



# **CROSSBORDER JURISTS ASSOCIATION**

**Submission to the Rights Committee  
142nd Session (October 14 - November 7, 2024)  
For the consideration of Türkiye's second Periodic Report**

**Report On  
The Unlawful Dismissal of Members of The Judiciary  
in Türkiye**

**September - 2024**

## **REPORT ON THE UNLAWFUL DISMISSAL OF MEMBERS OF THE JUDICIARY IN TURKEY**

### **Executive Summary**

This report focuses on the gross unlawfulness of the dismissal decisions of at least 4386 members of the judiciary who were dismissed following the coup attempt of 15 July 2016.

In its response, Turkey argues that the dismissals of judges and prosecutors were carried out in accordance with the Constitution and relevant legal regulations. Turkey states that there is sufficient evidence concerning the dismissed members of the judiciary, that their right to a fair trial is protected and that they are entitled to an effective defence and right of appeal.

In its reply, Turkey implicitly admits that this is not the case. In its response, Turkey admits that thousands of judges and prosecutors from the judiciary were dismissed on the basis of a template decision and a general justification, without any personalisation on an individual basis. As a justification for this, it cites the extraordinary situation experienced during the coup d'état.

As set out in detail in the report below, 4386 judges and public prosecutors were dismissed on and immediately after 16 July 2016, on the basis of the previously prepared lists of judges and public prosecutors, without being given the right to defence, without concrete evidence and justification, and by listing their names.

In the dismissal decisions, not a single concrete piece of evidence was presented in relation to the dismissed judges and prosecutors; the decisions were made on the basis of general assessments and determinations that were not related to the accusations against the members of the judiciary.

The Council of Judges and Prosecutors evaluated the objections made by the dismissed members of the judiciary and similarly rejected all objections with a template decision, without addressing the issues objected to.

The Council of Judges and Prosecutors dismissed members of the judiciary without evidence and without justification, and after the dismissal, started to collect evidence against the dismissed judges and prosecutors. For this purpose, intelligence and security units fabricated false evidence, and Council inspectors obtained witness statements through pressure and unlawful promises.

After the dismissals, almost all of the dismissed members of the judiciary were detained and most of them were arrested. The dismissal decision of the Council of Judges and Prosecutors was accepted as the main evidence for arrest. Thousands of members of the judiciary were sentenced to heavy prison sentences ranging from 6 years and 3 months to 22 years. The dismissal decisions of the members of the judiciary are similar to each other, as well as the indictments prepared against them and the judgements of conviction are almost identical.

The government saw the coup attempt on 15 July 2016 as an opportunity and dismissed members of the judiciary, whom it considered as opponents, from the judicial system by taking advantage of this dark atmosphere. Afterwards, it took the Turkish judicial system under its control by recruiting thousands of judges and prosecutors in line with its own criteria.

## **REPORT ON THE UNLAWFUL DISMISSAL OF MEMBERS OF THE JUDICIARY IN TURKEY**

As is the case in all states of law, the Constitution and laws in Turkey subject the recruitment and dismissal of judges and prosecutors to special procedures. This right has not been granted to judges and prosecutors in order to privilege them. The nature of the work of judges and prosecutors requires the judiciary to be independent and impartial. Society has an interest in ensuring the independence and impartiality of the judiciary.

However, after 15 July 2016, judges and prosecutors have become the most insecure professionals in Turkey. The most important reason for this is the member structure of the Council of Judges and Prosecutors, which works and makes decisions under the influence and control of the government.

On the night of 15 July 2016, a coup attempt took place. While the coup attempt was ongoing, the Council of Judges and Prosecutors (HSK) held an extraordinary meeting late at night. In the early morning hours of 16 July, the HSK announced the suspension of 2745 judges and prosecutors. Simultaneously, the Ankara Chief Public Prosecutor's Office announced that it had opened an investigation against the suspended and subsequently dismissed judges and prosecutors on charges of 'attempted coup' and 'membership of an armed terrorist organisation'. In the context of the investigation, detention orders were issued for the arrest of all dismissed judges and prosecutors. The assets of dismissed judges and prosecutors were seized, their passports were cancelled and their homes and workplaces were searched.

The Council of Judges and Prosecutors has decided to dismiss 4388 judges and prosecutors in total with 27 different decisions taken at different times since 16 July 2016. This number includes 140 members of the Court of Cassation, 48 members of the Council of State and 5 members of the Council of Judges and Prosecutors.

The duties of the members of the Court of Cassation and Council of State were terminated with the Law No. 6723, which entered into force on 23 July 2016, and they were given the status of 'judge'. Therefore, the dismissals of the members of the high courts were carried out by the High Council of Judges and Prosecutors on 24.8.2016, not as members of the Court of Cassation or Council of State, but as 'judges'.

The number of dismissals does not include the names of 2 members of the Constitutional Court dismissed by the Presidency of the Constitutional Court. When these are included, the number will be 4390.

In addition to these, 199 candidate judges and prosecutors were dismissed with the Decree Laws issued during the State of Emergency. Also 199 military judges and prosecutors working in the military judiciary were dismissed from their jobs during this period.

### **WERE THE DISMISSAL DECISIONS OF THE COUNCIL OF JUDGES AND PROSECUTORS JUSTIFIED?**

The dismissal decisions of the Council of Judges and Prosecutors are completely unjustified. All of the decisions are templates. No individualization was made in the dismissal decisions for the dismissed members of the judiciary. The HSK created a common dismissal decision text and then simply stated that "the members of the judiciary listed in the attached list have been dismissed".

The dismissal decisions were published in the Official Gazette and on the website of the Council of Judges and Prosecutors. Even a person with no legal education will clearly see that these decisions are unjustified and that there is no individualization of the dismissals.

Until today, no concrete justification has been given by the HSK as to which judge or prosecutor participated in the coup or was a member of an armed terrorist organization.

The dismissal decisions made by the HSK were later turned into indictments by prosecutors' offices. All of the indictments prepared by the prosecutor's offices against judges and prosecutors are copies of each other. The only different part of the indictments is the personal identity information of the judges and prosecutors.

The indictments were then used as justification for the punishment of judges and prosecutors. In other words, the dismissal decision of the Council of Judges and Prosecutors first turned into an indictment and then into a conviction. This clearly shows that the dismissals and punishments were planned before July 15, 2016.

How the dismissal lists of judges and prosecutors were drawn up and on what concrete evidence they were based remains a mystery to this day.

### **DID THE COUNCIL OF JUDGES AND PROSECUTORS GIVE DISMISSED JUDICIAL MEMBERS THE RIGHT TO AN EFFECTIVE DEFENSE?**

It is not true that judges and prosecutors were given the right to an effective and efficient defense and appeal by the CJP regarding their dismissal. This is because the CJP first dismissed the judges and prosecutors with a template decision without justification. The relevant judges and prosecutors were then told that they could appeal these dismissal decisions. It is not possible for members of the judiciary, who do not know on what grounds, on what evidence and documents they were dismissed, to appeal against the decision of the CJP and defend themselves. The objections made by members of the judiciary were rejected without justification with a template decision created by the CJP. Neither in the dismissal decision nor in the decision on the objections, the CJP did not make any individualization of judges and prosecutors. The dismissals were made in lists and the appeals were rejected with similar list decisions.

On the night of July 15, 2016, the decision of the CJP to dismiss 2745 members of the judiciary was made in approximately 3-4 hours. Even if it is considered that it takes at least 1 minute to identify and write down the identity information of each member of the judiciary, the CJP's dismissal decision should have taken at least 2745 minutes. Even for this, at least 45 hours were needed. This alone shows that the dismissal decisions are not based on a realistic examination and evaluation, and that members of the judiciary, who are predetermined and considered as opponents of the government, are wanted to be eliminated under the pretext of a coup d'état.

As a requirement of the principles of "independence of courts" and "guarantee of judgeship and prosecutor's office", which are protected by Articles 138, 139 and 140 of the Constitution, special authority and duty regulations have been determined for the investigation and prosecution of crimes committed by judges and prosecutors in the course and scope of their duties, as well as personal crimes. These regulations are stipulated in Articles 82 to 94 of the Law No. 2802 on Judges and Prosecutors. These special trial procedures for members of the judiciary have been introduced with the aim of ensuring that judges and prosecutors who exercise judicial authority fulfill their duties independently without being under constant

pressure of investigation and to prevent them from being worn down by malicious denunciations and complaints.

The judges and prosecutors were dismissed by the CJP, ignoring their constitutional and legal guarantees, and were subsequently detained and arrested by the Ankara Public Prosecutor's Office.

In its response, the Turkish state argues that the dismissal and detention of members of the judiciary was justified and proportionate due to the state of emergency. The coup was officially suppressed on July 21, 2016. So why were judges and prosecutors suspended and arrested in the first hours of July 16, when security had not yet been restored in the country and their actual participation in the coup was not proven, not alleged, and has not been demonstrated to date? This question alone is enough to demonstrate the illogicality of the Turkish state's justification.

In this case, the judges and prosecutors were dismissed under 138 of the Constitution. They were dismissed by violating the judicial guarantees set out in the article, were detained and arrested and even prosecuted without complying with the rules of the judicial procedure set out in the Constitution and the Law of Judges and prosecutors.

The dismissal decisions of the Council of Judges and Prosecutors were used as direct evidence in the arrest and prosecution processes. The European Court of Human Rights and the United Nations Working Group on Arbitrary Detention have indirectly examined the decisions of the CJP and concluded that they clearly violate fundamental rights and freedoms. During the process of these judgments, Turkey made defenses, but could not explain on what concrete grounds the dismissals were carried out. In fact, it did not hesitate to provide clearly misleading information in its defenses.

The findings on these issues have been repeated frequently in the decisions of the European Court of Human Rights, the international supervisory bodies, and the United Nations working Group on arbitrary arrests. The tables below provide information on the decisions of the institutions mentioned.

| <b>Decisions made by the European Court of Human Rights</b> |                                        |                                   |
|-------------------------------------------------------------|----------------------------------------|-----------------------------------|
| Year                                                        | Decision name                          | Infringement items                |
| 2019                                                        | Alparslan Altan & Türkiye <sup>1</sup> | AİHS md. 5/1                      |
| 2020                                                        | Head & Turkey <sup>2</sup>             | See also Article 5/1, Article 5/4 |
| 2021                                                        | Tercan & Turkey <sup>3</sup>           | AİHS md 5/1, md. 8                |

---

<sup>1</sup> Alpaslan Altan v. Turkey, application No. 12778/17, K.T.: 16 April 2019, [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-195054%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-195054%22]})

<sup>2</sup> BAS v. Turkey, application no. 66448/17, K.T.: 3 March 2020, [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-206632%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-206632%22]})

<sup>3</sup> Turkey v. Turkey, application No. 6158/18, K.T.: 29 June 2021, [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-214477%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-214477%22]})

|      |                                                         |                     |
|------|---------------------------------------------------------|---------------------|
| 2021 | Turan et al Turkey and Turkey (427 people) <sup>4</sup> | AİHS md 5/1         |
| 2022 | Noah Uzun and Turkey <sup>5</sup>                       | AİHS md. 8          |
| 2022 | Acar et al Turkey and Turkey (50 people) <sup>6</sup>   | AİHS md. 5/1        |
| 2022 | Ulusoy et al Turkey and Turkey (21 people) <sup>7</sup> | AİHS md. 5/1        |
| 2022 | Eli and others vs Turkey (108 people) <sup>8</sup>      | AİHS md. 5/1        |
| 2022 | Ataman et al Turkey and Turkey (68 people) <sup>9</sup> | AİHS md. 5/1        |
| 2022 | Baser and Özçelik & Turkey (2 people) <sup>10</sup>     | AİHS md. 5/1        |
| 2022 | Morale vs. Turkey and Turkey (32 people) <sup>11</sup>  | AİHS md. 5/1        |
| 2022 | Rejoice vs Turkey and Turkey (135 people) <sup>12</sup> | AİHS md. 5/1        |
| 2022 | Güngör et al & Türkiye (82 kişi) <sup>13</sup>          | AİHS md. 5/1        |
| 2023 | Ayvaz vd. & Türkiye (121 kişi) <sup>14</sup>            | AİHS md. 5/1        |
| 2023 | Canavci and Turkey <sup>15</sup>                        | AİHS md. 8          |
| 2024 | Eagle and Turkey                                        | AİHS md. 6/1        |
| 2024 | Gülçcu VD & Turkey (49 people)                          | AİHS md. 6/1        |
| 2024 | Sözen & Turkey                                          | AİHS md. 6/1        |
| 2024 | Aydın Sefa Akay and Turkey                              | AİHS md. 5/1, md. 8 |

| United Nations working Group decisions on arbitrary arrests |                        |                                                 |
|-------------------------------------------------------------|------------------------|-------------------------------------------------|
| Year                                                        | Decision name          | Infringement items                              |
| 2018                                                        | Hamza Yaman and Turkey | (A) retention without legal basis – Category I; |

<sup>4</sup> Turan and Others v. Türkiye, Application no. 75805/16 and 426 other applications, K.T: 23 November 2021, [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-215088%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-215088%22]})

<sup>5</sup> [Nuh Uzun and othersleri/Türkiye Kararı](#), Application No. 49341/18 and others, K.T: March 29, 2022.

<sup>6</sup> [Acar and othersleri/Türkiye Kararı](#), Application No. 64251/16 and others, K.T: 28 June 2022.

<sup>7</sup> [Ulusoy and othersleri/Türkiye Kararı](#), Application No. 73062/16 and others, K.T: 6 September 2022.

<sup>8</sup> [Bayram and othersleri/Türkiye Kararı](#), Application No. 20061/17 and others, K.T: 6 September 2022.

<sup>9</sup> [Ataman and othersleri/Türkiye Kararı](#), Application No. 14676/17 and others, K.T: 6 September 2022.

<sup>10</sup> [Baser ve Özçelik/Türkiye Kararı](#), Application No. 30694/15 ve 30803/15, K.T: 13 September 2022.

<sup>11</sup> [Moral and othersleri/Türkiye Kararı](#), Application No. 49867/17 and others, K.T: 18 October 2022.

<sup>12</sup> [Sevinç and othersleri/Türkiye Kararı](#), Application No. 63634/16 and others, K.T: 18 October 2022.

<sup>13</sup> [Güngör and othersleri/Türkiye Kararı](#), Application No. 59639/17 and others, K.T: 13 December 2022.

<sup>14</sup> [Abdullah Kılıç/Türkiye Kararı](#), Application No. 43979/17, K.T: 31 January 2023.

<sup>15</sup> [Canavcı and othersleri/Türkiye Kararı](#), Application No. 24074/19 and others, K.T: 14 November 2023.

|      |                                                |                                                                                                                                                                                                                                                                                                        |
|------|------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|      |                                                | (B) failure to comply with international guarantees of the right to a fair trial. Kategori;<br><br>(C) retention on the basis of discrimination - Category V.                                                                                                                                          |
| 2019 | Melike Göksan and Mehmet Fatih Göksan & Turkey | (A) retention without legal basis – Category I;<br><br>(B) retention arising from the exercise of rights and freedoms – Category II;<br><br>(C) failure to comply with international guarantees of the right to a fair trial. Kategori;<br><br>(D) retention on a basis of discrimination - Category V |

### **HAVE THE DISMISSED MEMBERS OF THE JUDICIARY BEEN REINSTATED?**

Turkey does not share reliable information with the public about the dismissed members of the judiciary. MP Ömer Faruk Gergerlioğlu's requests for information on the issue are deliberately left unanswered by the Ministry of Justice. For this reason, it is still a mystery how many judges and prosecutors were dismissed after July 15th, how many were retired, how many were detained, arrested and arrested, and how many were tried and sentenced.

When the decisions of the Council of Judges and Prosecutors published in the Official Gazette were analysed by our association, it was found that 166 of them have been reinstated to their posts so far.

Pursuant to Article 3 of Law No. 6749, all decisions of the CJP on the recruitment and dismissal of judges and prosecutors must be published in the Official Gazette. Despite this clear provision, the CJP did not publish in the Official Gazette all the names of the judges and prosecutors who were reinstated after dismissal. Therefore, despite their reinstatement, there are a small number of judges and prosecutors for whom we do not have numerical information.

According to the data available to our association, the number of judicial personnel dismissed after their reinstatement is 4,222.

In its response, Turkey cites the fact that there are members of the judiciary who have been readmitted to the profession by the Council of Judges and Prosecutors as evidence of an effective appeal review. However, neither the dismissal decisions nor the readmission decisions are justified. Justified decisions are a sine qua non of the rule of law. The existence of unjustified decisions is the biggest proof of an arbitrary administration. The situations of all dismissed

members of the judiciary are almost identical. We do not know on what grounds the Council of Judges and Prosecutors made this decision about those who were readmitted to the profession. Our Association supports the elimination of an unlawful act. However, members of the judiciary who were unjustly dismissed have been able to regain their rights by contacting people who have close relations with the government. Our Association members have direct testimonies about this. If deemed necessary, we have members who will verbally testify before the United Nations.

## **NUMBER OF JUDGES AND PROSECUTORS DETAINED, ARRESTED AND GIVEN JUDICIAL CONTROL DECISIONS**

Of the 4,388 dismissed members of the judiciary, 166 were reinstated. According to the figures announced, 4,222 members of the judiciary were definitively dismissed between 2016 and 2022.

There is no clarity in the data released by the official authorities as to how many of the dismissed members of the judiciary have been subjected to judicial control measures.

The clearest information on this issue is the Constitutional Court's decision dated 26.7.2017 in the context of the individual application Selçuk Özdemir (Application number: 2016/49158). Paragraphs 18 and 19 of the Court's decision are as follows

**18.** According to Ministry of Justice data, the number of judicial members under investigation as of 24/7/2017 within the scope of FETÖ/PDY investigations is 4,664. Of these, 1,311 were released with judicial control measures and 97 were released without any protection measure. No judicial action such as arrest or detention was taken against 251 members of the judiciary under investigation. Arrest measures were taken against 2,431 members of the judiciary, including members of the high courts. In addition to these, 297 members of the judiciary were released a certain amount of time after the arrest measure was applied against them; judicial control measures were applied to 274 of those released. On the other hand, there are 271 judicial members who are fugitives and for whom arrest warrants have been issued by the investigation/prosecution authorities, and the detention process is ongoing for 6 judicial members.

**19.** On the other hand, during the process, the CJP issued suspension and dismissal decisions against more than 4,500 members of the judiciary who are considered to be related to FETÖ/PDY. Within this framework, the General Assembly of the CJP decided to dismiss 2,847 judges and prosecutors on 24/8/2016, 543 on 31/8/2016, 66 on 4/10/2016, 203 on 15/11/2016, 227 on 13/2/2017, 202 on 17/3/2017, 45 on 3/4/2017 and 107 on 5/5/2017. Some of these judges and prosecutors were dismissed from the profession after their requests for reconsideration were accepted by the CJP General Assembly.

The numerical data given by the Constitutional Court in its judgement and reported to the Court by the Ministry of Justice are valid for the dismissals until 24.7.2017.

The number of judicial personnel dismissed until 24.7.2017, the date of the Constitutional Court's judgement, is 4,240. However, in its judgement, the Court determined the number of judges and prosecutors under investigation as 4,664. This difference is due to the following. The CJP makes a two-stage decision in the dismissal process. In the first stage, the CJP 'suspends' the relevant member of the judiciary and then makes a 'decision of dismissal'. Only the dismissal decisions of the CJP are published on its website and in the Official Gazette. The number in the Constitutional Court's table should not be the number of judicial

members suspended, but the number of judicial members for whom the CJP issued a decision of dismissal.

All members of the judiciary for whom the CJP has issued a decision of 'suspension' are subject to at least a criminal investigation for 'membership of an armed terrorist organisation' by the Chief Public Prosecutor's Office in the place where the relevant member of the judiciary works. Therefore, the phrase '4,664 members of the judiciary under investigation' in the Constitutional Court's judgement refers to judges and prosecutors who have been suspended by the CJP and against whom criminal investigations have been initiated (as of 24.7.2017).

Detention, arrest and judicial control requests were also made against judicial members who were reinstated by the CJP. Therefore, the information provided in the Constitutional Court's judgement should be evaluated without taking into account the reinstatement decisions. Therefore, the statistics given in the Decision should be interpreted within this framework. According to the Constitutional Court's Decision, it is understood that the following criminal security measures were imposed on all 4,240 judicial personnel who were dismissed and some 424 judicial personnel who were suspended but not dismissed:

Based on this information, it is certain that criminal investigations have been initiated against at least 4,270 members of the judiciary and at least one of the provisions of detention, arrest, arrest or judicial control has been applied to these persons.

Since the Constitutional Court's decision states that the total number of suspended and/or dismissed members of the judiciary is 4,664, the number of members of the judiciary against whom criminal investigations were not initiated or notifications were not made by the CJP is 294.

It was mentioned above that 166 members of the judiciary were reinstated by the CJP until 24.7.2017, the date of the Constitutional Court's decision.

Considering that as of 24.7.2017, the date of the Constitutional Court's decision, there were 4,240 members of the judiciary whose dismissal decisions were published in the Official Gazette and 166 of them were reinstated, it should be considered that at least one of the detention, arrest, arrest or judicial control measures was applied to all dismissed members of the judiciary. In the light of these data, it would not be wrong to say that at least 45 of the judicial personnel who were reinstated to their jobs were subjected to one of these measures.

In its study on the dismissed members of the judiciary, the CrossBorder Jurists Association found that at least 10 of the 131 members of the judiciary dismissed after 24.7.2017 were also detained and 3 of them were arrested. The Association is continuing its work on the subject and is trying to clarify the numerical data it has obtained.

In the light of the data obtained by the CBJ Association and the figures given in the Constitutional Court's decision, out of 4386 dismissed members of the judiciary.

- 2,434 of the 4386 dismissed members of the judiciary were given an arrest warrant
- 1,324 were subjected to detention/ judicial control decisions
- 271 members of the judiciary were issued arrest warrants

As such, it is possible to determine the number of judicial personnel subjected to at least one of the following measures: detention, judicial control, arrest or arrest as 4029.

## **RECOMMENDATIONS**

The mass dismissals with decisions of High Council of Judges and Prosecutors, affecting 4388 judges and prosecutors, stems primarily from the suspension of the rule of law and judicial independence in Türkiye.

After these dismissals, the judiciary has largely come under the control of the government. A heavy psychological pressure has been put on the members of the judiciary who were not dismissed. With the new recruitments, the control of the government has become clearer within the judiciary.

After July 15, 2016, the judiciary became highly influenced by the government, making it impossible for the victims of witch-hunt process in state institutions to find justice through the current legal system. The judiciary must be restructured according to international standards, and the existing problematic terror legislation should be revised to prevent ideological misuse.

In the light of our findings above, we urge the Human Rights Committee to recommend that the State Party;

1. The concrete actions of the dismissed members of the judiciary, for which they were accused of attempted coup d'état and membership of an armed terrorist organisation at the time of their dismissal, should be explained and justified by individualisation.
2. The information and documents obtained after the date of dismissal should be explained against the dismissed members of the judiciary in accordance with the legal regulation and the case law of the Supreme Court.
3. Turkey should be asked to explain how the names included in the dismissal decision of the Council of Judges and Prosecutors were identified on the night of 15 July 2016 and how their concrete relationship with the coup was established.
4. Turkey should be asked to explain why the first investigations and detention orders were issued against 2745 members of the judiciary while the coup was still in progress.
5. Turkey should be asked to make the necessary arrangements to ensure that judges and prosecutors who were dismissed without any concrete information at the time of the decision against them, in violation of their constitutional right to defence, can return to their professions.
6. Turkey should be requested to explain the nature of the judgments of the European Court of Human Rights in favour of the dismissed members of the judiciary and the grounds for violation found against Turkey in these judgments. This is because the ECtHR has ruled that members of the judiciary who have been dismissed and arrested have had their freedoms restricted without justification and evidence in violation of their constitutional guarantees.