When Rule of Law Erodes

The Inevitable Breach of Article 6 ECHR

solidarity with OTHERS

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Values that are embodied under the rule of law constitute a foundational doctrine in legal and political theory, stipulating that all individuals and institutions, irrespective of their hierarchical status or authority, are both unequivocally bound by and accountable to a consistent and publicly promulgated legal framework.[1] It requires the implementation of comprehensive mechanisms designed to uphold the principles of the supremacy of the law, conserve equality of all entities to legal norms, preserve accountability of the governance to the law, ensure fairness in the application of justice, observe separation of powers, facilitate inclusive participatory processes in decision-making, fortify the predictability and stability of legal rules emanating from the concept of legal certainty, eliminate discretionary arbitrariness, and promote procedural and legal transparency.[2]

At the core of preserving all these principles and values underpinning the rule of law lies the concept of a "fair trial," which serves as the ultimate guarantor that judicial processes reflect both substantive justice and procedural legitimacy, thereby reinforcing public trust in the integrity of the legal system.[3] Ensuring the right to a fair trial constitutes the cornerstone of any just legal system, providing the necessary foundation upon which all other legal protections rest.[4] Art. 6 of the European Convention on Human Rights

[1] United Nations, 'What is the Rule of Law?' (*United Nations*) <https://www.un.org/ruleoflaw/what-is-the-rule-of-law/> accessed 18 August 2025; Stanford Encyclopedia of Philosophy 'The Rule of Law' (*Stanford Encyclopedia of Philosophy*, 22 June 2016) <https://plato.stanford.edu/entries/rule-of-law/> accessed 8 August 2025.

[2] United Nations, 'What is the Rule of Law?' (*United Nations*) <https://www.un.org/ruleoflaw/what-is-the-rule-of-law/> accessed 8 August 2025; United Nations Office on Drugs and Crime UNODC, 'What is the Rule of Law?' (*UNODC*) <https://www.act4ruleoflaw.org/en/news/ruleoflaw accessed> 8 August 2025.

[3] Venice Commission, 'Report on the Rule of Law' CDL-AD(2016)007 (*Council of Europe*, 2016) <https://venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)007-e> accessed 8 August 2025; Venice Commission, 'Report on the Rule of Law' CDL-AD(2011)003rev (*Council of Europe*, 2011) <https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2011)003rev-e> accessed 8 August 2025.

[4] Venice Commission, 'Report on the Rule of Law' CDL-AD(2016)007 (*Council of Europe*, 2016) <https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=>CDL-AD(2016)007-e accessed 8 August 2025; Venice Commission, 'Report on the Rule of Law' CDL-AD(2011)003rev (*Council of Europe*, 2011) <https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=>CDL-AD(2011)003rev-e accessed 8 August 2025.

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("ECHR") guarantees the right to a fair trial, encompassing both individual rights it confers and concomitant duties which State Parties are bound to respect and enforce.[5] Therefore, Art. 6(1) of the ECHR serves as a pivotal safeguard for the rule of law, guaranteeing every individual the right to a fair and impartial hearing, reinforcing the integrity and accountability of judicial processes, upholding fundamental principles of justice, and fostering public trust in the legal system.

Despite the significance accorded to Art. 6 of the ECHR, upholding the rights deriving from the provision has proven conscientious in Türkiye's hostile political landscape.[6] Türkiye ranks among the States that most frequently breach the provision, alongside violations of several other key provisions.[7] The regime has systematically weaponized this provision to persecute alleged members of the Gülen Movement, initially in response to their criticism of the Erdoğan administration prior to 2016 and later by attributing responsibility for the failed coup attempt to the group without substantiating evidence,[8] despite the European Union and other international organizations, including the United Nations bodies, disputing these allegations in light of all the facts.[9]

[5] Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) ("ECHR"), art. 6.

[6] Amnesty International, 'Türkiye:2024' (*Amnesty International*, 2024) <https://www.amnesty.org/en/location/europe-and-central-asia/western-central-and-south-eastern-europe/turkiye/report-turkiye/> accessed 8 August 2025.

[7] Council of Europe, 'Türkiye – Department for the Execution of Judgments of the European Court of Human Rights' (*Council of Europe*) <https://www.coe.int/en/web/execution/turkey> accessed 15 August 2025; Human Rights Watch, 'Defiance of European Court Judgments and Erosion of Judicial Independence' (*Human Rights Watch*, 16 June 2025) <https://www.hrw.org/news/2025/06/16/defiance-of-european-court-judgments-and-erosion-of-judicial-independence#_ftn4> accessed 15 August 2025.

[8] Sertan Sanderson, 'Fethullah Gülen: The Man Behind the Myth' (*Deutsche Welle*, 4 June 2018) <https://www.dw.com/en/from-ally-to-scapegoat-fethullah-gulen-the-man-behind-the-myth/a-37055485> accessed 18 August 2025.

[9] Tulay Karadeniz and Tuvan Gumrukcu, 'EU says needs concrete evidence from Turkey to deem Gulen Network as terrorist' (*Reuters,* 30 November 2017) <https://www.reuters.com/article/idUSKBN1DU0DU/> accessed 18 August 2025; OHCHR, *Report on the Impact of the State of Emergency on Human Rights in Turkey, Including an Update on the South-East* (*UN Human Rights Office*, March 2018) <https://www.refworld.org/reference/countryrep/ohchr/2018/en/120660> accessed 18 August 2025.

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It is crucial to delve deeper into these issues in this report, as doing so enables a comprehensive examination of systemic violations of the right to a fair trial in Türkiye, exposes patterns of judicial misconduct, and underscores the broader implications for the rule of law and human rights protection. Accordingly, this report is dedicated to scrutinizing the ways in which domestic courts have infringed upon Art. 6(1) of the ECHR, with a particular focus on cases involving alleged members of the Gülen Movement, through an analysis of the most recent judgments. Furthermore, it seeks to identify and critically examine the deep-rooted structural and procedural obstacles that continue to impede the effective implementation of these rulings, thereby highlighting the broader deficiencies within the domestic judicial framework and its capacity to uphold the standards enshrined in Art. 6 of the ECHR. In light of these findings, the report concludes with concrete policy recommendations aimed at strengthening the enforcement of judgements pertaining to Art. 6(1) of the ECHR, including the institution of dedicated monitoring entities, independent auditing mechanisms, enhanced transparency measures to ensure that systemic violations are effectively addressed and prevented.

2. Art. 6 ECHR and ECtHR's Judgements

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Art. 6 of the ECHR stands as one of the most frequently invoked and jurisprudentially significant provisions considered by the European Court of Human Rights ("ECtHR").[10] It establishes that individuals are entitled to a fair trial across criminal, administrative, and civil proceedings.[11] The provision stipulates that everyone is entitled to a fair and public hearing held within a reasonable time by an independent and impartial tribunal established by law, and that judgments should be delivered publicly unless specific circumstances explicitly outlined in the provision require otherwise.[12]

The practical application of Art. 6(1) of the ECHR safeguards becomes especially critical in cases where the admissibility and reliability of evidence are disputed, as any flaws in these processes can directly compromise the fairness of a trial. The *Yüksel Yalçınkaya* case stands as a prominent example of this challenge, highlighting how domestic courts' reliance on contested evidence, specifically data derived from the ByLock communication platform, raised fundamental questions about compliance with fair trial guarantees and the proper administration of justice.[13]

ByLock was a communication platform comparable in function to applications such as iMessage, enabling interpersonal exchanges through the dissemination of both written and audio content, all operating within a digital infrastructure.[14] The encrypted messaging application, originally designed and launched in 2014 by a developer of dual Turkish-American nationality, was disseminated via major digital distribution platforms, including the App Store and Google Play, where it remained publicly accessible until its eventual withdrawal from circulation within that same year.[15] Subsequent iterations of

[10] Bernadette Rainey, Pamela McComicl, Clare Overy, *Jacobs, White, and Ovey: The European Convention on Human Rights* (8th edn, 2021), p. 277.

[11] ECHR, art. 6(1).

[12] ECHR, art. 6(1).

[13] *Yüksel Yalçınkaya v Türkiye* App no 15669/20 (ECtHR, 26 September 2023).

[14] Eric Auchard and Humeyra Pamuk, 'Coup Plotters' Use of 'Amateur' Messaging App Helped Turkish Authorities Map Their Network' (*Reuters*, 3 August 2016) <https://www.reuters.com/article/idUSKCN10E1UP/> accessed 18 August 2025.

[15] Eric Auchard and Humeyra Pamuk, 'Coup Plotters' Use of 'Amateur' Messaging App Helped Turkish Authorities Map Their Network' (*Reuters*, 3 August 2016) <https://www.reuters.com/article/idUSKCN10E1UP/> accessed 18 August 2025.

the application were distributed through alternative platforms, generally regarded as offering comparatively lower levels of security protection, and were predominantly used by individuals operating Android, Windows Phone, and BlackBerry devices.[16]

Following the attempted coup, Turkish authorities claimed to have identified a significant number of individuals reportedly affiliated with the Gülen Movement through their use of the ByLock messaging application.[17] As a result, the Turkish authorities criminalized the use of the application under Art. 314(1) of the Turkish Criminal Code, classifying such use as an act of terrorism and precipitating the arrest of individuals considered to be members of the Gülen Movement.[18] In line with this prosecutorial approach, since 2016, the National Intelligence Agency ("MİT") has systematically maintained extensive registries to track and identify individuals alleged to have used the ByLock application.[19]

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Yüksel Yalçınkaya, formerly employed as a teacher in the city of Kayseri, was subjected to suspension from his duties within the civil service following the imposition of the state of emergency, based on allegations regarding his alleged association with the Movement.[20] Thereafter, he was formally dismissed from his civil service position under a domestic legislative decree, citing his alleged affiliation with the Movement as the basis.[21] According to the investigative conclusions issued by the Directorate, Yüksel Yalçınkaya was identified as a user of the ByLock application, in addition to his documented affiliations with the trade union "Aktif Eğitimciler Sendikası" and the "Kayseri Voluntary Educators Association" (Kayseri Gönüllü Eğitimciler Derneği), both of

[16] Eric Auchard and Humeyra Pamuk, 'Coup Plotters' Use of 'Amateur' Messaging App Helped Turkish Authorities Map Their Network' (*Reuters*, 3 August 2016) <https://www.reuters.com/article/idUSKCN10E1UP/> accessed 18 August 2025.

[17] Eric Auchard and Humeyra Pamuk, 'Coup Plotters' Use of 'Amateur' Messaging App Helped Turkish Authorities Map Their Network' (*Reuters*, 3 August 2016) <https://www.reuters.com/article/idUSKCN10E1UP/> accessed 18 August 2025.

[18] Turkish Criminal Code No. 5237, art. 314(1), accessible via <https://www.mevzuat.gov.tr/mevzuatmetin/1.5.5237.pdf>.

[19] Emre Turgut and Ali Yıldız, 'ByLock Prosecutions and the Right to Fair Trial in Turkey: The ECtHR Grand Chamber's Ruling in Yüksel Yalçınkaya v Türkiye' (*Statewatch*, March 2024) <https://www.statewatch.org/media/4200/sw-echr-yalcinkaya-bylock-report.pdf> accessed 18 August 2025.

[20] *Yüksel Yalçınkaya v. Türkiye* App. no 15669/20 2(ECtHR, 6 September 2023), para 24.

[21] *Yüksel Yalçınkaya v. Türkiye* App. no 15669/20 2(ECtHR, 6 September 2023), para 16 and 24.

which were considered entities closely connected to the Movement.[22] Yüksel Yalçınkaya maintained communications with other identified members of the Movement through the ByLock platform, ultimately leading to his arrest, during which law enforcement officials seized his mobile device together with additional materials regarded as evidentiary.[23]

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Ultimately, Yüksel Yalçınkaya was convicted primarily on the basis of his use of ByLock, which served as the decisive factor forming the basis of domestic courts' determination of both his guilt and his alleged connections to the Gülen Movement.[24] Other affiliations attributed to him served exclusively as corroborative evidence, designed to substantiate and strengthen the primary evidentiary basis supporting the proceedings against him.[25] It merits emphasis that the mere use of ByLock, irrespective of the content of the messages exchanged or the identities of the individuals involved in such communications, was treated as a decisive factor in the proceedings.[26]

The central and pressing concern is that the evidence obtained by the MİT was collected in a manner inconsistent with the procedures prescribed under the national law, leading to persistent ambiguity that deprived Yüksel Yalçınkaya of the ability to effectively exercise his right of defense with respect to certain elements of that evidence.[27] According to the information provided by the MİT, the agency conducted an intelligence operation to extract data from the application's main server; however, the specific technical procedures employed to access and analyze such data were not disclosed.[28] Yüksel Yalçınkaya had no opportunity to scrutinize the data or verify whether any modifications had occurred, and individuals listed in the ByLock user registry had no

[22] *Yüksel Yalçınkaya v. Türkiye* App. no 15669/20 2(ECtHR, 6 September 2023), para 27.

[23] *Yüksel Yalçınkaya v. Türkiye* App. no 15669/20 2(ECtHR, 6 September 2023), para 30.

[24] *Yüksel Yalçınkaya v. Türkiye* App. no 15669/20 2(ECtHR, 6 September 2023), paras 87, 88, 160, 165, 181, 188, 232, 233, and 257.

[25] *Yüksel Yalçınkaya v. Türkiye* App. no 15669/20 2(ECtHR, 6 September 2023), paras 236, 257, and 258.

[26] *Yüksel Yalçınkaya v. Türkiye* App. no 15669/20 2(ECtHR, 6 September 2023), para 160, 188, and 258.

[27] *Yüksel Yalçınkaya v. Türkiye* App. no 15669/20 2(ECtHR, 6 September 2023), para 73.

[28] *Yüksel Yalçınkaya v. Türkiye* App. no 15669/20 2(ECtHR, 6 September 2023), para 73.

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means to challenge their supposed inclusion.[29] He contended that, notwithstanding its role as the decisive evidence underlying his conviction and in violation of national legal requirements, a copy of the ByLock data related to his alleged use of the application was not disclosed to him and was never subjected to independent expert scrutiny by the domestic courts.[30] Therefore, owing to the absence of clear, comprehensible, and technically adequate reports regarding his alleged use of ByLock, he was precluded from exercising his rights of defense effectively.[31] The MİT report that served as the decisive basis for his conviction was neither obtained in compliance with domestic legal requirements nor did it afford him the opportunity to challenge it due to the enduring ambiguity surrounding the evidence. Consequently, he asserted that the principles of equality of arms and the right to adversarial proceedings, enshrined in Article 6(1) of the ECHR, were plainly disregarded in the adjudication of his case.[32]

In this context, the ECtHR emphasized that the right to a fair trial, which inherently entails the proper administration of justice, applies uniformly to all criminal offenses, irrespective of their simplicity or complexity.[33]

Although the Turkish Government invoked circumstances related to the state of emergency — linking them to the failed coup attempt and the serious nature of the offenses attributed by the Government, including the mere use of ByLock irrespective of message content, and their alleged resultant derogation from certain rights of the ECHR under Art. 15 of the ECHR— the Court found that it failed to provide any detailed reason as to whether the specific trial issues originated in the special measures taken during the state of emergency and, if so, why such measures were necessary to avert the situation or whether they consisted of a genuine and proportionate response to the emergency.[34]

It could be inferred that the lack of reasoning from the Turkish Government stemmed from the fact that the violation of a suspect's right to equality of arms and an adversarial procedure was neither necessary nor proportionate to avert the emergency related to

[29] *Yüksel Yalçınkaya v. Türkiye* App. no 15669/20 2(ECtHR, 6 September 2023), para 73.

[30] *Yüksel Yalçınkaya v. Türkiye* App. no 15669/20 2(ECtHR, 6 September 2023), para 286.

[31] *Yüksel Yalçınkaya v. Türkiye* App. no 15669/20 2(ECtHR, 6 September 2023), para 93.

[32] *Yüksel Yalçınkaya v. Türkiye* App. no 15669/20 2(ECtHR, 6 September 2023), para 309.

[33] *Yüksel Yalçınkaya v. Türkiye* App. no 15669/20 2(ECtHR, 6 September 2023), para 344.

[34] *Yüksel Yalçınkaya v. Türkiye* App. no 15669/20 2(ECtHR, 6 September 2023), para 355.

the failed coup attempt, but rather functioned as a tool to entrench political dominance while consolidating an authoritarian regime. Accordingly, the ECtHR emphasized that any deviation from the guarantees of Art. 6(1) of the ECHR must be directly justified by the exigencies of a state of emergency, requiring the authorities to demonstrate both the necessity and proportionality of the measures in the specific context of the case and the circumstances of emergency invoked.

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In light of this situation, the Court stated that restrictions imposed on the applicant's right to a fair trial were of such gravity that they violated the fundamental safeguards enshrined in Art. 6(1) of the ECHR, thereby eroding public confidence in the judiciary, a cornerstone of any democratic society.[35] Subsequently, the ECtHR concluded that such limitations were neither strictly necessary nor justified by the circumstances of the case.[36]

Furthermore, the ECtHR stated that the right to the fair administration of justice is of such fundamental importance within a democratic society that it cannot be subordinated or compromised in the pursuit of expediency.[37] As a result, it found that the domestic courts' failure to implement appropriate safeguards regarding the key piece of evidence—including their failure to allow the applicant to effectively challenge it, to address the core issues of the case, and to provide reasoned justifications for their decisions—was incompatible with the very essence of the applicant's procedural rights under Art. 6(1) of the ECHR.

In the recent case of *Demirhan and Others*, the ECtHR recognized that this matter is more aptly characterized as arising from a systemic issue affecting a substantial number of individuals, noting that, following the *Yüksel Yalçınkaya* judgment, the Court has already notified the Turkish Government of approximately 5,000 analogous applications, with thousands more continuing to accumulate on its docket.[38]

The ECtHR acknowledged that although the criminal proceedings in the present case displayed certain procedural differences from those in the *Yüksel Yalçınkaya* case, primarily concerning the evidence presented and its administration, the Turkish courts' consistent and overarching approach to the use of ByLock similarly shaped the outcome

[35] *Yüksel Yalçınkaya v Türkiye* App no 15669/20 2(ECtHR, 6 September 2023), para 355.

[36] *Yüksel Yalçınkaya v Türkiye* App no 15669/20 2(ECtHR, 6 September 2023), para 353-355.

[37] *Yüksel Yalçınkaya v Türkiye* App no 15669/20 2(ECtHR, 6 September 2023), para 344; See also *Ramanauskas v Lithuania* App no 74420/01 (ECtHR, 5 February 2008), para 53.

[38] *Demirhan and Others v Türkiye* App nos 1595/20 (ECtHR, 22 July 2025), para 38.

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of the criminal proceedings in *Demirhan and Others*.[39] The Court emphasized that this case reflected the same fundamental failings identified in *Yüksel Yalçınkaya*, specifically that the domestic courts failed to implement adequate safeguards regarding the key evidence, thus precluding the applicants from effectively contesting it, engaging with the central issues of the case, or receiving reasoned explanations for the decisions rendered.[40] This failure, characterized by the absence of sufficient procedural safeguards, amounted to a clear violation of the applicants' fundamental procedural rights guaranteed under Art. 6(1) of the ECHR.[41]

Following the *Yüksel Yalçınkaya* judgment, the ECtHR reaffirmed that the fundamental guarantees under the provision cannot be derogated from, even in the face of emergency circumstances invoked by the State, emphasizing the inviolable nature of the right to a fair trial.[42] Consequently, it held that, in the circumstances of the present case, there was no basis to depart from the conclusions reached in *Yüksel Yalçınkaya*, thereby once again finding a violation.[43]

The violation of Art. 6(1) of the ECHR by the Turkish judiciary is not confined solely to criminal matters; rather, it extends with equal force to administrative cases, demonstrating a broader and more systemic failure in the protection of fair trial rights across multiple branches of the domestic legal system, particularly in cases targeting individuals alleged to be affiliated with the Gülen Movement.

A concrete example of this broader pattern can be observed in the administrative proceedings concerning the *Yıldırım* case, in which he brought an annulment action before the administrative courts challenging the termination of his secondment contract, dated 3 March 2012, on the alleged basis of his affiliation with the Gülen Movement.[44]

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[39] *Demirhan and Others v Türkiye* App nos 1595/20 (ECtHR, 22 July 2025), para 42; *Yüksel Yalçınkaya v Türkiye* App no 15669/20 2(ECtHR, 6 September 2023), para 345.

[40] *Demirhan and Others v Türkiye* App nos 1595/20 (ECtHR, 22 July 2025), para 42; *Yüksel Yalçınkaya v Türkiye* App no 15669/20 2(ECtHR, 6 September 2023), para 345.

[41] *Demirhan and Others v Türkiye* App nos 1595/20 (ECtHR, 22 July 2025), para 42; *Yüksel Yalçınkaya v Türkiye* App no 15669/20 2(ECtHR, 6 September 2023), para 345.

[42] *Demirhan and Others v Türkiye* App nos 1595/20 (ECtHR, 22 July 2025), para 45; *Yüksel Yalçınkaya v Türkiye* App no 15669/20 2(ECtHR, 6 September 2023), paras 353-355.

[43] *Demirhan and Others v Türkiye* App nos 1595/20 (ECtHR, 22 July 2025), para 46.

[44] *Yıldırım v Türkiye* App no 24775/19 (ECtHR, 10 July 2025), paras 4 and 5, and Appendix.

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In accordance with established ECtHR case law, parties to judicial proceedings are entitled to obtain a clear, specific, and direct response from the courts regarding the arguments that are determinative of the outcome of those proceedings.[45] These principles underscore the right of parties in judicial proceedings to receive a reasoned and comprehensible decision, as guaranteed under Art. 6(1) of the ECHR.[46] In applying these principles to the facts of the present case, the ECtHR concluded that the domestic courts failed to provide sufficient reasoning for their decisions and neglected to address the relevant and significant arguments advanced by Yıldırım.[47]

The pivotal issue in this case concerns Yıldırım's argument that he was never subject to any investigation or formal complaint during his tenure, and that the domestic courts failed to provide a clear explanation for the suspicion regarding his alleged affiliation with the Gülen Movement.[48] The Administrative Court dismissed the case primarily on the basis that Yıldırım was presumed to be affiliated with the impugned group, relying on information provided by the Governorships, without conducting an individualized assessment or clarifying the specific nature of the information or grounds supporting the suspicion of his affiliation with the Gülen Movement.[49] Consequently, the ECtHR concluded that the actions and decisions of the domestic courts, in failing to provide adequate reasoning and to address the critical arguments raised by Yıldırım, constituted a violation of the guarantees enshrined in Art. 6(1) of the ECHR.[50]

Another example of this broader pattern can be seen in the *Şimşek* case, where the proceedings centered on the applicant's request for reinstatement following his dismissal under the state of emergency legislation.[51] The applicant's core argument was that he had been summarily dismissed from his position at a sub-supplier private

[45] *Yıldırım v Türkiye* App no 24775/19 (ECtHR, 10 July 2025), para 7; *Xhoxhaj v Albania* App no 15227/19 (ECtHR, 9 February 2021) para 327.

[46] *Yıldırım v Türkiye* App no 24775/19 (ECtHR, 10 July 2025), para 8.

[47] *Yıldırım v Türkiye* App no 24775/19 (ECtHR, 10 July 2025), para 9.

[48] *Yıldırım v Türkiye* App no 24775/19 (ECtHR, 10 July 2025), para 10 and Appendix.

[49] *Yıldırım v Türkiye* App no 24775/19 (ECtHR, 10 July 2025), para 10 and Appendix.

[50] *Yıldırım v Türkiye* App no 24775/19 (ECtHR, 10 July 2025), para 2 of reasons.

[51] *Şimşek v Türkiye* App no 60639/19 (ECtHR, 10 July 2025), para 4 and Appendix.

company without any explanation, stated grounds, investigation, or inquiry, and that the domestic courts had failed to conduct a thorough examination of the basis for the suspicion, especially concerning whether he was deemed to maintain any affiliation with the Gülen Movement.[52]

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Şimşek relied on the absence of reasoning, or the provision of insufficient reasoning, in the domestic courts' decisions, invoking the guarantees enshrined in Art. 6(1) of the ECHR.[53] The ECtHR, in line with its established case law on the matter, reiterated that parties are entitled to receive clear and explicit responses to the arguments that are pivotal in determining the outcome of their cases.[54] In assessing the facts of the present case against the backdrop of these principles, the ECtHR determined that the domestic courts had neglected their fundamental duty to furnish reasoned justifications for their rulings and had failed to engage meaningfully with the pivotal arguments advanced by the applicant, thereby undermining the procedural safeguards enshrined under Art. 6(1) of the ECHR.[55] On the basis of these procedural failings, the ECtHR concluded that the applicant's procedural rights under the provision had been violated.[56]

In addition to criminal and administrative matters, concerns regarding compliance with Art. 6(1) of the ECHR are equally pronounced in civil proceedings, particularly for individuals alleged to be members of the Gülen Movement, who face systemic and widespread obstacles that severely undermine their ability to obtain fair and impartial adjudication.

This pattern of systemic obstacles in civil proceedings is exemplified by the *Akarsu* case, where the central issue concerned the excessive duration of civil proceedings before the Constitutional Court, arising from the premature termination of Akarsu's term of office as a Court of Cassation judge under emergency legislation enacted in the aftermath of the 2016 coup attempt in Türkiye.[57] The proceedings extended over a period of 7 years,

[52] *Şimşek v Türkiye* App no 60639/19 (ECtHR, 10 July 2025), para 5 and Appendix.

[53] *Şimşek v Türkiye* App no 60639/19 (ECtHR, 10 July 2025), para 6.

[54] *Şimşek v Türkiye* App no 60639/19 (ECtHR, 10 July 2025), para 7.

[55] *Şimşek v Türkiye* App no 60639/19 (ECtHR, 10 July 2025), para 9.

[56] *Şimşek v Türkiye* App no 60639/19 (ECtHR, 10 July 2025), para 2 of the unanimous decision.

[57] *Akarsu v Türkiye* App no 9118/24 (ECtHR, 10 July 2025), para 4 and Appendix.

1 month, and 17 days, which Akarsu contended was incompatible with the requirement of "reasonable time" for civil cases under Art. 6(1) of the ECHR.[58]

After reviewing all pertinent materials, including the Government's arguments concerning the state of emergency, the heightened caseload before the Turkish Constitutional Court, the COVID-19 pandemic, and the adjournments pending the leading judgment, the ECtHR concluded that none of these factors could reasonably justify the excessive duration of the proceedings, which extended beyond seven years.[59] Accordingly, the Court held that the proceedings had exceeded the bounds of what may be considered a "reasonable time,"[60] thereby constituting a breach of the guarantees enshrined in Art. 6(1) of the ECHR.[61]

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[58] *Akarsu v Türkiye* App no 9118/24 (ECtHR, 10 July 2025), para 5 and Appendix.

[59] *Akarsu v Türkiye* App no 9118/24 (ECtHR, 10 July 2025), para 9; See also *Şahin Alpay v. Turkey* App no 16538/17 (ECtHR, 20 March 2018), para 75; *Bieliński v Poland*, App no 48762/19 (ECtHR, 21 July 2022), para 44; *Q and R v Slovenia* App no 19938/20 (ECtHR, 8 February 2022), para 80; *Kavala v Turkey* App no 28749/18, (10 December 2019), para 195.

[60] *Akarsu v Türkiye* App no 9118/24 (ECtHR, 10 July 2025), para 9.

[61] *Akarsu v Türkiye* App no 9118/24 (ECtHR, 10 July 2025), para 2 of the unanimous decision.

3. Reflection on the Pertaining Issues of Rule of Law

Overall, the jurisprudence examined reveals a deeply pervasive and systemic pattern within the Turkish judicial apparatus, in which the fundamental guarantees protected under Art. 6(1) of the ECHR are persistently eroded across the full spectrum of judicial proceedings, including criminal, administrative, and civil cases. This systematic failure manifests through the undue reliance on flawed or clandestinely obtained evidence, the failure to provide reasoned decisions, and excessively protracted delays, thereby exposing structural deficiencies that imperil the rule of law, undermine public confidence in the impartiality and independence of the judiciary, and cast a long shadow over the integrity of Turkey's legal system.

From a structural perspective, these judgments expose multiple interrelated inadequacies in Türkiye's legal framework. First, there is a lack of robust mechanisms to ensure judicial accountability and compliance with procedural guarantees. Second, intelligence agencies are empowered to produce and submit evidence that is often non-transparent and untested, without adequate judicial scrutiny. Third, emergency powers have been interpreted expansively, permitting extensive deviations from standard legal protections without sufficient checks or balancing mechanisms. Fourth, judicial decisions frequently lack clear and reasoned justifications, undermining transparency and the right to a fair trial Finally, civil proceedings exhibit prolonged delays, indicating deficiencies in case management and enforcement of procedural timelines.

The implications for the rule of law are profound as rule of law is not merely the existence of codified laws; it requires that laws be applied consistently, impartially, and transparently. The patterns identified in these cases reflect an erosion of each of these components. Fair trial is compromised by political influence, procedural transparency is undermined by inadequate reasoning and opaque evidence, and consistency is jeopardized by selective application of legal norms. Moreover, the persistent targeting of specific groups and the failure to provide effective remedies contribute to an environment where legal protections exist in theory but are systematically denied in practice.

These cases also underscore the interdependence of legal principles. Violations of fair trial rights impact broader elements of governance, including public trust in judicial institutions, the separation of powers, and the predictability and stability of legal norms.

Without reliable enforcement of procedural guarantees, individuals cannot rely on the law to protect their rights, and the judiciary cannot fulfill its role as a neutral arbiter. This structural weakness, if left unaddressed, can exacerbate societal fragmentation and weaken democratic institutions.

Furthermore, together, these cases reveal significant challenges related to judicial independence and the politicization of the judiciary, which contravene Art. 6(1) of the ECHR, as the provision explicitly requires that cases be heard by independent tribunals. Notably, this aspect of the provision was not invoked by counsels in the aforementioned cases, highlighting a gap in strategic legal advocacy as well as a broader systemic issue in the enforcement of judicial independence.

3 Reflection on the Pertaining Issues of Rule of Law

The repeated targeting of specific groups, particularly alleged members of the Gülen Movement, reveals a pattern whereby judicial processes are influenced or directed by political priorities rather than legal principles. In a system where appointments, promotions, and disciplinary measures within the judiciary are subject to political oversight or intervention, judges may face both explicit and implicit pressures to conform to governmental expectations.

The politicization of the judiciary has deeper structural consequences. Citizens are less likely to trust judicial processes, and this mistrust can create a cycle in which parties bypass legal remedies in favor of political or extrajudicial strategies. Over time, such practices erode the separation of powers, as the judiciary ceases to act as a genuine check on executive or legislative authority, and the legal system becomes subordinate to political objectives rather than impartial guarantor of justice. This, in turn, fundamentally undermines the principle of *trias politica*, disrupting the equilibrium among the legislative, executive, and judicial branches, obstructing their ability to function as independent checks on one another, and ultimately weakening the constitutional framework designed to preserve the separation of powers and safeguard against the concentration of authority.

A further dimension of concern is the chilling effect on judicial actors themselves. Judges and prosecutors working under politically charged conditions may engage in self-censorship, avoiding rulings that could provoke governmental scrutiny or disciplinary action. This environment discourages independent legal reasoning and encourages conformity, reducing the diversity of judicial thought and preventing the development of a robust, impartial body of jurisprudence. The result is a judiciary that is structurally

incapable of upholding procedural guarantees, including the right to a fair trial, thereby perpetuating systemic violations of Art. 6(1) of the ECHR.

To conclude, the systemic targeting of politically marginalized groups, particularly alleged members of the Gülen Movement, amplifies the rule of law crisis. Selective application of legal protections undermines the universality of law, leading to an environment in which legal rights are formally recognized but routinely disregarded. This selective enforcement perpetuates power asymmetries, fosters social and political polarization, and signals that the judiciary operates as a tool of governance rather than as an independent arbiter.

3 Reflection on the Pertaining Issues of Rule of Law

4. Persistent Risks of Non-implementation

Although the ECtHR's judgments represent a significant step toward preventing breaches of Art. 6(1) of the ECHR for political reasons, it would be unrealistic to place full trust in the Turkish courts, given their demonstrated willingness to disregard clear protections under the provision for alleged members of the Gülen Movement, to implement these judgments reliably, consistently, and without any compromise.

Turkey currently holds the infamous distinction of having the highest number of unimplemented ECtHR judgments.[62] In July, a joint report submitted to EU institutions by Human Rights Watch, the International Commission of Jurists, and the Turkey Human Rights Litigation Support Project highlighted that Turkish authorities have repeatedly failed to implement binding judgments issued by the ECtHR.[63] The report highlights that the situation has reached a crisis point,[64] and currently a total of 139 leading cases with 317 repetitive cases still pending execution in Türkiye by June 2025, positioning the country at the bottom of compliance rankings among Council of Europe Member States.[65]

This downward trend suggests that the judicial system is being manipulated, with detention and prosecution seemingly applied in a manner that restricts dissent and

[62] The Arrested Lawyers Initiative, 'New Report Reveals the Tactics Turkey Uses to Defy ECtHR Rulings' (*Arrested Lawyers Initiative,* 19 June 2025) <https://arrestedlawyers.org/2025/06/19/new-report-reveals-tactics-turkey-uses-to-defy-echr-rulings/> accessed 18 August 2025.

[63] Stockholm Center for Freedom, 'Rights Groups Tell EU Bodies Turkey's Refusal to Implement ECtHR Rulings Has Reached Crisis Point' (*SCF*, 17 June 2025) <https://stockholmcf.org/rights-groups-tell-eu-bodies-turkeys-refusal-to-implement-ecthr-rulings-has-reached-crisis-point/> accessed 18 August 2025; Human Rights Watch, 'Defiance of European Court Judgments and Erosion of Judicial Independence' (*Human Rights Watch*, 16 June 2025) <https://www.hrw.org/news/2025/06/16/defiance-of-european-court-judgments-and-erosion-of-judicial-independence> accessed 18 August 2025.

[64] Human Rights Watch, 'Defiance of European Court Judgments and Erosion of Judicial Independence' (*Human Rights Watch*, 16 June 2025) <https://www.hrw.org/news/2025/06/16/defiance-of-european-court-judgments-and-erosion-of-judicial-independence> accessed 18 August 2025.

[65] Council of Europe, 'Türkiye – Department for the Execution of Judgments of the European Court of Human Rights' (*Council of Europe*) <https://www.coe.int/en/web/execution/turkey> accessed 18 August 2025.

constrains the actions of particular political targets and critics.[66] As previously indicated, the ECtHR recognized that the matter should be seen as stemming from a systemic problem affecting a large number of individuals, noting that, following the *Yüksel Yalçınkaya* judgment, the Court has already notified the Turkish Government of 5,000 similar applications, with thousands more continuing to accumulate on its docket.[67] The growing volume of cases since 2023, coupled with the continued rise in recent filings, raises serious concerns regarding the effective implementation of ECtHR rulings by domestic courts in Türkiye.[68]

4

Persistent Risks of Non-implementation

Domestic judicial bodies frequently resort to a range of procedural and interpretative maneuvers that effectively circumvent the faithful implementation of judgments rendered by the ECtHR. These include situations in which courts reframe allegations under a novel pretext, introducing a distinct matter for which the ECtHR has not ruled.[69] Another characteristic feature of Türkiye's approach lies in its ostensible cooperation with the Council of Europe, contrasted with a substantive refusal to effectuate genuine compliance. Turkish authorities routinely provide action plans and periodic status reports to Strasbourg, emphasizing purported "judicial reforms" and legislative modifications. Yet, such submissions systematically neglect to confront the underlying violations or to propose meaningful remedies, instead relying on superficial measures or tangential legislative references to cultivate the appearance of reform without delivering substantive change.[70]

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[66] Human Rights Watch, 'Defiance of European Court Judgments and Erosion of Judicial Independence' (*Human Rights Watch*, 16 June 2025) <https://www.hrw.org/news/2025/06/16/defiance-of-european-court-judgments-and-erosion-of-judicial-independence> accessed 18 August 2025.

[67] *Demirhan and Others v Türkiye* App nos 1595/20 (ECtHR, 22 July 2025), para 42; *Yüksel Yalçınkaya v Türkiye* App no 15669/20 2(ECtHR, 6 September 2023), para 38.

[68] *Demirhan and Others v Türkiye* App nos 1595/20 (ECtHR, 22 July 2025), para 42; *Yüksel Yalçınkaya v Türkiye* App no 15669/20 2(ECtHR, 6 September 2023), para 38.

[69] The Arrested Lawyers Initiative, 'New Report Reveals the Tactics Turkey Uses to Defy ECtHR Rulings' (*Arrested Lawyers Initiative,* 19 June 2025) <https://arrestedlawyers.org/2025/06/19/new-report-reveals-tactics-turkey-uses-to-defy-echr-rulings/> accessed 18 August 2025.

[70] The Arrested Lawyers Initiative, 'New Report Reveals the Tactics Turkey Uses to Defy ECtHR Rulings' (*Arrested Lawyers Initiative,* 19 June 2025) <https://arrestedlawyers.org/2025/06/19/new-report-reveals-tactics-turkey-uses-to-defy-echr-rulings/> accessed 18 August 2025; Human Rights Watch, 'Flouting the European Court of Human Rights and Bringing Domestic Courts to Heel' (*Human Rights Watch*, 24 January 2025)

4 Persistent Risks of Non-implementation

Another particularly alarming situation is the increasingly overt challenge by Türkiye's political and judicial leadership to the authority of the ECtHR. In highly politicized cases, senior officials have openly questioned the Court's competence and legitimacy, portraying its decisions as externally imposed or biased, thereby undermining its standing and influence domestically.[71]

Therefore, certain novel measures could be considered to prevent the non-implementation of ECtHR judgments, particularly those concerning Art. 6(1) of the ECHR in cases involving alleged members of the Gülen Movement.

One such measure would be the establishment of a dedicated entity within the Council of Europe, operating under the auspices of the Committee of Ministers, to specifically monitor Türkiye's compliance with ECtHR judgments. Unlike the existing oversight mechanisms, this body would focus exclusively on cases originating from Türkiye, maintaining a publicly accessible database that tracks the status of all leading and repetitive cases, including deadlines, government action plans, and identified obstacles to implementation.

By providing real-time transparency, this entity would allow civil society, human rights organizations, and international actors to hold the Turkish authorities accountable, while enabling the Council of Europe to detect patterns of non-compliance and respond proactively. Such a mechanism would complement the Committee of Ministers' current supervisory role, adding a layer of focused scrutiny, facilitating targeted

<https://www.hrw.org/news/2025/01/24/flouting-european-court-human-rights-and-bringing-domestic-courts-heel> accessed 18 August 2025.

[71]The Arrested Lawyers Initiative, 'New Report Reveals the Tactics Turkey Uses to Defy ECtHR Rulings' (*Arrested Lawyers Initiative,* 19 June 2025) <https://arrestedlawyers.org/2025/06/19/new-report-reveals-tactics-turkey-uses-to-defy-echr-rulings/> accessed 18 August 2025; Amnesty International, 'Turkey: The New Action Plan Is a Missed Opportunity to Reverse Deep Erosion of Human Rights' (*Amnesty International*, 25 March 2021) <https://www.amnesty.org/en/wp-content/uploads/2021/05/EUR4438832021ENGLISH.pdf> accessed 18 August 2025; TLSP, HRW and ICJ,'Third-Party Intervention in Kavala v Türkiye (No. 2), Application No 2170/24' (Written Submissions, European Court of Human Rights) <https://www.icj.org/wp-content/uploads/2024/11/Kavala-v-Turkiye-2-Third-Part-Intervention-by-TLSP-HRW-ICJ.pdf> accessed 18 August 2025.

recommendations, and ensuring that Türkiye fulfills its obligations under the ECHR in a timely and consistent manner.

4 Persistent Risks of Non-implementation

While the Committee of Ministers currently oversees the execution of ECtHR judgments, relying largely on government-submitted action plans and periodic progress reports, there is a significant gap in independent, on-the-ground verification, particularly for politically sensitive cases such as those implicating alleged members of the Gülen Movement. To address this shortfall, an independent task force composed of legal experts from multiple Council of Europe Member States should be established, specifically mandated to audit the implementation of Art. 6(1) judgments. This body would complement the Committee of Ministers' existing oversight by conducting onsite assessments, reviewing case files, and engaging directly with domestic judicial authorities to ensure that the legal and procedural changes claimed by the government are in fact operationalized. By issuing binding recommendations and public reports, the task force would provide a credible, transparent mechanism for evaluating compliance, reducing the reliance on self-reported data and strengthening accountability. In doing so, it would help close the implementation gap that currently allows politically influenced deviations from fair trial guarantees to persist unchallenged within the Turkish judicial system.

5. Conclusion

5
Conclusion

The examination of the cases *Yüksel Yalçınkaya*, *Demirhan*, *Yıldırım*, *Şimşek*, and *Akarsu* underscores a deeply enduring systemic challenge within the Turkish judiciary, revealing persistent violations of the fundamental guarantees enshrined under Art. 6(1) of the ECHR. These violations are emblematic not only of procedural irregularities but also of broader structural deficiencies that pose significant threats to the integrity of Türkiye's legal system and the principles of the rule of law. The reflection that follows draws upon these judgments to elucidate the scope, nature, and implications of such systemic issues, while situating them within the broader theoretical and practical dimensions of the rule of law.

At the core of these concerns is the principle of a fair trial, which functions as the central guarantor of justice within a democratic society. A fair trial is not merely a procedural formality; it embodies the nexus between substantive justice, public accountability, and the legitimacy of State power. Art. 6(1) of the ECHR operationalizes this principle, ensuring that all individuals, regardless of their status or political alignment, have access to impartial adjudication, reasoned decisions, and the ability to meaningfully contest evidence or allegations presented against them. In Türkiye, however, the jurisprudence demonstrates a pattern whereby these core guarantees are systematically undermined, particularly in cases involving individuals allegedly associated with the Gülen Movement, demonstrating a politically mediated interference with the impartial functioning of the judiciary.

The *Yüksel Yalçınkaya* case presents the most notable instance of this phenomenon. In this case, the Turkish authorities relied heavily on the supposed use of the ByLock application, a secure messaging platform, in order to substantiate allegations of affiliation with the Gülen Movement. The ECtHR's scrutiny revealed that the collection and presentation of this evidence contravened national legal procedures, lacked transparency, and deprived the applicant of the opportunity to exercise his rights to an adversarial process and equality of arms. The Turkish Government's invocation of the state of emergency as a justificatory framework under Art. 15 of the ECHR was found insufficient, as the authorities failed to demonstrate the necessity and proportionality of the measures taken to derogate from standard procedural safeguards, while providing a proper link of such derogation to the emergency invoked.

The ECtHR explicitly noted that the restrictions imposed on the applicant's rights were of such gravity that they undermined public confidence in the judiciary, a core pillar of

democratic governance. This erosion of trust signifies a profound destabilization of the rule of law, as the legitimacy of judicial processes rests not only on formal compliance with procedural norms but also on the perception of fairness, independence, and impartiality.

5 Conclusion

The systemic nature of these violations becomes even more apparent when examining the *Demirhan and Others*. In this case, the ECtHR recognized the proceedings as reflective of a broader structural problem affecting thousands of individuals. The persistence of flawed procedures regarding ByLock evidence, coupled with the Turkish courts' unwavering reliance on the same evidentiary frameworks across multiple cases, reveals an institutionalized approach to adjudication that prioritizes political objectives over the rigorous application of law. The failure to provide adequate procedural safeguards, allow meaningful challenges to key evidence, and offer reasoned judgments demonstrates that these are not isolated incidents but manifestations of a systemic pattern undermining the rule of law.

The *Yıldırım* and *Şimşek* cases extend this concern into the administrative sphere. In *Yıldırım*, the domestic courts failed to provide individualized assessments or clarify the nature of information implicating him in affiliation with the Gülen Movement. Similarly, in *Şimşek*, the applicant was summarily dismissed from his position without explanation or investigation, and the courts neglected to meaningfully engage with the pivotal arguments raised. In both cases, the ECtHR emphasized that the right to a reasoned decision is fundamental under Art. 6(1) of the ECHR, yet domestic courts repeatedly neglected this duty. These administrative cases exhibit that the structural failures permeate not only criminal proceedings but also administrative contexts, hence reflecting a judiciary-wide challenge that extends beyond individual adjudications.

Civil proceedings are likewise affected, as evidenced by the *Akarsu* case. The ECtHR identified excessive delays spanning over seven years, which was found incompatible with the requirement of trial within a reasonable time. The protracted nature of these proceedings, exacerbated by the invocation of emergency legislation and external pressures such as the COVID-19 pandemic, emphasizes the judiciary's failure to provide timely and efficient adjudication, a key component of the right to a fair trial. Delays of this magnitude do not merely inconvenience parties; they constitute a structural barrier to justice, diminishing the practical efficacy of rights guaranteed under Article 6(1) and revealing the judiciary's incapacity to manage cases impartially and effectively under extraordinary political conditions.

5 Conclusion

From a structural standpoint, the body of judgments analyzed reveals multiple, interrelated shortcomings within Türkiye's legal system. First, the framework lacks effective mechanisms to hold judges accountable or to ensure strict adherence to procedural guarantees, leaving judicial conduct largely unchecked. Second, intelligence services retain broad authority to generate and submit evidence, often in opaque ways, without independent verification or disclosure, placing courts in a position where untested material can influence outcomes. Third, the expansive interpretation of emergency powers has facilitated substantial deviations from ordinary legal protections, often implemented without proportionality or appropriate institutional oversight. Fourth, judicial rulings frequently fail to provide comprehensive, reasoned explanations, compromising transparency, undermining the fairness of proceedings, and weakening the credibility of the judiciary. Finally, civil proceedings, especially those involving individuals accused of affiliation with the Gülen Movement, are subject to prolonged delays, reflecting deficiencies in case management, enforcement of procedural timelines, and the timely delivery of justice.

A further aspect warranting attention lies in the chilling effect on judicial actors. Judges and prosecutors operating in a politically charged environment may engage in self-censorship, refraining from decisions that could attract government scrutiny or disciplinary measures. Such conditions impede independent legal judgment and promote conformity, diminishing the diversity of judicial perspectives and hindering the development of a strong, impartial jurisprudence. Consequently, the judiciary becomes structurally constrained in its capacity to safeguard procedural rights, including the right to a fair trial, reinforcing ongoing systemic breaches of Art. 6(1) of the ECHR.

The ECtHR's role in these cases highlights the importance of supranational oversight in safeguarding the rule of law. By systematically applying the principles of Art. 6(1) and articulating standards for procedural fairness, reasoned judgments, and proportionality, the Court serves as a critical counterbalance to domestic judicial practices that may deviate from democratic norms. Nevertheless, the volume of analogous cases, exemplified by the thousands of applications following Yüksel Yalçınkaya, underscores the difficulty of translating ECtHR judgments into systemic reform. Persistent structural shortcomings suggest that enforcement mechanisms, judicial training, and institutional reform are necessary to bridge the gap between international human rights norms and domestic judicial practices.

Moreover, the systemic disregard for fair trial guarantees has broader implications for social cohesion and trust in state institutions. When citizens perceive that the judiciary is

incapable of delivering impartial justice, societal trust in legal and governmental institutions diminishes, fostering cynicism and disengagement from civic processes. The persistent failure to uphold Art. 6(1) rights for targeted groups may also exacerbate social polarization, as individuals perceive the law as an instrument of selective repression rather than a guarantor of rights and protections.

5 Conclusion

Addressing these issues requires sustained institutional reforms aimed at enhancing judicial independence, improving procedural safeguards, ensuring timely and reasoned judgments, and fostering accountability for deviations from established legal norms. Supranational oversight, as provided by the ECtHR, remains crucial; however, meaningful domestic reforms are indispensable to prevent the systematic erosion of fair trial rights and to safeguard the rule of law. Without such measures, Türkiye risks perpetuating a judicial environment in which rights guaranteed under Art. 6(1) of the ECHR remain theoretical rather than practical, eroding the foundations of democratic governance and undermining the protection of human rights.

The overall persistent failure of Türkiye to implement judgments of the ECtHR, particularly those concerning Art. 6(1) of the ECHR, highlights a critical gap in the enforcement mechanisms of the Council of Europe and highlights the necessity for novel targeted solutions. The structural weaknesses evident in the Turkish judicial system, ranging from procedural manipulation and politicization to systemic delays and lack of transparency, cannot be effectively addressed by conventional oversight measures alone. While the Committee of Ministers currently monitors execution through the review of government-submitted action plans and periodic reports, this approach remains largely reactive and dependent on self-reporting, which has proven insufficient to ensure meaningful compliance in politically sensitive cases.

To strengthen the enforcement of fair trial rights, a dedicated entity operating under the Committee of Ministers should be created, with exclusive responsibility for monitoring Türkiye's compliance. Unlike existing mechanisms, this entity would maintain a publicly accessible and real-time database of all leading and repetitive ECtHR judgments, tracking deadlines, governmental action plans, and obstacles to implementation. Such transparency would enable civil society, international organizations, and human rights defenders to hold the Turkish authorities accountable, facilitating external oversight and ensuring that deviations or delays are documented and addressed promptly. In addition, this approach would allow the Council of Europe to identify systemic patterns of non-compliance and to deploy targeted interventions rather than relying on generalized monitoring.

5 Conclusion

Complementing this monitoring mechanism, an independent task force composed of legal experts from multiple Council of Europe Member States should be established to audit the implementation of Art. 6(1) of the ECHR judgments in politically sensitive cases. This task force would conduct onsite inspections, review case files, and engage directly with domestic judicial authorities to verify that legislative or administrative changes claimed by the government are actually operational. By issuing binding recommendations and public reports, the task force would provide a transparent, credible, and enforceable mechanism for ensuring compliance. Such a structure would reduce reliance on self-reported data, close the implementation gap, and create tangible consequences for failures to uphold fair trial guarantees.

Ultimately, these measures would strengthen the credibility of the European human rights system, reaffirm the inviolability of fair trial guarantees, and provide a clear signal to all State Parties to the ECHR that political influence or selective application of law cannot undermine the principles of justice and judicial independence. By proactively addressing the structural and systemic deficiencies that allow non-compliance to persist in Türkiye, the Council of Europe would not only enhance the enforcement of the ECHR but also protect the integrity and predictability of the rule of law throughout the region.

In conclusion, the jurisprudence surrounding *Yüksel Yalçınkaya*, *Demirhan and Others*, *Yıldırım*, *Şimşek*, and *Akarsu* demonstrates a clear and troubling pattern of systemic violations of Art. 6(1) of the ECHR by the Turkish judiciary. These violations are multifaceted, encompassing failures in the provision of reasoned judgments, inadequate safeguards regarding key evidence, procedural arbitrariness, and excessive delays in adjudication. Collectively, they reveal structural inadequacies that undermine the rule of law, weaken public confidence in the judiciary, and facilitate the politicization of judicial processes. The implications are profound, as they bear upon the core principles of legal certainty, equality before the law, and the independence and impartiality of judicial institutions.

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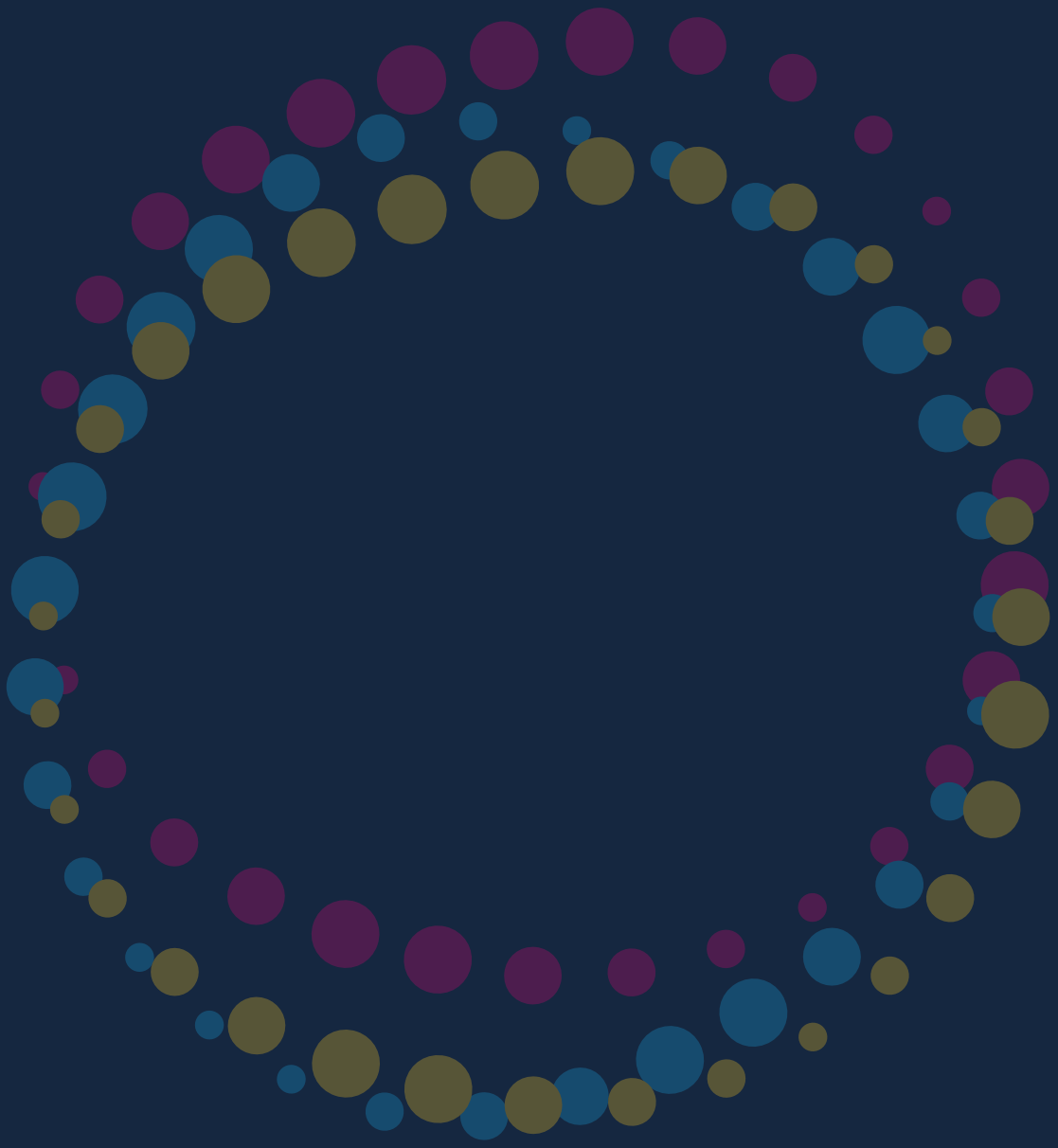

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