

It's time for the COE members to bring a new inter-state case against Turkey



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Since the 2016 coup attempt, President Recep Tayyip Erdoğan has been ruling Turkey in an increasingly authoritarian way. As of today, Turkey is the largest jailer of lawyers, judges and journalists. According to the Freedom House, Turkey is no longer a free country. And according to the World Justice Project's rule of law index Turkey **ranks** as 101st out of 113 countries indexed.

Under emergency rule, Turkey **dissolved** 4100 profit-oriented or non-profit legal entities, including 1412 associations and 139 foundations, and transferred their assets to the treasury without any judicial procedure and compensation. Moreover, the Turkish government seized control of more than 1000 companies worth more than 12 billion euros and has been running these companies through trustees appointed by the Savings Deposits Insurance Fund, a governmental body. The total worth of arbitrarily **seized assets** is more than 32 billion dollars.

More than 120,000 public servants were dismissed by decree without any judicial or administrative investigation. According to a survey by the Arrested Lawyers Initiative, there has been a steady **increase** in the use of anti-terrorism laws.

The survey **highlights** that Turkish public prosecutors have filed more than 392,000 charges under Article 314 of the Turkish Penal Code within the last seven years. What is worse, between 2016 and 2019 more than 220,000 individuals have been sentenced for membership of an armed terrorist organisation.

The U.N. Human Rights Commissioner, Human Rights Watch, Amnesty International have been reporting the violation of non-derogable human rights law, such as the prohibition of torture and ill-treatment, and the principle of no retrospective punishment.

On Dec. 11, 2018, nine media organisations from eight countries **revealed** Turkey's international kidnapping operations and its black sites to torture dissidents. The U.N. Working Group has consistently **established** that Turkey's ongoing mass arrest campaign constitutes a Category V violation, in other words, systematic arbitrary detention on the grounds of discrimination based on origin, opinion, or any other status.

As a Council of Europe (COE) member, Turkey has been ignoring the judgements of the European Court of Human Rights (ECHR) and refusing to release **Selahattin Demirtas, Osman Kavala, Alparslan Altan**.

Despite all these gross human rights violations, the COE and its member states are content with timid condemnations. What is worse, the COE has been running an appeasement policy towards Erdoğan.

What can be done?

Since the Treaty of Westphalia, states enjoy the principle of sovereignty and therefore have almost absolute authority within their territory except for practices that infringe the jus cogens rules, general principles of international law, and their obligations that stem from international treaties.

Turkey is a COE member and party to the European Convention on Human Rights. Article 33 of the convention pertains to inter-state cases and empowers “any High Contracting Party to refer any alleged breach of the provisions of the Convention and the Protocols thereto by another High Contracting Party to the Court”.

After the 1980 military coup, France, Norway, Netherlands, Denmark and Sweden filed separate cases against Turkey before the then European Commission of Human Rights, the predecessor of the ECHR. The five cases were subsequently combined into one, alleging violations of the prohibition of torture, the right to liberty, the right to a fair trial, freedom of association and expression.

This application, although not widely known by the Turkish public, led to historical positive outcomes. The case, which ended with a friendly settlement on Dec. 7 1985, resulted in 13 legislative amendments and two amnesty laws, one for disciplinary punishment in 1985 and the other for criminal cases in 1988.

Today, the situation in Turkey is no better than 1982. Deputies and mayors of Turkey's third-largest party, the Peoples' Democratic Party (HDP), have been jailed despite the ECHR ruling condemning the situation as an infringement of the European Convention on Human Rights. There is wide-spread torture and ill-treatment in the country, and pro-government mafia leaders call for individual armament with no legal accountability. Turkey's prison population exceed 25 percent of its already artificially increased **capacity**.

It is high time to act for COE member to file an inter-state case against Turkey. Such an application is in the interest of both the Turkish and European peoples, as well as the COE and the European Union.