vilanova's partly dissenting opinion in *Popov and Others v. Russia* (no. 44560/11, 27 November 2018), Judge Bošnjak's partly dissenting opinion in *Petukhov v. Ukraine (no. 2)* (no. 41216/13, 12 March 2019), and my own partly dissenting opinion in the latter case. There is therefore some hope, however slim, that one day the *Câmpeanu* formula may be abandoned. But that may be only my wishful thinking.

19. The third category of cases in which the Court decides not to examine certain admissible "other" complaints includes judgments where the Court's resolve not to examine them, because there is "no need" to do so, is not accompanied by any explicit, even if succinct, reasoning, which would at least somehow explain its self-restraint to the readership. Not even is the "main legal question" argument provided, as in *Câmpeanu*-type cases.

This does not mean, in and of itself, that the non-examination would not be possible to justify. The problem is that readers are left to find out for themselves whether the Court's determination not to examine those complaints is justified owing to their overlapping with the complaints already examined or is a result of the Court's *fiat*.

Sometimes it is one, sometimes the other.

III

20. When thoroughly compared with previous solutions, the present case does not fall into any of the above-provided types of termination of the examination of admissible complaints.

I begin by comparing the present case with the cases in which pilot judgments have been adopted or which, like the very exceptional case of *Burmych and Others*, are related to an earlier pilot judgment. Then I will turn to the comparison of the present case with those in which the examination of "other" complaints was terminated on the basis that, in the Court's own words, it was "not necessary". I leave aside Article 18 cases, because, as already mentioned, the applicants in the present case did not complain under that Article. However, two other categories, the second and the third, merit at least a sentence or two. After that I will look into whether the present case bears any resemblance with those in which the examination of "other" complaints was terminated owing to the overlapping of the "undeserving" complaints with those already examined.

21. Firstly, the present judgment is not a pilot judgment. It does not mention any systemic (structural) problem, identified by the Court, in respect of which the respondent State must adopt any general measures rectifying the situation at the domestic level, and the examination of the relevant complaints has not been adjourned until the adoption of such measures; the Court has merely refused to examine them.

In addition, the complaints left unexamined in the present case are not those not yet communicated to the respondent Government. They were all duly communicated; therefore, even if this judgment had been a pilot judgment, the Court should have continued to examine them under the normal procedure. For the adjournment in the pilot-judgment procedure applies to complaints raised by "similar" applications, not those which have been submitted in precisely that case.

22. Nor does the present judgment bear any relation to a previous pilot judgment. The substantiation of the Court's resolve to leave hundreds of well-reasoned applications unexamined, as provided in paragraph 98 of the judgment, refers to *Selahattin Demirtaş v. Turkey (no. 2)* ([GC], no. 14305/17, 22 December 2020), *Alparslan Altan v. Turkey* (no. 12778/17, 16 April 2019) and *Baş v. Turkey* (no. 66448/17, 3 March 2020) as the judgments in which legal issues raised by complaints left

unexamined have been "addressed for the most part". This is true. And yet, "for the most part" means "not all". Moreover, "addressed" does not amount to the identification of a systemic (structural) problem. On top of that, those "legal issues" do not encompass the "factual issues" of the hundreds of applicants in the present case, which are at the root of their complaints. For those applicants did not apply to the Court for the reason that *some* "legal issues" could be "addressed" – they applied for the settlement of *their* "factual issues" with the domestic authorities.

23. Secondly, the present case is not a case of the *Burmych and Others* type. That case concerned a situation to which the Court's approach was in many respects different from its approach to the situation examined – or, rather, not examined – in the present case. *Burmych and Others* clearly instructed the respondent State to implement the Court's earlier pilot judgment, which the State had thus far failed to do. In the present case, there is nothing of that sort (and cannot be, because there is no related earlier pilot judgment). In *Burmych and Others*, the Court transmitted the non-examined applications – and thus the supervision over the State's progress or lack thereof – to the Committee of Ministers. There is nothing of the kind in this case (and cannot be for the same reason). In *Burmych and Others* a possibility of reassessment of the situation is postulated. There is not a hint of anything like that in the present judgment.

Thus there is one essential difference between the present case and *Burmych and Others*. *Burmych and Others* may be figuratively compared to such necessary surgical amputation of a limb, where not only the person's life is saved and, in addition, the hospital is sheltered from destruction, but also the ablated limb is replaced with a kind of prosthesis, however badly functioning, and the person is promised that one day the surgeon may revisit his condition. The present judgment rather looks like such an amputation where the loss of limb was not replaced by any surrogate, the surgeon sent the patient home for unattended treatment by someone who had allegedly inflicted the injuries on him, closed the hospital from within, and bade him farewell.

24. Furthermore, as mentioned above, *Burmych and Others* does not speak at all of complaints that do not require examination. The "no need to examine" formula is not used in that judgment – unlike in the present one.

25. Last but not least, in *Burmych and Others* the applications were struck out of the Court's list of cases. In the present case they were not struck out – they were merely left unexamined. It is true that I do not find any realistic counter-arguments which would allow me to disagree with the majority that in the present case, like in *Burmych and Others*, there was a pressing need for the Court to depart from the ideal(istic) standards of application-processing so that the broader mission of the Court could be secured.

26. I therefore do not find the reference in paragraph 98 to *Burmych and Others*, very bare and thus unqualified as it is, to be particularly apt for the present situation. That judgment could certainly be referred to – but perhaps with more provisos, i.e. with considerations not only of the similarities between the situations ("constantly growing inflow of applications"), but of the difference in the Court's approach to them. The reference as it stands now does not strengthen the reasoning – it weakens it. For none of the safeguards employed in that 2017 case have been imported into the present judgment. The "*mutatis mutandis*" caveat does not help. It only disguises the fact that the only resemblance of this judgment to *Burmych and Others* is that the Court has adopted it also under the duress of reality, in which it has been left with no other choice, if the long-term effectiveness of the Convention machinery is to be ensured.

27. On the other hand, when compared to *Burmych and Others*, the present judgment is more applicant-friendly in the sense that the applicants have won at least on one front: a violation of Article 5 § 1 has been found on account of the unlawfulness of their initial pre-trial detention. Not enough, but the five applicants in *Burmych and Others* did not receive even that.

28. I turn now to the cases in which the Court has substantiated the non-examination of "other" complaints by resorting to the formula "no need to examine" (or "not necessary to examine").

29. Regarding the cases falling into the second above-mentioned category of employment of the formula "no need to examine", the present case is fundamentally different, because the *Câmpeanu* formula is not used in this judgment. In fact, hardly anyone would say that in this judgment the "main" legal issues have been examined or that those not examined can be labelled as "secondary" in any sense.

30. As to the third above-mentioned category of cases, the difference between them and the present one is also essential, because in this judgment an explanation is provided as to why the "other" complaints are left unexamined. Whether or not that explanation will be accepted as satisfactory by the applicants and the broader readership is another matter.

31. It remains to be seen whether the unexamined complaints could be seen as overlapping with those actually examined.

But I am happy to be dispensed from the need to address this point, because this has been done by Judge Koskelo in her concurring opinion, joined by Judge Ranzoni. There it is convincingly shown that there is no overlapping of complaints. Indeed, the finding of a violation of Article 5 on account of a lack of basis in domestic law for the applicants' detention does not, in and of itself, imply that there has also been a violation of Article 5 § 1 (c), or that there has been no such violation.

In order to answer that question the applicants' situation would have to be examined from the angle of Article 5 § 1 (c).

IV

32. To sum up, there clearly *is* a need to examine the complaints left without examination in the present case – even though in its operative part the Court has stated that there is no such need.

This is why I see point 5 of the operative part as misleading.

33. What is more, the said need is a *pressing* one, particularly in view of the fact that, as can be seen from the concurring opinion of my distinguished colleague, one could presume that more than just a few of the complaints submitted in the present case under Article 5 § 1 (c) might be very well founded, in the light of such cases as *Alparslan Altan v. Turkey* and *Baş v. Turkey* (both cited above) and the circumstances transpiring from them. I would only add that, on the balance of probabilities, the presumption that there was no sufficient *factual* basis for the detention of at least some of the applicants is not at all futile, especially given the fact that the applicants *so massively* detained without a requisite *legal* basis were judges and prosecutors.

34. The decision not to examine the lion's share of the complaints is an acknowledgment of the limits to the Court's capacity in the face of the massive influx of applications. The reference to "judicial policy" (paragraph 98) means that the non-examination of complaints is determined not by any tenets of any Articles of the Convention, but by such reality, against which usual legal institutional and procedural mechanisms are helpless, unless the Court allows itself the dubious luxury of extending the examination of these complaints for at least a decade (but more likely for even longer) or (another most unattractive alternative) to postpone the examination of other meritorious complaints, at least those against the same State.

In that context it should be mentioned that today there are thousands of cases pending against Turkey which concern detentions and criminal convictions handed down in the aftermath of the 2016 attempted *coup d'état* in that State. Every week their number increases by scores. The Court is in fact inundated with cases related to those events. In addition to that tsunami, there is a yet larger pool of pending unrelated cases against Turkey.

35. In such circumstances, the decision not to examine the complaints that consume the most time, effort and other resources is the only *pragmatic* way out. From the purely legal(istic) perspective, it is not a satisfactory one, and not easily defensible. But it can be explained by reference to *reality*. That decision is not a judicial *fiat*. That explanation is provided here in paragraph 98. It is fairly stated at the end of that paragraph that the Court "*decides not to examine* the applicants' remaining complaints under Article 5" (emphasis added), and that that decision has been adopted within the "exceptional context" of the case. There is not the slightest hint about the "remaining" complaints not meriting examination ("no need to examine") – only the grudging acknowledgment of the impracticality and

inappropriateness of such examination in the face of the need to ensure the Court's overall long-standing mission. This is an expediency justification – not a fully-fledged justification in the purely legal sense, perhaps not in the moral sense either, but still some justification of the untoward, intrusive choice, where all alternatives were worse. And, as has been shown, since *Burmych and Others* judicial policy considerations in principle may provide some substantiation, and in that sense some justification, for the Court's decision to leave certain complaints unexamined in certain extraordinary circumstances. This judgment is the application of that methodological principle, inapplicable in normal circumstances, but already entrenched in the Court's case-law.

36. Whatever the explanation in paragraph 98, the "no need to examine" formula employed in point 5 of the operative part virtually brings it to naught. The findings of the operative part should be read in conjunction with the reasoning leading to them. But this particular finding does not correspond, either in letter or in spirit, to the explanation provided in paragraph 98. This is why I did not vote for it, even though I agree with the outcome of the non-examination of the "remaining" complaints.

37. What happened is that the Chamber took the *standard* formula (as shown, already used too indiscriminately in a number of cases) and applied it in the most *non-standard* situation – one never encountered before.

For the situation faced by the Court in the present case is *unprecedented*. It therefore commands an unprecedented solution. Usual tools would not work. That has been explained in paragraph 98 – and abandoned in point 5 of the operative part. But when a judgment is adopted, it is not the paragraphs of the reasoning part that are voted on, but the points of the operative part.

I cannot cease to wonder why four years ago the Grand Chamber found an adequate way of referring to the exceptionality of the situation in the operative part of *Burmych and Others*, whilst the Chamber has not followed the Grand Chamber's example when formulating point 5 of the operative part of the present judgment.

V

38. There is a risk that some may read this judgment, by which so many complaints of so many applicants have been denied examination, as a signal that a member State can escape responsibility for violating the Convention *en masse*, since the Court may be flooded with complaints against that State to such an extent that it becomes unable to cope with them and decides not to examine them.

To be frank: if a regime decides to go rogue, it should *do it in a big way*. And if responsibility can be escaped by "doing it big", why not give it a try?

39. Recently the Court dealt with an attempt to drastically increase the number of applications to the Court, unambiguously aimed at causing it to become "congested, saturated and flooded" and at "paralysing its operations" (*Zambrano v. France* (dec.), no. 41994/21, § 36, 21 September 2021). In that case it was noted that the right of application was being abused by applicants pursuing a strategy of flooding the Court with a tsunami of applications and thus with the aim of paralysing it.

40. But what if a similar strategy is pursued not by a group of applicants, whatever their motives may be, but by the Government of a member State, seeking to escape responsibility for violations of the Convention?

The question remains, and even becomes more pertinent: can the course adopted in this case be adopted again in an increasing number of cases? How many times can this be before such situations are no longer regarded as "exceptional"?

41. To conclude, the situation encountered by the Court in the present case is indeed unprecedented and exceptional by all standards applicable hitherto, or at best – or, rather, worst – is comparable only to *Burmych and Others*. But a similar exceptionality in principle can be "repeated". Thus, as in addition to *this* exceptional situation there may be *others*, a remedy or safeguard, or counterbalance must be found – and applied. Needless to say, that remedy or safeguard, or counterbalance, cannot and must not be judicial.

To that effect, I can but agree with Judge Koskelo that "[a]ny further conclusions remain for other bodies to consider".

VI

42. I follow Judge Koskelo's remarks as to the dubious categorisation, in Turkish law, of the offences allegedly committed by the applicants in the present case as "personal offences". The contradiction between the judges and prosecutors allegedly receiving instructions from the supposedly illegal organisation's hierarchy, on the one hand, and their alleged membership in that organisation being categorised as a "personal offence", on the other, is striking. Indeed, "such an interpretation of domestic law appears neither reasonable nor consistent with the Convention requirements of foreseeability and legal certainty".

43. In this context, I must admit that I should have been more critical in *Baş* (cited above), where the Chamber, of which I was part, stated that "it [was] not for the Court to determine into which category of offences the applicant's alleged conduct [fell]" (§ 158).

Perhaps it was. Or at least that statement had to be accompanied by an appropriate proviso.

44. Finally, I seize this opportunity to admit that today I would also differently assess some of the other complaints in *Baş*, namely those under

Article 5 § 4, regarding the restriction of Mr Baş's access to the investigation file and the alleged lack of independence and impartiality of the magistrates' courts.

Of course, this confession is *post factum*, but still offers some relief.

# APPENDIX

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 1. | 75805/16 | Turan v. Turkey | 24/11/2016 | **Ersin TURAN**<br>1983 | Bilal Eren MASKAN | Ordinary judge or public prosecutor |
| 2. | 75794/16 | Demirtaş v. Turkey | 30/11/2016 | **Hasan DEMİRTAŞ**<br>1989 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 3. | 6556/17 | Kaşıkçı v. Turkey | 20/01/2017 | **Muhammet Ali KAŞIKÇI**<br>1979 | Gülşen ZENGİN | Ordinary judge or public prosecutor |
| 4. | 11888/17 | Küçük v. Turkey | 06/01/2017 | **Bekir KÜÇÜK**<br>1974 | Sariye YEŞİL TOZKOPARAN | Ordinary judge or public prosecutor |
| 5. | 12991/17 | Erel v. Turkey | 04/01/2017 | **Kemalettin EREL**<br>1972 | Karar Koray ATAK | Ordinary judge or public prosecutor |
| 6. | 13875/17 | Polater v. Turkey | 09/01/2017 | **Yusuf Ziya POLATER**<br>1983 | İsmail GÜLER | Ordinary judge or public prosecutor |
| 7. | 14126/17 | Çetin v. Turkey | 06/01/2017 | **İlker ÇETİN**<br>1970 | Semih ERKEN | Ordinary judge or public prosecutor |
| 8. | 15011/17 | Ulupınar v. Turkey | 02/02/2017 | **Aziz ULUPINAR** | Rukiye COŞGUN | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | 1982 | | |
| 9. | 15048/17 | Karademir v. Turkey | 19/01/2017 | **Mehmet KARADEMİR**<br>1971 | Karar Koray ATAK | Ordinary judge or public prosecutor |
| 10. | 15066/17 | Kılınç v. Turkey | 16/01/2017 | **Bahadır KILINÇ**<br>1972 | Hanife Ruveyda KILINÇ | Ordinary judge or public prosecutor |
| 11. | 15098/17 | Altıntaş v. Turkey | 02/02/2017 | **Yusuf ALTINTAŞ**<br>1975 | Rukiye COŞGUN | Ordinary judge or public prosecutor |
| 12. | 15124/17 | Ulupınar v. Turkey | 19/01/2017 | **Atilla ULUPINAR**<br>1968 | Pınar BAŞBUĞA | Ordinary judge or public prosecutor |
| 13. | 15290/17 | Dalkılıç v. Turkey | 17/01/2017 | **Erdem DALKILIÇ**<br>1978 | Elvan BAĞ CANBAZ | Ordinary judge or public prosecutor |
| 14. | 15494/17 | Hamurcu v. Turkey | 16/01/2017 | **Bayram HAMURCU**<br>1989 | Zehra KILIÇ | Ordinary judge or public prosecutor |
| 15. | 28551/17 | Cihangiroğlu v. Turkey | 29/03/2017 | **Bircan CİHANGİROĞLU**<br>1973 | Mehmet Fatih İÇER | Ordinary judge or public prosecutor |
| 16. | 28570/17 | Miralay v. Turkey | 16/01/2017 | **Necati MİRALAY**<br>1980 | Metin GÜÇLÜ | Ordinary judge or public prosecutor |
| 17. | 29073/17 | Mercan v. Turkey | 05/06/2018 | **Halil MERCAN** | İhsan MAKAS | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | 1985 | | |
| 18. | 31217/17 | Efe v. Turkey | 22/03/2017 | **Metin EFE** 1976 | Merve Elif GÜRACAR | Ordinary judge or public prosecutor |
| 19. | 33987/17 | Kayı v. Turkey | 17/01/2017 | **Halil İbrahim KAYI** 1974 | Rıza ALBAY | Ordinary judge or public prosecutor |
| 20. | 34014/17 | Kılıç v. Turkey | 24/03/2017 | **Erdal KILIÇ** 1974 | Tufan YILMAZ | Ordinary judge or public prosecutor |
| 21. | 34028/17 | Yılmaz v. Turkey | 23/03/2017 | **Serdar YILMAZ** 1983 | Tufan YILMAZ | Ordinary judge or public prosecutor |
| 22. | 34357/17 | Gündüz v. Turkey | 18/04/2017 | **Kasım GÜNDÜZ** 1990 | Elif Nurbanu OR | Ordinary judge or public prosecutor |
| 23. | 36845/17 | Ağrı v. Turkey | 10/01/2017 | **Uğur AĞRI** 1978 | Yasemin BAL | Ordinary judge or public prosecutor |
| 24. | 39593/17 | Köksal v. Turkey | 22/03/2017 | **Mustafa KÖKSAL** 1978 | Emre AKARYILDIZ | Ordinary judge or public prosecutor |
| 25. | 40053/17 | Gölyeri v. Turkey | 16/05/2017 | **Murat GÖLYERI** 1980 | Merve Elif GÜRACAR | Ordinary judge or public prosecutor |
| 26. | 40097/17 | Çokmutlu v. Turkey | 05/05/2017 | **Metin ÇOKMUTLU** 1983 | Arife ASLAN | Ordinary judge or public prosecutor |
| 27. | 40277/17 | Evren v. Turkey | 28/03/2017 | **Enver EVREN** | Fatih DÖNMEZ | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | 1977 | | |
| 28. | 40565/17 | Özen v. Turkey | 15/03/2017 | **Gökhan ÖZEN**<br>1988 | Mustafa TEMEL | Ordinary judge or public prosecutor |
| 29. | 40937/17 | Kaya v. Turkey | 27/02/2017 | **Ömer KAYA**<br>1980 | Merve Elif GÜRACAR | Ordinary judge or public prosecutor |
| 30. | 41286/17 | Aydoğmuş v. Turkey | 31/03/2017 | **Tahir AYDOĞMUŞ**<br>1981 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 31. | 41525/17 | Özkan v. Turkey | 13/04/2017 | **Mustafa ÖZKAN**<br>1983 | Osman BAŞER | Ordinary judge or public prosecutor |
| 32. | 41770/17 | Örer v. Turkey | 07/04/2017 | **Vedat ÖRER**<br>1973 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 33. | 41772/17 | Tosun v. Turkey | 29/12/2016 | **Tahsin TOSUN**<br>1980 | İhsan MAKAS | Ordinary judge or public prosecutor |
| 34. | 41886/17 | Alkan v. Turkey | 06/04/2017 | **Gökhan ALKAN**<br>1989 | Fatma Aybike ÇINARGİL ŞAN | Ordinary judge or public prosecutor |
| 35. | 42314/17 | Tosun v. Turkey | 18/04/2017 | **Kenan TOSUN**<br>1987 | İhsan MAKAS | Ordinary judge or public prosecutor |
| 36. | 43668/17 | Teke v. Turkey | 20/03/2017 | **Hasan Ali TEKE**<br>1988 | Sultan TEKE SOYDİNÇ | Ordinary judge or public prosecutor |
| 37. | 43681/17 | Koçak v. Turkey | 03/04/2017 | **ÇETİN KOÇAK** | Arzu BEYAZIT | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | 1980 | | |
| 38. | 43710/17 | Deliveli v. Turkey | 31/03/2017 | **Hasan DELİVELİ**<br>1978 | Emre AKARYILDIZ | Ordinary judge or public prosecutor |
| 39. | 43715/17 | Aydın v. Turkey | 04/04/2017 | **Zafer AYDIN**<br>1980 | Emre AKARYILDIZ | Ordinary judge or public prosecutor |
| 40. | 43733/17 | Şam v. Turkey | 09/05/2017 | **Abdullah ŞAM**<br>1981 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 41. | 43753/17 | Eken v. Turkey | 09/05/2017 | **İsmail EKEN**<br>1976 | Murat EKEN | Ordinary judge or public prosecutor |
| 42. | 44833/17 | Yalvaç v. Turkey | 02/05/2017 | **İbrahim YALVAÇ**<br>1988 | Arife ASLAN | Ordinary judge or public prosecutor |
| 43. | 44867/17 | Güvenç v. Turkey | 24/05/2017 | **İsmail GÜVENÇ**<br>1985 | Cahit ÇİFTÇİ | Ordinary judge or public prosecutor |
| 44. | 44881/17 | Kızıl v. Turkey | 22/05/2017 | **Bahtiyar KIZIL**<br>1986 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 45. | 44907/17 | Yalım v. Turkey | 03/05/2017 | **Cemalettin YALIM**<br>1971 | Hasan Celil GÜNENÇ | Ordinary judge or public prosecutor |
| 46. | 45079/17 | Danış v. Turkey | 11/04/2017 | **Muhammed Arif DANIŞ**<br>1986 | Cahit ÇİFTÇİ | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 47. | 45080/17 | Akgül v. Turkey | 04/05/2017 | **Mustafa AKGÜL**<br>1973 | Kürşat Orhan ŞIMŞEK | Ordinary judge or public prosecutor |
| 48. | 45129/17 | Bahadır v. Turkey | 23/06/2017 | **Mehmet BAHADIR**<br>1976 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 49. | 46907/17 | Kurşun v. Turkey | 20/02/2017 | **Ömer Faruk KURŞUN**<br>1977 | Mehmet ARI (not lawyer) | Ordinary judge or public prosecutor |
| 50. | 46938/17 | Tufanoğlu v. Turkey | 23/03/2017 | **İshak TUFANOĞLU**<br>1987 | Regaip DEMİR | Ordinary judge or public prosecutor |
| 51. | 47039/17 | Acar v. Turkey | 22/03/2017 | **Gürcan ACAR**<br>1966 | Tufan YILMAZ | Ordinary judge or public prosecutor |
| 52. | 47043/17 | Güven v. Turkey | 24/03/2017 | **Saban GÜVEN**<br>1975 | Tufan YILMAZ | Ordinary judge or public prosecutor |
| 53. | 47050/17 | Toptaş v. Turkey | 16/03/2017 | **Sungur Alp TOPTAŞ**<br>1991 | Sultan TEKE SOYDINÇ | Ordinary judge or public prosecutor |
| 54. | 48156/17 | Demir v. Turkey | 04/05/2017 | **Şenol DEMİR**<br>1979 | Rukiye COŞGUN | Ordinary judge or public prosecutor |
| 55. | 48162/17 | Özgeci v. Turkey | 08/05/2017 | **Erhan ÖZGECİ**<br>1981 | İrem TATLIDEDE | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant Year of Birth | Represented by | Applicant’s status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 56. | 48592/17 | Kaya v. Turkey | 04/05/2017 | **Osman KAYA** 1983 | Özcan DUYGULU | Ordinary judge or public prosecutor |
| 57. | 48704/17 | Atça v. Turkey | 29/03/2017 | **Zekeriya ATÇA** 1980 | Ahmet KARAHAN | Ordinary judge or public prosecutor |
| 58. | 48724/17 | Şenkal v. Turkey | 28/03/2017 | **Yılmaz ŞENKAL** 1969 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 59. | 48755/17 | Çetin v. Turkey | 08/05/2017 | **Sadi ÇETİN** 1984 | Muhammed ÇETİN | Ordinary judge or public prosecutor |
| 60. | 48776/17 | Genç v. Turkey | 08/05/2017 | **Durmuş Ali GENÇ** 1970 | Rukiye COŞGUN | Ordinary judge or public prosecutor |
| 61. | 48803/17 | Türkmen v. Turkey | 08/05/2017 | **Ali TÜRKMEN** 1982 | Nilgün ARI | Ordinary judge or public prosecutor |
| 62. | 49227/17 | Berber v. Turkey | 16/06/2017 | **İdris BERBER** 1977 | Mehmet Fatih İÇER | Ordinary judge or public prosecutor |
| 63. | 49233/17 | Öğütalan v. Turkey | 24/03/2017 | **Ersin ÖĞÜTALAN** 1987 | Sefanur BOZGÖZ | Ordinary judge or public prosecutor |
| 64. | 49455/17 | Uluca v. Turkey | 28/03/2017 | **İhsan ULUCA** 1966 | Uğur ALTUN | Ordinary judge or public prosecutor |
| 65. | 49468/17 | Aydemir v. Turkey | 04/05/2017 | **Şinasi Levent AYDEMİR** | Necati TORUN | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | 1981 | | |
| 66. | 49509/17 | Salman v. Turkey | 09/05/2017 | **Oğuz SALMAN**<br>1976 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 67. | 49880/17 | Atlı v. Turkey | 31/03/2017 | **Ragıp ATLI**<br>1974 | Zülküf ARSLAN | Ordinary judge or public prosecutor |
| 68. | 49902/17 | Kurt v. Turkey | 22/03/2017 | **Levent KURT**<br>1969 | | Ordinary judge or public prosecutor |
| 69. | 52776/17 | Ölmez v. Turkey | 14/03/2018 | **Hayati ÖLMEZ**<br>1980 | Rukiye COŞGUN | Ordinary judge or public prosecutor |
| 70. | 54540/17 | Beydili v. Turkey | 14/07/2017 | **Hasan BEYDİLİ**<br>1983 | İmdat BERKSOY | Ordinary judge or public prosecutor |
| 71. | 54553/17 | Aras v. Turkey | 21/07/2017 | **Yunus ARAS**<br>1988 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 72. | 54899/17 | Kökçam v. Turkey | 20/02/2017 | **Mustafa KÖKÇAM**<br>1961 | Ahmet Faruk ACAR | Member of Supreme Administrative Court |
| 73. | 55003/17 | Çağlar v. Turkey | 26/05/2017 | **Sait ÇAĞLAR**<br>1970 | Fatma Zarife TUNÇ | Ordinary judge or public prosecutor |
| 74. | 55057/17 | Var v. Turkey | 19/04/2017 | **Selim VAR**<br>1976 | Tufan YILMAZ | Ordinary judge or public prosecutor |
| 75. | 58516/17 | Giden v. Turkey | 03/02/2017 | **Yıldıray GİDEN** | İrem TATLIDEDE | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | 1983 | | |
| 76. | 59572/17 | Özgelen v. Turkey | 11/04/2017 | **Mustafa Safa ÖZGELEN**<br>1964 | Elif Nurbanu OR | Ordinary judge or public prosecutor |
| 77. | 60292/17 | Doğan v. Turkey | 03/02/2017 | **Mustafa DOĞAN**<br>1980 | Mehmet ÇAVDAR | Ordinary judge or public prosecutor |
| 78. | 60302/17 | Karslı v. Turkey | 08/02/2017 | **Hacı Serhat KARSLI**<br>1983 | Cahit ÇİFTÇİ | Ordinary judge or public prosecutor |
| 79. | 60326/17 | Altun v. Turkey | 10/01/2017 | **Hakan ALTUN**<br>1976 | Tufan YILMAZ | Ordinary judge or public prosecutor |
| 80. | 60387/17 | Hotalak v. Turkey | 24/06/2017 | **Yusuf HOTALAK**<br>1985 | Harun IŞIK | Ordinary judge or public prosecutor |
| 81. | 61123/17 | Öztürk v. Turkey | 14/08/2017 | **Burhanettin ÖZTÜRK**<br>1975 | Şeyma GÜNEŞ | Ordinary judge or public prosecutor |
| 82. | 61232/17 | Gürkan v. Turkey | 19/06/2017 | **Şeref GÜRKAN**<br>1972 | Önder ÖZDERYOL | Ordinary judge or public prosecutor |
| 83. | 61417/17 | Topal v. Turkey | 23/05/2017 | **Orhan Birkan TOPAL**<br>1981 | Esin TOPAL | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 84. | 61467/17 | Hazar v. Turkey | 22/05/2017 | **Zafer HAZAR**<br>1974 | Merve Elif GÜRACAR | Ordinary judge or public prosecutor |
| 85. | 61547/17 | Günay v. Turkey | 20/06/2017 | **Hüseyin GÜNAY**<br>1972 | Fatma HACIPAŞALIOĞLU | Ordinary judge or public prosecutor |
| 86. | 62174/17 | Coşgun v. Turkey | 12/05/2017 | **Mehmet COŞGUN**<br>1980 | Rukiye COŞGUN | Ordinary judge or public prosecutor |
| 87. | 62633/17 | Kundakçı v. Turkey | 30/06/2017 | **Mesut KUNDAKÇI**<br>1969 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 88. | 62638/17 | Karanfil v. Turkey | 30/06/2017 | **Vecdi KARANFİL**<br>1969 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 89. | 62656/17 | Çengil v. Turkey | 30/01/2017 | **Birol ÇENGİL**<br>1966 | Osman ÇENGİL | Ordinary judge or public prosecutor |
| 90. | 62721/17 | Şahin v. Turkey | 02/02/2017 | **Murat ŞAHİN**<br>1988 | | Ordinary judge or public prosecutor |
| 91. | 62723/17 | Bozkurt v. Turkey | 13/02/2017 | **Hüseyin BOZKURT**<br>1977 | Muhterem SAYAN | Ordinary judge or public prosecutor |
| 92. | 62741/17 | Canavcı v. Turkey | 26/01/2017 | **Mehmet Ali CANAVCI**<br>1978 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 93. | 62761/17 | Polat v. Turkey | 19/05/2017 | **Engin POLAT** | İrem TATLIDEDE | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant’s status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | 1987 | | |
| 94. | 62891/17 | Ekinci v. Turkey | 09/06/2017 | **Hüseyin EKİNCİ**<br>1969 | Elkan ALBAYRAK | Ordinary judge or public prosecutor |
| 95. | 62896/17 | Ekinci v. Turkey | 09/05/2017 | **Fatih EKİNCİ**<br>1983 | Beyza Esma TUNA | Ordinary judge or public prosecutor |
| 96. | 62906/17 | Erol v. Turkey | 10/05/2017 | **Muhammed Akif EROL**<br>1970 | Hasan Hüseyin EROL | Ordinary judge or public prosecutor |
| 97. | 63234/17 | Uzunel v. Turkey | 08/06/2017 | **Enes UZUNEL**<br>1986 | Cahit ÇİFTÇİ | Ordinary judge or public prosecutor |
| 98. | 63607/17 | Günay v. Turkey | 08/06/2017 | **Mehmet GÜNAY**<br>1978 | Meryem GÜNAY | Ordinary judge or public prosecutor |
| 99. | 63610/17 | Söyler v. Turkey | 29/05/2017 | **Serdar SÖYLER**<br>1984 | Hüseyin YILDIZ | Ordinary judge or public prosecutor |
| 100. | 63611/17 | Can v. Turkey | 27/05/2017 | **Fatih CAN**<br>1977 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 101. | 63621/17 | Boztepe v. Turkey | 25/05/2017 | **Ramazan BOZTEPE**<br>1972 | Merve Elif GÜRACAR | Ordinary judge or public prosecutor |
| 102. | 63708/17 | Yıldız v. Turkey | 30/05/2017 | **Enes YILDIZ**<br>1988 | İrem TATLIDEDE | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 103. | 63718/17 | Genç v. Turkey | 01/06/2017 | **Yunus GENÇ**<br>1975 | Beyza Esma TUNA | Ordinary judge or public prosecutor |
| 104. | 63827/17 | Şimşek v. Turkey | 02/06/2017 | **Kemal ŞİMŞEK**<br>1980 | Muzaffer Derya ÇALIŞKAN | Ordinary judge or public prosecutor |
| 105. | 64036/17 | Buyuran v. Turkey | 04/07/2017 | **Hasan Gazi BUYURAN**<br>1969 | İhsan MAKAS | Ordinary judge or public prosecutor |
| 106. | 64499/17 | Yıldırım v. Turkey | 13/07/2017 | **Resül YILDIRIM**<br>1969 | Enes Bahadır BAŞKÖY | Ordinary judge or public prosecutor |
| 107. | 64545/17 | Akbaş v. Turkey | 18/04/2017 | **Talat AKBAŞ**<br>1970 | Hamit AKBAŞ | Ordinary judge or public prosecutor |
| 108. | 66287/17 | Erdurmaz v. Turkey | 18/03/2017 | **Sertkan ERDURMAZ**<br>1983 | Tufan YILMAZ | Ordinary judge or public prosecutor |
| 109. | 66475/17 | Kaya v. Turkey | 26/05/2017 | **Tayfun KAYA**<br>1973 | Mehmet KAYA | Ordinary judge or public prosecutor |
| 110. | 66705/17 | Reçber v. Turkey | 24/05/2017 | **Suat REÇBER**<br>1978 | İhsan MAKAS | Ordinary judge or public prosecutor |
| 111. | 66829/17 | Ünal v. Turkey | 07/08/2017 | **Ümit ÜNAL**<br>1981 | Recep BAKIRCI | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 112. | 67664/17 | Yönder v. Turkey | 20/07/2017 | **Mehmet Murat YÖNDER**<br>1969 | Yücel ALKAN | Member of Court of Cassation |
| 113. | 68209/17 | Sel v. Turkey | 17/01/2017 | **Mehmet SEL**<br>1976 | Önder ÖZDERYOL | Ordinary judge or public prosecutor |
| 114. | 69379/17 | Türkmen v. Turkey | 08/08/2017 | **Necati TÜRKMEN**<br>1970 | Merve Elif GÜRACAR | Ordinary judge or public prosecutor |
| 115. | 69443/17 | Şafak v. Turkey | 25/08/2017 | **Ercan ŞAFAK**<br>1968 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 116. | 69587/17 | Birsen v. Turkey | 07/07/2017 | **İsmail BİRSEN**<br>1984 | İshak IŞIK | Ordinary judge or public prosecutor |
| 117. | 70484/17 | Gelgör v. Turkey | 10/08/2017 | **Burhan GELGÖR**<br>1970 | Ahmet ÇORUM | Ordinary judge or public prosecutor |
| 118. | 71053/17 | Yazgan v. Turkey | 08/08/2017 | **Mehmet YAZGAN**<br>1988 | Özge ALTINTOP | Ordinary judge or public prosecutor |
| 119. | 71056/17 | Girdi v. Turkey | 28/08/2017 | **Seyfettin GİRDİ**<br>1988 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 120. | 72345/17 | Ekici v. Turkey | 25/07/2017 | **Barbaros Hayrettin EKİCİ**<br>1989 | Rukiye COŞGUN | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 121. | 74901/17 | Çalmuk v. Turkey | 06/10/2017 | **Hüsnü ÇALMUK**<br>1966 | | Ordinary judge or public prosecutor |
| 122. | 76253/17 | Demirbaş v. Turkey | 14/10/2017 | **Samed DEMİRBAŞ**<br>1982 | İhsan MAKAS | Ordinary judge or public prosecutor |
| 123. | 79800/17 | Üzgör v. Turkey | 01/11/2017 | **İsmail ÜZGÖR**<br>1982 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 124. | 82532/17 | Kılınç v. Turkey | 20/11/2017 | **Fatih KILINÇ**<br>1977 | Cem Kaya KARATÜN | Ordinary judge or public prosecutor |
| 125. | 82536/17 | Say v. Turkey | 20/11/2017 | **Mehmet SAY**<br>1974 | Zeynep Sacide SERTER | Ordinary judge or public prosecutor |
| 126. | 83719/17 | Kırıcı v. Turkey | 27/10/2017 | **Muhittin KIRICI**<br>1974 | | Ordinary judge or public prosecutor |
| 127. | 83801/17 | Uzun v. Turkey | 20/11/2018 | **Fahri UZUN**<br>1972 | Mustafa TUNA | Ordinary judge or public prosecutor |
| 128. | 83969/17 | Özçelik v. Turkey | 20/11/2017 | **Mustafa ÖZÇELİK**<br>1979 | Gülçin MOLA | Ordinary judge or public prosecutor |
| 129. | 84000/17 | Aydemir v. Turkey | 16/10/2017 | **İsa AYDEMİR**<br>1981 | Elif Nurbanu OR | Ordinary judge or public prosecutor |
| 130. | 84242/17 | Babayiğit v. Turkey | 29/11/2017 | **Yusuf BABAYİĞİT**<br>1976 | Cahit ÇİFTÇİ | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 131. | 84617/17 | Babacan v. Turkey | 13/11/2017 | **Hüseyin Güngör BABACAN**<br>1966 | Sümeyra Betül BABACAN ALKAN | Member of Court of Cassation |
| 132. | 84631/17 | Atasoy v. Turkey | 24/11/2017 | **Habib ATASOY**<br>1969 | Fatih DÖNMEZ | Ordinary judge or public prosecutor |
| 133. | 537/18 | Şener v. Turkey | 24/11/2017 | **Halil ŞENER**<br>1976 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 134. | 1217/18 | Asan v. Turkey | 06/12/2017 | **İdris ASAN**<br>1964 | Hüseyin AYGÜN | Member of Court of Cassation |
| 135. | 1226/18 | Budak v. Turkey | 06/12/2017 | **Mesut BUDAK**<br>1969 | Hüseyin AYGÜN | Member of Court of Cassation |
| 136. | 1542/18 | Akkol v. Turkey | 05/12/2017 | **İsmail AKKOL**<br>1965 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 137. | 6110/18 | Candan v. Turkey | 26/01/2018 | **Hasan CANDAN**<br>1985 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 138. | 6413/18 | Gürakar v. Turkey | 10/01/2018 | **Muhammed Salih GÜRAKAR**<br>1984 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 139. | 6485/18 | Akgedik v. Turkey | 03/01/2018 | **Hasan AKGEDİK**<br>1979 | Burcu HAS | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 140. | 6487/18 | Önal v. Turkey | 18/01/2018 | **Yunus ÖNAL**<br>1975 | Betül Büşra ÖNAL | Ordinary judge or public prosecutor |
| 141. | 6538/18 | Taşer v. Turkey | 16/01/2018 | **Durmuş TAŞER**<br>1970 | Hanife Ruveyda KILINÇ | Ordinary judge or public prosecutor |
| 142. | 6812/18 | Varol v. Turkey | 19/01/2018 | **Ahmet Selçuk VAROL**<br>1973 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 143. | 6948/18 | Aslan v. Turkey | 23/01/2018 | **Veysel ASLAN**<br>1968 | Merve Elif GÜRACAR | Ordinary judge or public prosecutor |
| 144. | 8332/18 | Erdagöz v. Turkey | 02/02/2018 | **Özcan ERDAGÖZ**<br>1981 | Mehmet Fatih İÇER | Ordinary judge or public prosecutor |
| 145. | 8416/18 | Bozkuş v. Turkey | 25/01/2018 | **Bilal BOZKUŞ**<br>1989 | | Ordinary judge or public prosecutor |
| 146. | 8540/18 | Demir v. Turkey | 16/06/2017 | **Ahmet DEMİR**<br>1979 | Utku Coşkuner SAKARYA | Ordinary judge or public prosecutor |
| 147. | 8543/18 | Gümüş v. Turkey | 16/06/2017 | **Mustafa Evren GÜMÜŞ**<br>1981 | Utku Coşkuner SAKARYA | Ordinary judge or public prosecutor |
| 148. | 8606/18 | Turğut v. Turkey | 27/04/2017 | **Muhammed Davut TURĞUT**<br>1990 | Xavier LABBEE | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 149. | 9818/18 | Çolaker v. Turkey | 26/01/2018 | **Mustafa ÇOLAKER** 1974 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 150. | 9824/18 | Kahya v. Turkey | 17/01/2018 | **Mustafa KAHYA** 1972 | Merve Elif GÜRACAR | Ordinary judge or public prosecutor |
| 151. | 9880/18 | H.K. v. Turkey | 29/01/2018 | **H.K.** 1972 | Duygu BUDAK | Ordinary judge or public prosecutor |
| 152. | 9892/18 | Güven v. Turkey | 30/01/2018 | **Aziz GÜVEN** 1989 | Nur Efşan DEMİREL | Ordinary judge or public prosecutor |
| 153. | 10030/18 | Köseoğlu v. Turkey | 24/01/2018 | **Bilal KÖSEOĞLU** 1966 | Hüseyin AYGÜN | Member of Court of Cassation |
| 154. | 10290/18 | Çetin v. Turkey | 19/09/2017 | **Yunus ÇETİN** 1966 | Cengiz VAROL | Member of Supreme Administrative Court |
| 155. | 10291/18 | Karadağ v. Turkey | 29/11/2017 | **Bilal KARADAĞ** 1967 | Hüseyin AYGÜN | Member of Court of Cassation |
| 156. | 10471/18 | Tunçer v. Turkey | 01/02/2018 | **Ömer TUNÇER** 1983 | Osman Fatih AKGÜL | Ordinary judge or public prosecutor |
| 157. | 12041/18 | Yula v. Turkey | 28/02/2018 | **Ali YULA** 1982 | Emre AKARYILDIZ | Ordinary judge or public prosecutor |
| 158. | 12574/18 | Akbal v. Turkey | 22/02/2018 | **Mehmet AKBAL** 1971 | İrem TATLIDEDE | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 159. | 12594/18 | Akdoğan v. Turkey | 09/02/2018 | **Mehmet Emin AKDOĞAN** 1981 | Arzu BEYAZIT | Ordinary judge or public prosecutor |
| 160. | 12629/18 | Şimşek v. Turkey | 05/03/2018 | **Adnan ŞİMŞEK** 1984 | | Ordinary judge or public prosecutor |
| 161. | 12630/18 | Dursun v. Turkey | 05/03/2018 | **Hasan DURSUN** 1981 | Önder ÖZDERYOL | Ordinary judge or public prosecutor |
| 162. | 13823/18 | Akan v. Turkey | 16/03/2018 | **Selim AKAN** 1988 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 163. | 14627/18 | Akkurt v. Turkey | 09/03/2018 | **İbrahim AKKURT** 1984 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 164. | 14849/18 | Boz v. Turkey | 14/02/2018 | **Nazım BOZ** 1985 | Mehmet Fatih İÇER | Ordinary judge or public prosecutor |
| 165. | 16029/18 | Necipoğlu v. Turkey | 28/03/2018 | **Nazmi NECİPOĞLU** 1972 | Levent ÇEŞME | Ordinary judge or public prosecutor |
| 166. | 16296/18 | Gülmez v. Turkey | 23/03/2018 | **Hüseyin GÜLMEZ** 1975 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 167. | 16305/18 | Aydın v. Turkey | 22/03/2018 | **Muzaffer AYDIN** 1971 | Merve Elif GÜRACAR | Ordinary judge or public prosecutor |
| 168. | 16324/18 | Temel v. Turkey | 20/03/2018 | **Muhammed Zeki** | Emre AKARYILDIZ | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | **TEMEL**<br>1978 | | |
| 169. | 16368/18 | Gül v. Turkey | 23/03/2018 | **Tevfik GÜL**<br>1983 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 170. | 16386/18 | Polat v. Turkey | 02/03/2018 | **Halil POLAT**<br>1984 | Mehmet Fatih İÇER | Ordinary judge or public prosecutor |
| 171. | 17174/18 | Elibol v. Turkey | 15/03/2018 | **Mert ELİBOL**<br>1980 | Muhammet GÜNEY | Ordinary judge or public prosecutor |
| 172. | 17237/18 | Mertoğlu v. Turkey | 16/03/2018 | **Hakan MERTOĞLU**<br>1990 | Hamza BARUT | Ordinary judge or public prosecutor |
| 173. | 17315/18 | Çetin v. Turkey | 10/03/2018 | **Muharrem ÇETİN**<br>1971 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 174. | 17391/18 | Kırım v. Turkey | 13/03/2018 | **Kerim KIRIM**<br>1971 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 175. | 17544/18 | Sönmez v. Turkey | 04/04/2018 | **Sebati SÖNMEZ**<br>1979 | Havva ÖZEL KAPLAN | Ordinary judge or public prosecutor |
| 176. | 17561/18 | Toprak v. Turkey | 01/03/2018 | **Muhammet TOPRAK**<br>1984 | Duygu BUDAK | Ordinary judge or public prosecutor |
| 177. | 17576/18 | Gül v. Turkey | 23/02/2018 | **Olcay GÜL** | İrem TATLIDEDE | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | 1977 | | |
| 178. | 17637/18 | İkiz v. Turkey | 02/04/2018 | **Durmuş Ali İKİZ** 1979 | Enes Malik KILIÇ | Ordinary judge or public prosecutor |
| 179. | 17754/18 | Kulak v. Turkey | 23/02/2018 | **Sercan Coşkun KULAK** 1983 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 180. | 17828/18 | Açıkgöz v. Turkey | 04/04/2018 | **Bilal AÇIKGÖZ** 1988 | Mehmet Fatih İÇER | Ordinary judge or public prosecutor |
| 181. | 17837/18 | Uluçay v. Turkey | 10/03/2018 | **Ömer ULUÇAY** 1987 | Mücahit AYDIN | Ordinary judge or public prosecutor |
| 182. | 17940/18 | Yılmaz v. Turkey | 05/01/2018 | **Yavuz YILMAZ** 1971 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 183. | 18063/18 | Aker v. Turkey | 06/04/2018 | **Ender Yakup AKER** 1986 | Mehmet Fatih İÇER | Ordinary judge or public prosecutor |
| 184. | 18110/18 | Gül v. Turkey | 11/04/2018 | **Veysi GÜL** 1985 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 185. | 18112/18 | Bozlak v. Turkey | 05/04/2018 | **Rafetcan BOZLAK** 1990 | Rukiye COŞGUN | Ordinary judge or public prosecutor |
| 186. | 18200/18 | Sarıgüzel v. Turkey | 10/04/2018 | **Hacı SARIGÜZEL** 1982 | Mehmet GÜL | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 187. | 18214/18 | Ünal v. Turkey | 20/02/2018 | **Sedat ÜNAL**<br>1982 | Cahit ÇİFTÇİ | Ordinary judge or public prosecutor |
| 188. | 18695/18 | Berber v. Turkey | 30/03/2018 | **Selim BERBER**<br>1976 | Ahmet Aykut YILDIZ | Ordinary judge or public prosecutor |
| 189. | 19228/18 | Çeliktaş v. Turkey | 05/03/2018 | **Şakir ÇELİKTAŞ**<br>1986 | Burcu HAS | Ordinary judge or public prosecutor |
| 190. | 19230/18 | Küçük v. Turkey | 05/04/2018 | **Yalçın KÜÇÜK**<br>1983 | Mehtap SERT | Ordinary judge or public prosecutor |
| 191. | 19445/18 | Özen v. Turkey | 12/04/2018 | **Edib Hüsnü ÖZEN**<br>1981 | Mehmet MIRZA | Ordinary judge or public prosecutor |
| 192. | 20548/18 | Güldallı v. Turkey | 20/04/2018 | **Ömer GÜLDALLI**<br>1985 | Ahmet ÖZGÜL | Ordinary judge or public prosecutor |
| 193. | 21020/18 | Metin v. Turkey | 30/04/2018 | **Özgür METİN**<br>1982 | İhsan MAKAS | Ordinary judge or public prosecutor |
| 194. | 21064/18 | Zengin v. Turkey | 20/04/2018 | **Nihan ZENGİN**<br>1990 | Adem KAPLAN | Ordinary judge or public prosecutor |
| 195. | 21890/18 | Erdem v. Turkey | 02/05/2018 | **Yılmaz ERDEM**<br>1975 | Fatma (YILMAZ) KOCAEL | Ordinary judge or public prosecutor |
| 196. | 22009/18 | Ünlü v. Turkey | 20/04/2018 | **Halil ÜNLÜ**<br>1985 | İrem TATLIDEDE | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 197. | 22013/18 | Çakırca v. Turkey | 03/05/2018 | **Kenan ÇAKIRCA**<br>1983 | Meryem GÜNAY | Ordinary judge or public prosecutor |
| 198. | 22033/18 | Yavuz v. Turkey | 24/04/2018 | **Yener YAVUZ**<br>1971 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 199. | 22087/18 | Özen v. Turkey | 27/04/2018 | **Murat ÖZEN**<br>1976 | Hilal YILMAZ PUSAT | Ordinary judge or public prosecutor |
| 200. | 22088/18 | Kaymaz v. Turkey | 03/05/2018 | **Yusuf Samet KAYMAZ**<br>1988 | Mehmet Ertürk ERDEVİR | Ordinary judge or public prosecutor |
| 201. | 22200/18 | Altun v. Turkey | 07/05/2018 | **Osman ALTUN**<br>1972 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 202. | 22205/18 | Güler v. Turkey | 02/05/2018 | **Ercan GÜLER**<br>1978 | Emre AKARYILDIZ | Ordinary judge or public prosecutor |
| 203. | 22238/18 | Budak v. Turkey | 30/04/2018 | **Serhan BUDAK**<br>1984 | Burcu HAS | Ordinary judge or public prosecutor |
| 204. | 23665/18 | Akbaba v. Turkey | 07/05/2018 | **Şerafettin AKBABA**<br>1983 | Atıl KARADUMAN | Ordinary judge or public prosecutor |
| 205. | 23858/18 | Keskin v. Turkey | 10/05/2018 | **Özcan KESKİN**<br>1974 | Ersayın IŞIK | Ordinary judge or public prosecutor |
| 206. | 24205/18 | Kantar v. Turkey | 04/05/2018 | **İsmail KANTAR** | Cahit ÇİFTÇİ | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant’s status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | 1976 | | |
| 207. | 24216/18 | Erkaçal v. Turkey | 30/04/2018 | **Taner ERKAÇAL**<br>1978 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 208. | 24222/18 | Çakmakçı v. Turkey | 02/05/2018 | **Murat Hikmet ÇAKMAKÇI**<br>1970 | Fatih DÖNMEZ | Ordinary judge or public prosecutor |
| 209. | 24224/18 | Altun v. Turkey | 07/05/2018 | **Ali Rıza ALTUN**<br>1978 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 210. | 24227/18 | Maraşlı v. Turkey | 22/05/2018 | **Yusuf Cuma MARAŞLI**<br>1980 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 211. | 24446/18 | R.H. v. Turkey | 14/05/2018 | **R.H.**<br>1983 | Emine Feyza ASLAN | Ordinary judge or public prosecutor |
| 212. | 24636/18 | Vural v. Turkey | 17/05/2018 | **Muhammed Said VURAL**<br>1991 | Esad VURAL | Ordinary judge or public prosecutor |
| 213. | 24702/18 | Şahin v. Turkey | 09/05/2018 | **Adnan ŞAHİN**<br>1975 | İhsan MAKAS | Ordinary judge or public prosecutor |
| 214. | 24762/18 | Demirtaş v. Turkey | 17/05/2018 | **İbrahim DEMİRTAŞ**<br>1969 | Ali YILMAZ | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 215. | 24876/18 | Gökçek v. Turkey | 16/02/2018 | **Erdoğan GÖKÇEK**<br>1969 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 216. | 25037/18 | Karabacak v. Turkey | 24/05/2018 | **Orhan KARABACAK**<br>1978 | İhsan Can AKMARUL | Ordinary judge or public prosecutor |
| 217. | 25186/18 | Özgül v. Turkey | 21/05/2018 | **Ünver ÖZGÜL**<br>1972 | Duygu SEZEN | Ordinary judge or public prosecutor |
| 218. | 25195/18 | Kiriş v. Turkey | 14/02/2018 | **Ahmet KİRİŞ**<br>1965 | Şeyma GÜNEŞ | Member of Court of Cassation |
| 219. | 25218/18 | Kara v. Turkey | 07/05/2018 | **Nazım KARA**<br>1966 | Ahmet KARA | Ordinary judge or public prosecutor |
| 220. | 25228/18 | Benli v. Turkey | 18/05/2018 | **Esat Faruk BENLİ**<br>1970 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 221. | 25336/18 | Ayyayla v. Turkey | 23/05/2018 | **Hüseyin AYYAYLA**<br>1973 | Can GÜZEL | Ordinary judge or public prosecutor |
| 222. | 25370/18 | Durgun v. Turkey | 25/05/2018 | **Metin DURGUN**<br>1969 | Ali DURGUN | Ordinary judge or public prosecutor |
| 223. | 25880/18 | Dedetürk v. Turkey | 30/05/2018 | **Serkan DEDETÜRK**<br>1977 | Cahit ÇİFTÇİ | Ordinary judge or public prosecutor |
| 224. | 26281/18 | Aksoy v. Turkey | 24/05/2018 | **İsmail AKSOY** | İrem TATLIDEDE | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | 1970 | | |
| 225. | 26414/18 | Elieyioğlu v. Turkey | 30/05/2018 | **Aydın ELİEYİOĞLU**<br>1980 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 226. | 26419/18 | Özata v. Turkey | 30/05/2018 | **Bedri ÖZATA**<br>1981 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 227. | 26530/18 | Kadıoğlu v. Turkey | 24/05/2018 | **Yasin KADIOĞLU**<br>1978 | Hatice YILMAZ | Ordinary judge or public prosecutor |
| 228. | 26814/18 | Yılmaz v. Turkey | 22/05/2018 | **Sinan YILMAZ**<br>1975 | Emre AKARYILDIZ | Ordinary judge or public prosecutor |
| 229. | 27022/18 | Çelik v. Turkey | 28/05/2018 | **Sabır ÇELİK**<br>1974 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 230. | 27057/18 | Cihangir v. Turkey | 30/05/2018 | **Nurullah CİHANGİR**<br>1973 | Merve Elif GÜRACAR | Ordinary judge or public prosecutor |
| 231. | 27073/18 | Çimen v. Turkey | 29/05/2018 | **Mustafa ÇİMEN**<br>1981 | Şeyma LİMON TALUY | Ordinary judge or public prosecutor |
| 232. | 27092/18 | Nas Çelik v. Turkey | 28/05/2018 | **Seval NAS ÇELIK**<br>1979 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 233. | 27542/18 | Yönder v. Turkey | 05/06/2018 | **Muhammed** | Elif Nurbanu OR | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | **YÖNDER**<br>1983 | | |
| 234. | 27574/18 | Bilgen v. Turkey | 01/06/2018 | **Rasim İsa BİLGEN**<br>1968 | Hakan ÖZER | Ordinary judge or public prosecutor |
| 235. | 27581/18 | Aygör v. Turkey | 03/05/2018 | **Dursun AYGÖR**<br>1965 | Merve Elif GÜRACAR | Ordinary judge or public prosecutor |
| 236. | 27600/18 | Yalçıntaş v. Turkey | 11/04/2018 | **Habib Hüdai YALÇINTAŞ**<br>1972 | Rukiye COŞGUN | Ordinary judge or public prosecutor |
| 237. | 27611/18 | Saral v. Turkey | 29/05/2018 | **Süleyman SARAL**<br>1974 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 238. | 27998/18 | Güney v. Turkey | 02/06/2018 | **Yusuf GÜNEY**<br>1979 | Rukiye COŞGUN | Ordinary judge or public prosecutor |
| 239. | 28050/18 | Karaçavuş v. Turkey | 15/05/2018 | **Ümit KARAÇAVUŞ**<br>1981 | Aykut ÖZDEMIR | Ordinary judge or public prosecutor |
| 240. | 28150/18 | Yalçın v. Turkey | 08/06/2018 | **Onur YALÇIN**<br>1988 | Mehmet SÜRMEN | Ordinary judge or public prosecutor |
| 241. | 28481/18 | Gödel v. Turkey | 07/06/2018 | **Orhan GÖDEL**<br>1971 | Haydar YALÇINOĞLU | Ordinary judge or public prosecutor |
| 242. | 28530/18 | İlgen v. Turkey | 04/06/2018 | **Faik İLGEN** | Nesibe Merve | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant Year of Birth | Represented by | Applicant’s status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | 1986 | ARSLAN | |
| 243. | 28538/18 | Çelik v. Turkey | 11/06/2018 | **Ahmet ÇELİK** 1990 | Rukiye COŞGUN | Ordinary judge or public prosecutor |
| 244. | 28558/18 | Arslan v. Turkey | 06/06/2018 | **Fatih ARSLAN** 1984 | Kadir ÜNAL | Ordinary judge or public prosecutor |
| 245. | 28636/18 | Köse v. Turkey | 13/04/2018 | **Eşref KÖSE** 1974 | Rukiye COŞGUN | Ordinary judge or public prosecutor |
| 246. | 28690/18 | Uluçay v. Turkey | 07/06/2018 | **Ali ULUÇAY** 1979 | İhsan MAKAS | Ordinary judge or public prosecutor |
| 247. | 28739/18 | Kırbaş v. Turkey | 11/06/2018 | **Savaş KIRBAŞ** 1969 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 248. | 28746/18 | Özcan v. Turkey | 11/06/2018 | **Uğur ÖZCAN** 1968 | Ayşe Nur AYFER | Ordinary judge or public prosecutor |
| 249. | 29587/18 | Okumuş v. Turkey | 11/06/2018 | **Ali Mazhar OKUMUŞ** 1976 | Mehmet Fatih İÇER | Ordinary judge or public prosecutor |
| 250. | 29762/18 | Özdemir v. Turkey | 12/06/2018 | **Kadir ÖZDEMİR** 1974 | Ahmet KARAHAN | Ordinary judge or public prosecutor |
| 251. | 29931/18 | Özbek v. Turkey | 08/06/2018 | **Okan ÖZBEK** 1989 | Elif Nurbanu OR | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant Year of Birth | Represented by | Applicant’s status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 252. | 30232/18 | Kızıler v. Turkey | 20/06/2018 | **Levent KIZILER** 1986 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 253. | 30234/18 | Turgut v. Turkey | 13/06/2018 | **Bayram TURGUT** 1974 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 254. | 30267/18 | Basdaş v. Turkey | 20/06/2018 | **Mustafa BASDAŞ** 1973 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 255. | 30287/18 | Sonay v. Turkey | 18/06/2018 | **Suat SONAY** 1978 | Fatma (YILMAZ) KOCAEL | Ordinary judge or public prosecutor |
| 256. | 30481/18 | Alıcı v. Turkey | 14/06/2018 | **Hasan ALICI** 1976 | Bünyamin TAPAR | Ordinary judge or public prosecutor |
| 257. | 30497/18 | Güngörmüş v. Turkey | 13/06/2018 | **Hasan GÜNGÖRMÜŞ** 1981 | Muhammet GÜNEY | Ordinary judge or public prosecutor |
| 258. | 30502/18 | Coşar v. Turkey | 19/06/2018 | **Ümit COŞAR** 1988 | Elif Nurbanu OR | Ordinary judge or public prosecutor |
| 259. | 30517/18 | Oktar v. Turkey | 18/06/2018 | **Mehmet OKTAR** 1985 | Erdem OKTAR | Ordinary judge or public prosecutor |
| 260. | 31880/18 | Alper v. Turkey | 25/06/2018 | **Cafer Tayyer ALPER** | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 261. | 31888/18 | Eroğlu v. Turkey | 25/06/2018 | **Hüseyin EROĞLU** | İrem TATLIDEDE | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | 1982 | | |
| 262. | 31908/18 | Gülver v. Turkey | 19/06/2018 | **Hasan GÜLVER** 1970 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 263. | 32352/18 | Özden v. Turkey | 11/06/2018 | **Salih ÖZDEN** 1973 | Rukiye COŞGUN | Ordinary judge or public prosecutor |
| 264. | 32376/18 | Karacaoğlu v. Turkey | 25/06/2018 | **Hasan KARACAOĞLU** 1990 | Abdil TAŞ | Ordinary judge or public prosecutor |
| 265. | 32412/18 | Özdemir v. Turkey | 27/06/2018 | **Mehmet Fatih ÖZDEMİR** 1985 | Mehmet Yasin BUHUR | Ordinary judge or public prosecutor |
| 266. | 32418/18 | Temel v. Turkey | 28/06/2018 | **Yusuf TEMEL** 1990 | Mustafa TEMEL | Ordinary judge or public prosecutor |
| 267. | 32431/18 | Kahveci v. Turkey | 25/06/2018 | **Yusuf KAHVECİ** 1979 | Köksal YAVUZ | Ordinary judge or public prosecutor |
| 268. | 32449/18 | Nedim v. Turkey | 22/06/2018 | **Mercan NEDİM** 1985 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 269. | 32599/18 | Karakaya v. Turkey | 25/06/2018 | **Murat KARAKAYA** 1984 | Muhammet GÜNEY | Ordinary judge or public prosecutor |
| 270. | 32605/18 | Arıkan v. Turkey | 25/06/2018 | **Ahmet ARIKAN** | Berivan YAKIŞIR | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant’s status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | 1972 | | |
| 271. | 32611/18 | Kadıoğlu v. Turkey | 25/06/2018 | **Ali KADIOĞLU**<br>1983 | Muhammet GÜNEY | Ordinary judge or public prosecutor |
| 272. | 32906/18 | Güverçin v. Turkey | 25/06/2018 | **Sezgin GÜVERÇİN**<br>1980 | Karar Koray ATAK | Ordinary judge or public prosecutor |
| 273. | 32945/18 | Kır v. Turkey | 13/06/2018 | **Oğuzhan KIR**<br>1974 | Mehmet Fatih İÇER | Ordinary judge or public prosecutor |
| 274. | 32948/18 | Altın v. Turkey | 22/06/2018 | **Erkan ALTIN**<br>1980 | Mehmet Fatih İÇER | Ordinary judge or public prosecutor |
| 275. | 32972/18 | Hançerkıran v. Turkey | 05/07/2018 | **Said Serhan HANÇERKIRAN**<br>1977 | Mustafa ASLAN | Ordinary judge or public prosecutor |
| 276. | 32999/18 | Keçeci v. Turkey | 02/07/2018 | **Tuğrul KEÇECİ**<br>1988 | Mustafa ÖZBEK | Ordinary judge or public prosecutor |
| 277. | 33007/18 | Eşim v. Turkey | 27/06/2018 | **Recep EŞİM**<br>1972 | Hacer SEZER | Ordinary judge or public prosecutor |
| 278. | 33112/18 | Saz v. Turkey | 27/06/2018 | **Murat SAZ**<br>1974 | Ali DURGUN | Ordinary judge or public prosecutor |
| 279. | 33417/18 | Gül v. Turkey | 04/07/2018 | **Ayşe Neşe GÜL**<br>1968 | İrem TATLIDEDE | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant’s status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 280. | 33474/18 | Doğan v. Turkey | 02/07/2018 | **Cem DOĞAN**<br>1980 | Naim DOĞAN | Ordinary judge or public prosecutor |
| 281. | 33501/18 | Orhan v. Turkey | 05/07/2018 | **Bilal ORHAN**<br>1985 | Cahit ÇİFTÇİ | Ordinary judge or public prosecutor |
| 282. | 33714/18 | Dural v. Turkey | 20/04/2018 | **Kasım DURAL**<br>1981 | Remziye ARSLAN KAYA | Ordinary judge or public prosecutor |
| 283. | 33806/18 | Söyler v. Turkey | 26/04/2018 | **Abdülkerim Ziya SÖYLER**<br>1979 | Metin YÜCESAN | Ordinary judge or public prosecutor |
| 284. | 33941/18 | Kandil v. Turkey | 21/03/2018 | **Hamit Ali KANDİL**<br>1979 | Adnan AYDIN | Ordinary judge or public prosecutor |
| 285. | 33967/18 | Özdemir v. Turkey | 21/06/2018 | **Dursun ÖZDEMİR**<br>1979 | Rukiye COŞGUN | Ordinary judge or public prosecutor |
| 286. | 34161/18 | İlhan v. Turkey | 11/05/2018 | **Mehmet İLHAN**<br>1981 | Merve Elif GÜRACAR | Ordinary judge or public prosecutor |
| 287. | 34165/18 | Yalçınkaya v. Turkey | 03/05/2018 | **Ömer YALÇINKAYA**<br>1977 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 288. | 34198/18 | Kelam v. Turkey | 27/06/2018 | **Ali Arslan KELAM**<br>1977 | İrem TATLIDEDE | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 289. | 34207/18 | Albayrak v. Turkey | 06/07/2018 | **Bülent ALBAYRAK** 1970 | İhsan MAKAS | Ordinary judge or public prosecutor |
| 290. | 34466/18 | Yıldırım v. Turkey | 29/06/2018 | **Bülent YILDIRIM** 1978 | Murat YILMAZ | Ordinary judge or public prosecutor |
| 291. | 34538/18 | Gençoğlu v. Turkey | 04/07/2018 | **Hacer GENÇOĞLU** 1990 | Sultan TEKE SOYDİNÇ | Ordinary judge or public prosecutor |
| 292. | 34683/18 | Öztürkeri v. Turkey | 10/07/2018 | **Bekir ÖZTÜRKERİ** 1989 | Murat YILMAZ | Ordinary judge or public prosecutor |
| 293. | 35036/18 | Usta v. Turkey | 13/07/2018 | **Onur USTA** 1989 | Hanifi BAYRI | Ordinary judge or public prosecutor |
| 294. | 35163/18 | Ak v. Turkey | 14/07/2018 | **Hasan AK** 1980 | Emre AKARYILDIZ | Ordinary judge or public prosecutor |
| 295. | 35179/18 | Sil v. Turkey | 10/05/2018 | **Ahmet SİL** 1985 | Mehmet ARI (not lawyer) | Ordinary judge or public prosecutor |
| 296. | 35181/18 | Karanfil v. Turkey | 31/05/2018 | **Kemal KARANFİL** 1972 | Cahit ÇİFTÇİ | Ordinary judge or public prosecutor |
| 297. | 35328/18 | Çağlayan v. Turkey | 18/04/2018 | **Serkan ÇAĞLAYAN** 1973 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 298. | 35435/18 | Yıldız v. Turkey | 05/07/2018 | **Utku YILDIZ** 1990 | Elif Nurbanu OR | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 299. | 35487/18 | Ayko v. Turkey | 10/07/2018 | **Mehmet AYKO**<br>1990 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 300. | 35910/18 | Yılmaz v. Turkey | 10/07/2018 | **Abdurrahman YILMAZ**<br>1968 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 301. | 36216/18 | Alaybay v. Turkey | 20/07/2018 | **Hüseyin ALAYBAY**<br>1973 | Özhan KURT | Ordinary judge or public prosecutor |
| 302. | 36388/18 | Kurt v. Turkey | 11/07/2018 | **Saltuk Buğra KURT**<br>1979 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 303. | 36471/18 | Akçalı v. Turkey | 26/07/2018 | **Tamer AKÇALI**<br>1972 | Mehmet ARI (not lawyer) | Ordinary judge or public prosecutor |
| 304. | 36545/18 | Arslan v. Turkey | 27/07/2018 | **Önder ARSLAN**<br>1983 | Yener ARSLAN | Ordinary judge or public prosecutor |
| 305. | 36591/18 | Çam v. Turkey | 17/07/2018 | **Ali Rıza ÇAM**<br>1971 | Levent KAHYA | Ordinary judge or public prosecutor |
| 306. | 36656/18 | Şişman v. Turkey | 12/07/2018 | **Sefa ŞİŞMAN**<br>1978 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 307. | 36666/18 | Baytekin v. Turkey | 03/04/2018 | **İbrahim BAYTEKİN**<br>1973 | Cahit ÇİFTÇİ | Ordinary judge or public prosecutor |
| 308. | 36930/18 | Kaya v. Turkey | 03/07/2018 | **Mine KAYA** | Grégory THUAN DIT | Member of Court of Cassation |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | 1969 | DIEUDONNÉ | |
| 309. | 37070/18 | Maden v. Turkey | 27/07/2018 | **Ahmet MADEN**<br>1969 | Fatma HACIPAŞALIOĞLU | Ordinary judge or public prosecutor |
| 310. | 37257/18 | Dertli v. Turkey | 16/07/2018 | **Abdullah DERTLİ**<br>1984 | Emre AKARYILDIZ | Ordinary judge or public prosecutor |
| 311. | 37346/18 | Bulut v. Turkey | 20/07/2018 | **Hikmet BULUT**<br>1979 | Emre AKARYILDIZ | Ordinary judge or public prosecutor |
| 312. | 38144/18 | Yırtıcı v. Turkey | 31/07/2018 | **Asabil YIRTICI**<br>1981 | Merve Elif GÜRACAR | Ordinary judge or public prosecutor |
| 313. | 38851/18 | Mangal v. Turkey | 07/08/2018 | **Serkan MANGAL**<br>1981 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 314. | 39058/18 | Cil v. Turkey | 10/08/2018 | **Kamil CİL**<br>1977 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 315. | 39092/18 | Arslan v. Turkey | 04/07/2018 | **Fatih ARSLAN**<br>1980 | Merve Elif GÜRACAR | Ordinary judge or public prosecutor |
| 316. | 39476/18 | Altın v. Turkey | 06/08/2018 | **Ömer Faruk ALTIN**<br>1986 | Hanifi BAYRI | Ordinary judge or public prosecutor |
| 317. | 39755/18 | Çetinkaya v. Turkey | 17/08/2018 | **Mehmet ÇETİNKAYA**<br>1989 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 318. | 40120/18 | Göçen v. Turkey | 10/08/2018 | **Bilal GÖÇEN** 1984 | Zeynep Sacide SERTER | Ordinary judge or public prosecutor |
| 319. | 40643/18 | Babaoğlu v. Turkey | 02/08/2018 | **Hüseyin BABAOĞLU** 1981 | Rabia Betül KAHRAMAN | Ordinary judge or public prosecutor |
| 320. | 41131/18 | Dedebali v. Turkey | 13/08/2018 | **Rıza DEDEBALI** 1984 | Merve Elif GÜRACAR | Ordinary judge or public prosecutor |
| 321. | 41242/18 | Özer v. Turkey | 13/08/2018 | **Eyüp ÖZER** 1982 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 322. | 41432/18 | Hamurcu v. Turkey | 10/08/2018 | **Betül HAMURCU** 1989 | Zehra KILIÇ | Ordinary judge or public prosecutor |
| 323. | 42179/18 | Solak v. Turkey | 16/08/2018 | **Selami SOLAK** 1982 | Muhammet GÜNEY | Ordinary judge or public prosecutor |
| 324. | 42378/18 | Karamete v. Turkey | 29/08/2018 | **Abdullah KARAMETE** 1982 | Emre AKARYILDIZ | Ordinary judge or public prosecutor |
| 325. | 42727/18 | Hatal v. Turkey | 19/07/2018 | **İbrahim HATAL** 1970 | İsmet ÇELİK | Ordinary judge or public prosecutor |
| 326. | 43052/18 | Gökoğlu v. Turkey | 06/08/2018 | **Şükrü GÖKOĞLU** 1971 | Rukiye COŞGUN | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 327. | 44227/18 | Özyılmaz v. Turkey | 28/08/2018 | **Muhteşem ÖZYILMAZ** 1989 | Mehmet ÖNCÜ (not lawyer) | Ordinary judge or public prosecutor |
| 328. | 44388/18 | Sabay v. Turkey | 13/09/2018 | **Dursun SABAY** 1977 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 329. | 45116/18 | İpteş v. Turkey | 17/08/2018 | **Gültekin İPTEŞ** 1967 | Rukiye COŞGUN | Ordinary judge or public prosecutor |
| 330. | 45362/18 | Çalıkan v. Turkey | 25/09/2018 | **Abdullah Seçil ÇALIKAN** 1985 | Cahit ÇİFTÇİ | Ordinary judge or public prosecutor |
| 331. | 45455/18 | Eğerci v. Turkey | 07/09/2018 | **Ahmet EĞERCİ** 1969 | Adem KAPLAN | Member of Supreme Administrative Court |
| 332. | 45460/18 | Kul v. Turkey | 07/09/2018 | **Süleyman KUL** 1966 | Mehmet ÖNCÜ (not lawyer) | Member of Court of Cassation |
| 333. | 45467/18 | Uslu v. Turkey | 07/09/2018 | **Mehmet USLU** 1959 | Adem KAPLAN | Member of Court of Cassation |
| 334. | 45480/18 | Taşdan v. Turkey | 07/09/2018 | **Mehmet Nafi TAŞDAN** 1984 | Hatice YILDIZ | Ordinary judge or public prosecutor |
| 335. | 46203/18 | Baba v. Turkey | 25/09/2018 | **Ali Rıza BABA** 1975 | Mehmet Fatih İÇER | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 336. | 46229/18 | Buğuçam v. Turkey | 21/09/2018 | **Ziya Bekir BUĞUÇAM** 1980 | Utku Coşkuner SAKARYA | Ordinary judge or public prosecutor |
| 337. | 46260/18 | Yalçın v. Turkey | 21/09/2018 | **Zeki YALÇIN** 1974 | Canan DANIŞ | Ordinary judge or public prosecutor |
| 338. | 46264/18 | Gençoğlu v. Turkey | 26/09/2018 | **Mehmet GENÇOĞLU** 1989 | Sultan TEKE SOYDİNÇ | Ordinary judge or public prosecutor |
| 339. | 46414/18 | Demirezici v. Turkey | 26/09/2018 | **Mehmet Ali DEMİREZİCİ** 1966 | Süeda Esma ŞEN KARA | Member of Court of Cassation |
| 340. | 47130/18 | Korkmaz v. Turkey | 20/09/2018 | **Mahmut KORKMAZ** 1980 | İhsan MAKAS | Ordinary judge or public prosecutor |
| 341. | 47418/18 | Sırlı v. Turkey | 28/08/2018 | **Mustafa SIRLI** 1973 | Süleyman SARIBAŞ | Ordinary judge or public prosecutor |
| 342. | 47439/18 | Çelik v. Turkey | 25/09/2018 | **Metin ÇELİK** 1983 | Ramazan ZEREY | Ordinary judge or public prosecutor |
| 343. | 47657/18 | Musa v. Turkey | 25/09/2018 | **Alperen MUSA** 1983 | Muhammet GÜNEY | Ordinary judge or public prosecutor |
| 344. | 48133/18 | Yıldırım v. Turkey | 03/10/2018 | **Bünyamin** | Metin SÖNMEZ | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | **YILDIRIM** 1988 | | |
| 345. | 48158/18 | Simavlı v. Turkey | 27/09/2018 | **Mustafa SİMAVLI** 1965 | Süleyman Serdar BALKANLI | Member of Court of Cassation |
| 346. | 48210/18 | Ak v. Turkey | 04/10/2018 | **Mustafa AK** 1977 | Burcu KÜTAHYA | Ordinary judge or public prosecutor |
| 347. | 48547/18 | Kocabeyoğlu v. Turkey | 08/10/2018 | **Hasan Nafi KOCABEYOĞLU** 1975 | Mehmet ARI (not lawyer) | Ordinary judge or public prosecutor |
| 348. | 49022/18 | Alçık v. Turkey | 05/10/2018 | **Ali ALÇIK** 1964 | Adem KAPLAN | Member of Court of Cassation |
| 349. | 49092/18 | Tutar v. Turkey | 28/09/2018 | **Galip Tuncay TUTAR** 1964 | Adem KAPLAN | Member of Supreme Administrative Court |
| 350. | 49260/18 | Adalı v. Turkey | 02/10/2018 | **Ercan ADALI** 1973 | Mehmet ÇAVDAR | Ordinary judge or public prosecutor |
| 351. | 49461/18 | Kaleli v. Turkey | 10/10/2018 | **Temel KALELİ** 1983 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 352. | 49832/18 | Ince v. Turkey | 12/10/2018 | **Hüseyin İNCE** 1972 | İrem TATLIDEDE | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 353. | 49843/18 | Yardımcı v. Turkey | 11/10/2018 | **Mehmet Murat YARDIMCI**<br>1971 | Mehmet ARI (not lawyer) | Ordinary judge or public prosecutor |
| 354. | 49846/18 | Aksoy v. Turkey | 11/10/2018 | **Muharrem AKSOY**<br>1976 | Cabir Hulusi GÜLDEN | Ordinary judge or public prosecutor |
| 355. | 50052/18 | Koçtekin v. Turkey | 15/10/2018 | **Okan KOÇTEKİN**<br>1968 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 356. | 50079/18 | Aydın v. Turkey | 12/10/2018 | **Turan AYDIN**<br>1972 | Zehra KILIÇ | Ordinary judge or public prosecutor |
| 357. | 50343/18 | Dönmez v. Turkey | 10/10/2018 | **Bekir DÖNMEZ**<br>1977 | Deniz UYSAL | Ordinary judge or public prosecutor |
| 358. | 51094/18 | Alim v. Turkey | 25/10/2018 | **Ümit ALIM**<br>1979 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 359. | 51105/18 | Kaya v. Turkey | 25/10/2018 | **Levent KAYA**<br>1980 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 360. | 51377/18 | Başlar v. Turkey | 27/10/2018 | **Yusuf BAŞLAR**<br>1981 | Zehra KILIÇ | Ordinary judge or public prosecutor |
| 361. | 51430/18 | Evğün v. Turkey | 22/10/2018 | **Mustafa EVĞÜN**<br>1979 | Emre AKARYILDIZ | Ordinary judge or public prosecutor |
| 362. | 51548/18 | Fırat v. Turkey | 18/10/2018 | **Bircan FIRAT** | Rukiye COŞGUN | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | 1974 | | |
| 363. | 51920/18 | İren v. Turkey | 26/10/2018 | **Muzaffer İREN**<br>1974 | Hüseyin UÇAN | Ordinary judge or public prosecutor |
| 364. | 52171/18 | Yiğit v. Turkey | 16/10/2018 | **Nazım YİĞİT**<br>1972 | Ali DURGUN | Ordinary judge or public prosecutor |
| 365. | 52298/18 | Karakuş v. Turkey | 09/10/2018 | **Nuri KARAKUŞ**<br>1978 | Zeynep ŞEN KARAKUŞ | Ordinary judge or public prosecutor |
| 366. | 52471/18 | Cambolat v. Turkey | 29/10/2018 | **Ahmet CAMBOLAT**<br>1979 | Mehmet Fatih İÇER | Ordinary judge or public prosecutor |
| 367. | 52535/18 | Ermiş v. Turkey | 24/10/2018 | **Ercan ERMİŞ**<br>1986 | Duygu BUDAK | Ordinary judge or public prosecutor |
| 368. | 52615/18 | Vatan v. Turkey | 26/10/2018 | **Zeki VATAN**<br>1974 | Mehmet Fatih İÇER | Ordinary judge or public prosecutor |
| 369. | 52817/18 | Yıldız v. Turkey | 22/10/2018 | **Halil İbrahim YILDIZ**<br>1985 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 370. | 53077/18 | Alada v. Turkey | 05/11/2018 | **Zakir ALADA**<br>1985 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 371. | 53381/18 | Uğurlu v. Turkey | 01/11/2018 | **İbrahim UĞURLU**<br>1982 | Burcu HAS | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 372. | 53564/18 | Erdemir v. Turkey | 23/10/2018 | **Ahmet ERDEMİR**<br>1982 | Sefanur BOZGÖZ | Ordinary judge or public prosecutor |
| 373. | 53586/18 | İnceoğlu v. Turkey | 01/11/2018 | **İsmail İNCEOĞLU**<br>1965 | Ayşe Büşra İNCEOĞLU | Member of Court of Cassation |
| 374. | 53610/18 | Çelik v. Turkey | 08/11/2018 | **Abdullah ÇELİK**<br>1981 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 375. | 53682/18 | Çeliktaş v. Turkey | 12/11/2018 | **Sedat ÇELİKTAŞ**<br>1977 | Ahmet ŞAHİN | Ordinary judge or public prosecutor |
| 376. | 53840/18 | Özcan v. Turkey | 06/11/2018 | **Lutfullah Sami ÖZCAN**<br>1974 | Menekşe Merve TEKTEN | Ordinary judge or public prosecutor |
| 377. | 54260/18 | Şen v. Turkey | 12/10/2018 | **Şuayip ŞEN**<br>1966 | Mehmet ÖNCÜ (not lawyer) | Member of Court of Cassation |
| 378. | 54263/18 | Yılmaz v. Turkey | 12/10/2018 | **Zekeriya YILMAZ**<br>1965 | Adem KAPLAN | Member of Court of Cassation |
| 379. | 54318/18 | Cengiz v. Turkey | 25/10/2018 | **Abdi CENGİZ**<br>1965 | Zehra KILIÇ | Member of Court of Cassation |
| 380. | 54584/18 | Taşdelen v. Turkey | 12/10/2018 | **Reşat TAŞDELEN**<br>1963 | Mehmet ÖNCÜ (not lawyer) | Member of Court of Cassation |
| 381. | 54844/18 | Gürbüz v. Turkey | 13/11/2018 | **Yasin GÜRBÜZ** | İrem TATLIDEDE | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant Year of Birth | Represented by | Applicant’s status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | 1981 | | |
| 382. | 54910/18 | Sayıldı v. Turkey | 16/11/2018 | **Yeşim SAYILDI** 1972 | Ahmet Serdar GÜNEŞ | Ordinary judge or public prosecutor |
| 383. | 54942/18 | Yılmaz v. Turkey | 31/10/2018 | **Erkan YILMAZ** 1986 | Sultan TEKE SOYDİNÇ | Ordinary judge or public prosecutor |
| 384. | 55500/18 | Sayıldı v. Turkey | 16/11/2018 | **Selçuk SAYILDI** 1969 | Ahmet Serdar GÜNEŞ | Ordinary judge or public prosecutor |
| 385. | 55596/18 | Ş.D. v. Turkey | 20/11/2018 | **Ş.D.** 1977 | İbrahim KOCAOĞUL | Ordinary judge or public prosecutor |
| 386. | 57177/18 | Aydın v. Turkey | 24/11/2018 | **İlkay AYDIN** 1982 | İsmail GÜLER | Ordinary judge or public prosecutor |
| 387. | 57198/18 | Mutlu v. Turkey | 10/11/2018 | **Levent MUTLU** 1977 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 388. | 57202/18 | Palancı v. Turkey | 13/11/2018 | **Erhan PALANCI** 1987 | Esat Selim ESEN | Ordinary judge or public prosecutor |
| 389. | 57504/18 | Sarı v. Turkey | 26/11/2018 | **Bozan SARI** 1984 | Mehmet Fatih İÇER | Ordinary judge or public prosecutor |
| 390. | 57591/18 | Özdemir v. Turkey | 26/11/2018 | **Muzaffer ÖZDEMİR** 1968 | Hüseyin AYGÜN | Member of Court of Cassation |
| 391. | 57936/18 | Çolaklar v. Turkey | 07/12/2018 | **İlyas ÇOLAKLAR** | Murat GÜNDEM | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | 1985 | | |
| 392. | 58507/18 | Özese v. Turkey | 26/11/2018 | **Hasan Hüseyin ÖZESE**<br>1960 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 393. | 58514/18 | Tapar v. Turkey | 26/11/2018 | **Hacı Yusuf TAPAR**<br>1989 | Bünyamin TAPAR | Ordinary judge or public prosecutor |
| 394. | 58522/18 | Arabacı v. Turkey | 17/11/2018 | **Kerem ARABACI**<br>1972 | İsmet ÇELİK | Ordinary judge or public prosecutor |
| 395. | 58651/18 | Demir v. Turkey | 15/11/2018 | **Murat DEMİR**<br>1968 | Muhammet GÜNEY | Ordinary judge or public prosecutor |
| 396. | 58875/18 | Gül v. Turkey | 28/11/2018 | **Hasan Basri GÜL**<br>1979 | Mehmet Fatih İÇER | Ordinary judge or public prosecutor |
| 397. | 58925/18 | Bahadır v. Turkey | 28/11/2018 | **Oktay BAHADIR**<br>1982 | Emre AKARYILDIZ | Ordinary judge or public prosecutor |
| 398. | 59274/18 | T.Ç. v. Turkey | 03/12/2018 | **T.Ç.**<br>1977 | Abdullah BIRDIR | Ordinary judge or public prosecutor |
| 399. | 59555/18 | Yıldız v. Turkey | 07/12/2018 | **Hasan YILDIZ**<br>1981 | Şerafettin AKTAŞ | Ordinary judge or public prosecutor |
| 400. | 59840/18 | Sakman v. Turkey | 04/12/2018 | **Ahmet SAKMAN**<br>1981 | Serdar ÇELEBİ | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| 401. | 59990/18 | Kaya v. Turkey | 30/11/2018 | **Mehmet KAYA**<br>1972 | Fatih ŞAHİNLER | Ordinary judge or public prosecutor |
| 402. | 233/19 | Vural v. Turkey | 11/12/2018 | **Hamdi VURAL**<br>1978 | Murat YILMAZ | Ordinary judge or public prosecutor |
| 403. | 752/19 | Sarıkaya v. Turkey | 29/12/2018 | **Cebrail SARIKAYA**<br>1976 | Cahit ÇİFTÇİ | Ordinary judge or public prosecutor |
| 404. | 1641/19 | Göktopal v. Turkey | 14/12/2018 | **Bülent GÖKTOPAL**<br>1979 | Muhammet ATALAY | Ordinary judge or public prosecutor |
| 405. | 1668/19 | Kırmaz v. Turkey | 05/12/2018 | **Fikret KIRMAZ**<br>1980 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 406. | 1779/19 | Yumma v. Turkey | 02/01/2019 | **Süleyman YUMMA**<br>1970 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 407. | 1843/19 | Altınışık v. Turkey | 01/12/2018 | **Kadir ALTINIŞIK**<br>1968 | Handan CAN | Member of Court of Cassation |
| 408. | 1844/19 | Aydın v. Turkey | 14/11/2018 | **Mahmut AYDIN**<br>1967 | Mehmet Fatih İÇER | Ordinary judge or public prosecutor |
| 409. | 2111/19 | Erdoğan v. Turkey | 06/12/2018 | **Zekeriya ERDOĞAN**<br>1966 | Handan CAN | Member of Court of Cassation |
| 410. | 2413/19 | Demir v. Turkey | 27/11/2018 | **Gökhan DEMİR** | İmdat BERKSOY | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant’s status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | 1986 | | |
| 411. | 3078/19 | Demiryürek v. Turkey | 17/12/2018 | **Ahmet DEMİRYÜREK**<br>1970 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 412. | 3114/19 | Yılmaz v. Turkey | 05/12/2018 | **Mustafa YILMAZ**<br>1967 | Hilal YILMAZ PUSAT | Ordinary judge or public prosecutor |
| 413. | 3660/19 | Cenik v. Turkey | 21/12/2018 | **Fatih CENİK**<br>1979 | Tufan YILMAZ | Ordinary judge or public prosecutor |
| 414. | 4149/19 | Tekelioğlu v. Turkey | 15/01/2019 | **Murat TEKELİOĞLU**<br>1983 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 415. | 4575/19 | Cuvoğlu v. Turkey | 04/01/2019 | **Mahmut CUVOĞLU**<br>1985 | Tufan YILMAZ | Ordinary judge or public prosecutor |
| 416. | 4995/19 | Ertaşkın v. Turkey | 10/01/2019 | **Sedat ERTAŞKIN**<br>1976 | Zülküf ARSLAN | Ordinary judge or public prosecutor |
| 417. | 5153/19 | Bilici v. Turkey | 11/01/2019 | **Hasan BİLİCİ**<br>1986 | Regaip DEMİR | Ordinary judge or public prosecutor |
| 418. | 5313/19 | Memiş v. Turkey | 08/01/2019 | **Yahya MEMİŞ**<br>1965 | Hüseyin AYGÜN | Member of Court of Cassation |
| 419. | 5316/19 | Aydın v. Turkey | 21/01/2019 | **Mustafa AYDIN** | Mehmet ARI (not | Ordinary judge or public prosecutor |

| No. | Application no. | Case name | Lodged on | Applicant<br>Year of Birth | Represented by | Applicant's status at the time of pre-trial detention |
|---|---|---|---|---|---|---|
| | | | | 1968 | lawyer) | |
| 420. | 5331/19 | Şen v. Turkey | 12/01/2019 | **ÇETİN ŞEN**<br>1965 | Süeda Esma ŞEN KARA | Member of Court of Cassation |
| 421. | 6114/19 | Şen v. Turkey | 10/01/2019 | **Mümin ŞEN**<br>1977 | Zeynep ŞEN KARAKUŞ | Ordinary judge or public prosecutor |
| 422. | 7306/19 | Alıcı v. Turkey | 24/01/2019 | **Burhan ALICI**<br>1971 | İrem TATLIDEDE | Ordinary judge or public prosecutor |
| 423. | 7432/19 | Üzüm v. Turkey | 16/01/2019 | **Şahin ÜZÜM**<br>1977 | Ömer Faruk ERGÜN | Ordinary judge or public prosecutor |
| 424. | 9927/19 | Yıldırım v. Turkey | 06/02/2019 | **Mecit YILDIRIM**<br>1984 | Hilal MET DUMAN | Ordinary judge or public prosecutor |
| 425. | 10967/19 | Doğan v. Turkey | 15/02/2019 | **Osman İlter DOĞAN**<br>1971 | Hüseyin AYGÜN | Ordinary judge or public prosecutor |
| 426. | 11047/19 | Pınar v. Turkey | 06/02/2019 | **Atilla PINAR**<br>1973 | Zülküf ARSLAN | Ordinary judge or public prosecutor |
| 427. | 13015/19 | Toklu v. Turkey | 25/02/2019 | **Aykut TOKLU**<br>1979 | Merve Elif GÜRACAR | Ordinary judge or public prosecutor |