



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

CASE OF TUĞLUK v. TÜRKİYE

(Application no. 71757/17)

JUDGMENT

Art 5 § 1 • Art 5 § 3 • Lack of reasonable suspicion justifying the pre-trial detention of a well-known politician on suspicion of forming or leading an armed terrorist organisation • Lack of reasonableness of pre-trial detention
Art 10 • Freedom of expression • Unlawful nature of pre-trial detention impacting on lawfulness of interference
Art 15 • No derogating measure applicable to the situation
Art 18 (+ Art 5) • Restrictions for unauthorised purposes • Pre-trial detention pursued the ulterior purpose of stifling pluralism and limiting freedom of political debate

Prepared by the Registry. Does not bind the Court.

STRASBOURG

14 October 2025

FINAL

09/02/2026

*This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.*

In the case of Tuğluk v. Türkiye,

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

Arnfinn Bårdsen, *President*,
Saadet Yüksel,
Jovan Ilievski,
Oddný Mjöll Arnardóttir,
Gediminas Sagatys,
Stéphane Pisani,
Juha Lavapuro, *judges*,

and Dorothee von Arnim, *Deputy Section Registrar*,

Having regard to:

the application (no. 71757/17) against the Republic of Türkiye lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Turkish national, Ms Aysel Tuğluk (“the applicant”), on 7 September 2017;

the decision to give notice of the application to the Turkish Government (“the Government”);

the parties’ observations;

Having deliberated in private on 16 September 2025,

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

INTRODUCTION

1. The application concerns the pre-trial detention of the applicant, a well-known political figure, on suspicion of forming or leading an armed terrorist organisation (*silahlı terör örgütü kurma veya yönetme*) under Article 314 § 1 of the Criminal Code.

2. The applicant relied on Articles 5, 10, 11 and 18 of the Convention.

THE FACTS

3. The applicant was born in 1965. On the date when she introduced the present application with the Court, she was being detained in Kocaeli Prison. She was represented by Ms B. Molu and Mr Ramazan Demir, lawyers practising in Istanbul.

4. The Government were represented by their Agent at the time, Mr Hacı Ali Açıkgül, former Head of the Department of Human Rights of the Ministry of Justice of the Republic of Türkiye.

5. The facts of the case may be summarised as follows.

I. THE APPLICANT'S BACKGROUND

6. The applicant is a well-known political figure, particularly for her engagement in activities concerning the Kurdish issue and women's rights. She was elected to the Turkish Parliament as an independent deputy in the 2007 and 2011 legislative elections.

7. Between 2011 and 2014, the applicant served as co-chair of the Democratic Society Congress (Demokratik Toplum Kongresi – “the DTK”).

8. At the time of her arrest and detention, the applicant was the deputy chair of the Peoples' Democratic Party (Halkların Demokratik Partisi – “the HDP”), a left-wing pro-Kurdish political party. She was not a member of parliament at that time.

II. THE APPLICANT'S ARREST AND PRE-TRIAL DETENTION

A. The applicant's arrest and subsequent interrogation by the prosecutor

9. On 25 December 2016 the Diyarbakır chief public prosecutor's office initiated criminal proceedings against the applicant in connection with her alleged links to the activities of an illegal armed organisation, namely the PKK/KCK (the Kurdish Workers' Party/Kurdistan Communities Union).

10. On the same day, the Diyarbakır 4th Magistrate's Court granted a request by the public prosecutor to conduct searches of the applicant's home and to arrest her.

11. On 26 December 2016 the applicant was arrested in Diyarbakır and taken into police custody as part of the investigation initiated against her.

12. Two days later, on 28 December 2016, the applicant was brought before the Diyarbakır chief public prosecutor's office, where she provided a statement in the presence of her lawyers.

13. During the interview the public prosecutor posed several questions to the applicant concerning the following actions:

- her participation in various conferences, notably one held in Bern (Switzerland), and demonstrations allegedly organised by the PKK/KCK;
- her purported actions allegedly carried out in accordance with orders from the organisation's executives, with particular reference to an email message she had reportedly received from a certain N.O.;
- her involvement as an executive of the DTK, which, according to the prosecutor, operated in line with the PKK/KCK; and
- speeches she had delivered in the past.

14. In response to the prosecutor's questions, the applicant initially denied attending a conference in Bern, stating that she had never been there. However, she acknowledged receiving an email allegedly sent by N.O., a former member of the Party for a Democratic Society (Demokratik Toplum

Partisi – “the DTP”). She stated that she had no connection to the content of the message and had not replied to it. She later discovered that the email in question had been sent from her own email address after her account had been hacked. Regarding her role in the DTK, she acknowledged serving as its co-chair from 2011 to 2014 but denied any links between the DTK and the PKK/KCK. She maintained that the DTK was a civil organisation whose aim was to find democratic solutions to societal problems. She emphasised that the demonstrations in which she had participated had been peaceful and that no unlawful activities had taken place during them.

15. As for her speeches and statements, she argued that they fell within the scope of her right to freedom of expression, even if some could be regarded as sharp criticism. The Court notes, however, that the case file does not contain any information indicating which specific statements she was asked to explain.

B. Request for the applicant’s pre-trial detention

16. Following the interrogation, the public prosecutor applied to the Diyarbakır 3rd Magistrate’s Court, requesting the applicant’s pre-trial detention on suspicion of forming or leading an armed organisation, a criminal offence punishable under Article 314 § 1 of the Criminal Code.

17. In his request for detention, the prosecutor first set out his views and assessments regarding the DTK. The public prosecutor submitted that the DTK had been established on the orders of the founding leader of the PKK and operated as a so-called constituent assembly of the illegal armed organisation. The prosecutor asserted that the DTK’s aim was to implement the “democratic autonomy” strategy and described it as the umbrella organisation for so-called Kurdistan, alleging that it conducted activities linked to the PKK/KCK with the aim of achieving Kurdish national unity. The prosecutor then referred to the applicant’s activities within the DTK. In this connection, it was alleged that the applicant had actively participated in the DTK between 2011 and 2014, served as its co-chair, attended meetings on behalf of the DTK and represented the organisation both at these meetings and in various press statements.

18. The following facts were relied on as the basis for the allegation that the applicant had committed the offence of forming or leading an armed terrorist organisation.

– It was alleged that the applicant had attended a conference held at the Swiss Parliament in Bern on 23 February 2013, entitled “The Role of Independent States in Solving the Kurdish Issue.” The conference had reportedly been attended by academics, politicians, representatives of civil society organisations, writers and journalists, including Z.A., who was reportedly the subject of a Red Notice, along with other individuals alleged to have ties with the PKK/KCK.

- The applicant was alleged to have maintained contact with senior members of the illegal armed organisation, facilitated by N.O., who was alleged to be a spokesperson for the PKK/KCK. In this context, it was asserted that orders were conveyed to the applicant via email, including one message entitled “Spokesperson’s Circular,” reportedly sent by N.O.

- It was further claimed that the applicant, acting on orders allegedly received from N.O., had taken part in various meetings and interviews and engaged in activities aimed at legitimising the DTK. Additionally, it was alleged that she had received a text message on 21 August 2010 from an unidentified individual, containing several directives, including: “let all commissions be under your responsibility; select the executive body in a balanced manner. Assign a role to the DTK in the resolution process. Insist on the boycott. The election threshold should be a core demand. Establish a special commission for autonomy and prepare a document. Request a building and a budget. Seek an appointment from the State and present a proposal for the resolution. Say, ‘we can do it.’” It was alleged that the applicant had subsequently undertaken activities in accordance with these directives;

- According to a document, the applicant had allegedly held meetings with individuals described as active within the KCK/TM (Koma Civakên Kurdistan – The Kurdistan Communities Union/Assembly of Türkiye) structure. In one such meeting, she had reportedly been asked to deliver a “self-criticism” in line with the perspectives of the PKK/KCK but had allegedly refrained from doing so. Another document indicated that she had criticised the DTK structure, which was interpreted as evidence of her involvement in the organisation.

- The applicant was alleged to have given interviews to ROJ TV, a television channel said to operate under the influence of the PKK/KCK.

- It was claimed that the applicant had taken part in activities considered to be of an organisational nature, including delivering a speech at the “Northern Kurdistan Unity and Resolution Conference” held on 15 and 16 June 2013, reportedly on orders from the PKK.

19. The prosecutor argued that the facts attributed to the applicant gave rise to a strong suspicion that she had committed the offence in question and that there were legal grounds for ordering her pre-trial detention. Accordingly, relying on Article 100 and subsequent provisions of the Code of Criminal Procedure, the prosecution requested her placement in pre-trial detention, taking into account the nature and seriousness of the alleged offence, the current state of the evidence and the upper limit of the statutory penalty.

C. Decision to place the applicant in pre-trial detention

20. Later the same day, on 28 December 2016, the applicant appeared before the magistrate in the presence of her lawyers, where she essentially reiterated the statements she had previously made to the public prosecutor.

21. She explained that the DTK had been established as a civil platform which aimed to bring together diverse segments of society to address shared issues through academic and democratic means. She emphasised that the DTK's activities were conducted openly, transparently and within the framework of the law. The applicant categorically denied any affiliation between the DTK and illegal armed organisations, asserting that such claims would require clear substantiation by the relevant public authorities. She also denied receiving any orders from the illegal armed organisation. While she acknowledged the existence of a suspicious email, she maintained that it had been sent from her own email account after it had been compromised. She further denied that the email in question had been sent to her by N.O., asserting that even if it had, she could not be held responsible for an unsolicited message from a third party to which she had never replied. Additionally, she rejected the allegations that she had received orders via text messages or participated in demonstrations following calls made by the organisation. She also denied attending a meeting in Bern but acknowledged her participation in peaceful demonstrations protesting the arrest of mayors elected from her political party.

22. It appears that she was also questioned about certain items seized during the search of her home. Regarding a muslin cloth in Kurdish colours (yellow, red and green), she explained that it had been purchased at a local bazaar. As for the books discovered during the search, she stated that they were publicly available in libraries and emphasised that, as a politician, it was both necessary and legitimate to read works representing diverse ideological perspectives.

23. After hearing the applicant and her legal representatives, the magistrate ordered her placement in pre-trial detention on suspicion of forming or leading an armed terrorist organisation, as defined under Article 314 § 1 of the Criminal Code. The relevant parts of the detention order reveal that the magistrate placed considerable emphasis on the applicant's association with the DTK. It was stated that there was strong evidence in the case file suggesting that the applicant had committed the offence in question.

24. The magistrate highlighted in particular that the applicant had served as co-chair of the DTK, actively participated in its executive commission and held senior managerial roles within the organisation between 2011 and 2014. While the applicant acknowledged these roles, she maintained that the DTK operated as a civil society platform. However, the magistrate held that that assertion effectively amounted to an implicit admission of the alleged offence. In the same way as the public prosecutor, the magistrate further noted

that the DTK was functioning as the legislative body within the PKK/KCK structure. He added that the DTK was organised similarly to a legislative institution, comprising bodies such as a general assembly, permanent council, presidency board, executive board and various commissions. He also stated that the DTK had allegedly been established on orders by Abdullah Öcalan (the leader of the PKK). On the basis of that assessment, the magistrate concluded that, despite the applicant's characterisation of the DTK as a civil initiative, the available evidence indicated that it had, in fact, been established to support terrorist activities and broaden the operational reach of the organisation.

25. In justifying the applicant's pre-trial detention, the magistrate also referred to the seriousness of the charges, the nature of the alleged offence, the minimum and maximum statutory penalties prescribed by law and the classification of the offence as a "catalogue offence" under Article 100 of the Code of Criminal Procedure. The magistrate concluded that pre-trial detention constituted a proportionate measure and that alternative preventive measures, such as judicial supervision, would be insufficient.

26. It appears from the documents in the case file that the applicant did not lodge an objection against the order for her pre-trial detention.

III. BILL OF INDICTMENT AND SUBSEQUENT CRIMINAL PROCEEDINGS AGAINST THE APPLICANT

A. Bill of indictment

27. On 11 January 2017 the prosecutor filed an indictment against the applicant, accusing her under Article 314 of the Criminal Code of forming or leading an armed terrorist organisation, namely the DTK. The indictment, consisting of 117 pages, stated that the latter was an organisation allegedly linked to the PKK/KCK and indicated several pieces of evidence against the applicant. In the indictment, the prosecutor largely reiterated the allegations and evidence that had previously been relied on in support of the applicant's pre-trial detention.

28. The indictment included excerpts from speeches delivered by the applicant at meetings held between 12 May 2012 and 15 September 2013, which she had attended in her capacity as co-chair of the DTK (a total of 38 meetings). Without specifying which of the applicant's statements constituted a criminal offence, the prosecutor listed all the meetings and demonstrations she had attended, stating that she had participated in these activities in her capacity as co-chair of the DTK, showing, in his view, the link between her and the DTK. In her speeches, the applicant had briefly presented the project of "democratic autonomy" as a proposal for resolving the Kurdish issue, emphasising that the model of regional governance put forward had been intended not only for Kurds, but as a political and

administrative formula for all of Türkiye. She had also noted that the ideas of the DTK had been taken into account by State authorities. On some occasions, she had stated that, if necessary, protest actions and acts of civil disobedience could be considered democratic means to implement the project of “democratic autonomy”. In some of her statements during the meetings of the DTK, the applicant had expressed the view that both the PKK and Abdullah Öcalan should be included in the resolution process.

29. The prosecutor noted that the applicant had participated in numerous demonstrations, meetings, press statements and funerals of PKK members, allegedly on orders from the illegal armed organisation. He further stated that on 29 May 2011 two emails had been sent to the applicant from the address bedewi-arap@hotmail.com, allegedly belonging to N.O., who was identified as a spokesperson for the PKK/KCK¹. The emails in question were interpreted as containing orders from the illegal armed organisation. According to the prosecutor, the emails contained directives from the PKK/KCK inviting the DTK delegation to meet with the executives of the illegal armed organisation in Northern Iraq. Their content reads as follows:

“[29 May 2011, at 13:43:58] It would be appropriate for the DTK delegation to come to the South. It would also be beneficial for the delegations, which include all sectors, to visit the embassies and submit files. When you look at the last perspective of the Leader, it is possible to understand the critical process that the Kurdish people are going through. From this perspective, it is very important to display a stance of national unity, work on the formation of national unity and, from there, speak to international powers and carry out diplomacy. Therefore, these kinds of studies should be taken seriously ...

[29 May 2011, at 13:44:17] This is the directive of [the] spokesperson[:]: ‘Hello friends, attached is the last evaluation sent by our movement. This evaluation includes a report on our general situation and the recent situation in some cities. As understood from the directive, some issues are a response to our previous report. As can be understood from the previous note and this note, it is essential for us to take the cadre structure and activities forward in a much more organised and results-oriented manner by considering the last meeting notes ... on the basis of the planning done by the DTK, delegations have been formed. The planning will be carried out with two-day studies. We believe that if this is executed as planned, it will have important results. All groups are participating. As for their departure, like a farewell, their return will also be met with a large crowd ...’”

30. Furthermore, the prosecutor argued that, in her capacity as co-chair of the DTK, the applicant had attended a conference on 23 February 2013 in the Swiss Parliament, organised by the Kurdish Friendship Group and the Kurdish Human Rights Centre. He further asserted that the applicant had attended meetings with individuals associated with the KCK structure, during which she had allegedly requested to provide self-criticism – a request that, according to the public prosecutor, aligned with the practices of the PKK/KCK. Additionally, she had allegedly been critical of the DTK for lacking a centralised agenda and oversight of its members’ activities. In the

¹ Until the indictment was issued, the judicial authorities had referred only to one such email.

indictment, the prosecutor further asserted that the applicant, acting on directives from N.O., had taken actions such as overseeing commissions, promoting a boycott and advocating for autonomy within the DTK framework. He then alleged that the applicant had frequently given interviews on PKK-related issues on Roj TV, a channel affiliated with the PKK, which had subsequently been shut down. On the basis of this evidence, the prosecutor argued that the applicant's activities demonstrated her involvement in forming and leading the DTK, which, it was argued, functioned as an extension of the PKK/KCK.

B. Acceptance of the bill of indictment, subsequent proceedings and the applicant's criminal conviction

31. On 27 January 2017 the Diyarbakır 8th Assize Court accepted the bill of indictment.

32. By a decision dated 1 February 2017, the Diyarbakır 8th Assize Court declared a lack of jurisdiction and forwarded the indictment to the Ankara Assize Court on duty. In the same decision, it ruled that the applicant should remain in pre-trial detention. It justified the continuation of detention on the grounds that there was concrete evidence indicating a strong suspicion that the applicant had committed the attributed offence, that her statement had not yet been taken, and that the evidence had not yet been fully collected. The court also considered the length of time the applicant had already spent in pre-trial detention and the fact that the alleged offence was classified as one of the catalogue offences listed in Article 100 of the Code of Criminal Procedure. Taking into account the minimum and maximum penalties prescribed by law for the offence in question, the assize court concluded that the measures of judicial supervision would be insufficient.

33. On 21 February 2017 the Ankara 17th Assize Court, to which the case had been submitted, declared, in turn, a lack of jurisdiction. It then forwarded the case file to the Court of Cassation, requesting it to determine which court was competent to hear the case. It also ordered the applicant's continued pre-trial detention, reiterating the reasons set out in the Diyarbakır 8th Assize Court's decision.

34. On 11 April 2017 the 5th Criminal Chamber of the Court of Cassation overturned the Ankara 17th Assize Court's decision declaring a lack of jurisdiction. It also rejected the applicant's request for pre-trial release, considering that the detention order had been proportionate and that there had been no change in the prevailing detention circumstances.

35. On 26 April 2017 the Ankara 17th Assize Court ("the trial court") issued a preliminary report (*tensip zaptı*), wherein it accepted the bill of indictment filed against the applicant and set the date of the first hearing for 7 July 2017. The court also decided to continue the applicant's pre-trial detention, taking into account the existence of concrete facts indicating a

strong suspicion that she had committed the offence, the fact that the alleged offence was among the catalogue offences listed in Article 100 of the Code of Criminal Procedure, the risk of her absconding, her pending interrogation by the court and the consideration that, given the duration of detention, judicial control measures would be insufficient at that stage of the proceedings. Furthermore, the court deemed the detention measures to be proportionate to the alleged offence.

36. The applicant lodged an objection requesting release.

37. In a decision dated 12 May 2017, the Ankara 18th Assize Court dismissed her objection, reiterating the reasons provided by the trial court. Following that decision, the applicant lodged an individual application with the Constitutional Court, complaining of a violation of her rights protected under both the Constitution and the Convention (see paragraphs 48-55 below).

38. On 18 May 2017 the trial court ordered, of its own motion, the applicant's continued pre-trial detention, taking into account the existence of facts indicating a strong suspicion that the offence had been committed, the minimum and maximum penalties prescribed by law for that offence, the fact that the alleged offence was among the catalogue offences listed in Article 100 of the Code of Criminal Procedure, the time period which she had already spent in detention, the risk of her absconding and the risk of her tampering with evidence. The trial court also considered that judicial control measures would be insufficient at that stage of the proceedings.

39. In a decision dated 6 June 2017, the Ankara 18th Assize Court dismissed the applicant's objection to her continued detention, primarily referring to the same grounds as the trial court.

40. On 13 June 2017 the trial court, of its own motion, decided to prolong her pre-trial detention, mainly referring to the same grounds as in its previous decisions.

41. At the first hearing, held on 7 July 2017, the applicant gave evidence in person. At the conclusion of the hearing, the trial court ordered the applicant's continued detention on the following grounds.

- There were concrete facts giving rise to the offence attributed to her.
- The offence was among the "catalogue offences" listed in Article 100 of the Code of Criminal Procedure.
- There was a risk of her absconding and a risk of her tampering with evidence.
- In view of the anticipated sentence and security measures to be imposed on her, pre-trial detention was a proportionate measure.

42. During the criminal proceedings, the trial court considered whether to release the applicant pending trial at the end of each hearing, both of its own motion and on requests by the applicant. At each hearing, the court decided to extend the applicant's pre-trial detention, referring to the grounds set out in the first hearing.

43. Objections lodged by the applicant for her release were also dismissed on the basis of the same grounds as those referred to by the trial court to extend her pre-trial detention.

44. On 16 March 2018 the trial court, after reclassifying the offence attributed to the applicant, sentenced her to ten years' imprisonment for membership of an illegal armed organisation. It held that, although the applicant's involvement with an illegal armed organisation had been established, there was no evidence indicating that she had taken part in the distribution of roles within the organisation, exercised control or authority over its members, played a part in planning its activities or had the power to initiate, obstruct or terminate such activities or to oversee their execution.

45. The trial court also ordered that the applicant remain in detention following her conviction.

46. On 17 July 2018 the Ankara Regional Court of Appeal upheld the trial court's decision and ordered the applicant's continued detention.

47. On 2 December 2019 the Court of Cassation upheld the decision of the Ankara Regional Court of Appeal. Thus, the decision on the applicant's conviction for membership of an illegal armed organisation became final.

IV. INDIVIDUAL APPLICATION TO THE CONSTITUTIONAL COURT

48. On 29 May 2017, while the criminal proceedings were still pending before the trial court, the applicant lodged an individual application with the Constitutional Court, complaining, *inter alia*, of a violation of her right to liberty and security (Article 19 of the Constitution), her right to freedom of expression (Article 26 of the Constitution) and her right to freedom of assembly (Article 34 of the Constitution).

49. On 18 July 2018 the Constitutional Court declared, by a majority, the applicant's above-mentioned complaints manifestly ill-founded. It also unanimously dismissed her complaint concerning the restriction of access to the case file on the same grounds.

50. As for the applicant's allegation that her placement in pre-trial detention had been unlawful, the Constitutional Court first considered that the detention order had had a legal basis, as she had been suspected of forming or leading a terrorist organisation, an offence under the Criminal Code, and had been placed in pre-trial detention under Article 100 of the Code of Criminal Procedure, which sets out the legal grounds for detention (paragraph 65 of the decision).

51. In determining whether there was reasonable suspicion that the applicant had committed the aforementioned offence, the Constitutional Court examined the prosecutor's request for detention, the detention order and the indictment. It emphasised that those documents stated that she had served as co-chair of the DTK, which had allegedly been established to expand public support for the PKK/KCK illegal armed organisation. It also

noted observations indicating that she had participated in numerous demonstrations, press statements and the funerals of deceased PKK members organised by the DTK. Furthermore, it referred to an email sent by a certain N.O., described as a spokesperson for the PKK/KCK, to the applicant's email address, suggesting that she had received orders from senior PKK executives. She was also alleged to have attended meetings with individuals active within the KCK and, in one such meeting, had been asked to engage in self-criticism, but had refused. Additionally, the Constitutional Court noted that the applicant had reportedly criticised the DTK structure. Lastly, it was mentioned that she had frequently given interviews discussing topics related to the PKK on Roj TV, a pro-PKK channel that had later been shut down. The Constitutional Court concluded that the investigating authorities' consideration of the facts as strong indications of the applicant's involvement in a terrorism-related offence could not be considered unfounded or arbitrary (*ibid.*, paragraphs 67 and 68).

52. The Constitutional Court, referring to the reasoning in the magistrate's court's decision ordering the applicant's detention, found that the detention measure had been based on sufficient factual grounds. It also held that the magistrate's court's finding regarding the proportionality of the detention measure and the inadequacy of alternative measures could not be considered arbitrary or unfounded (*ibid.*, paragraphs 73 and 76).

53. Regarding the applicant's assertion that she had been unable to effectively challenge her detention owing to the restriction on access to the investigation file, the Constitutional Court noted that, although the application form did not specify which authority had ordered the measure in question, the restriction had been automatically lifted on the submission of the indictment (*ibid.*, paragraphs 87 and 88). Furthermore, it found that, despite the restriction on access to the case file, the competent authorities had informed the applicant and her counsel of the grounds for the accusations, allowing her the opportunity to contest them. The court concluded that the assertion that the applicant had been unable to access the case file owing to the restriction order alone was unfounded (*ibid.*, in particular paragraphs 90 and 91).

54. The Constitutional Court further noted that the applicant had alleged a violation of her rights to freedom of expression and freedom of assembly, arguing that her pre-trial detention had been based on speeches and statements she had made during meetings, press briefings and conferences she had attended (*ibid.*, paragraph 93).

55. Referring to its reasoning and conclusion on the applicant's complaint regarding the unlawfulness of her detention, the Constitutional Court also dismissed these allegations as being manifestly ill-founded (*ibid.*, paragraphs 95-96).

V. THE APPLICANT'S RELEASE FOR MEDICAL REASONS

56. As is apparent from the material in the case file, during the execution of her sentence, the applicant was referred to the Forensic Medicine Institute, pursuant to an interim measure issued by the Constitutional Court on 9 August 2022.

57. On 26 October 2022 the Forensic Medicine Institute determined that the applicant was medically unfit to survive independently in prison. The following day, on 27 October 2022 the Kocaeli chief public prosecutor's office consequently postponed the execution of her sentence for six months on medical grounds, resulting in her release.

58. On 22 May 2023, at the end of this period, the Forensic Medicine Institute reaffirmed that she could not sustain her life independently in prison. Subsequently, the Kocaeli chief public prosecutor's office extended the postponement by one year, scheduling re-evaluation of her health status at the end of that period.

59. As of the date of this judgment, the applicant remains released for health reasons.

RELEVANT DOMESTIC LAW AND PRACTICE AND INTERNATIONAL REPORTS

60. For a summary of the relevant domestic law and practice, including most of the relevant provisions of the Criminal Code and the Code of Criminal Procedure, and for international reports, see *Selahattin Demirtaş v. Turkey (no. 2)* ([GC], no. 14305/17, §§ 143 and 150-57, 22 December 2020), *Yüksekdağ Şenoğlu and Others v. Türkiye* (nos. 14332/17 and 12 others, §§ 440-41, 8 November 2022) and *Yüksek v. Türkiye* (no. 4/18, §§ 50-61, 22 October 2024).

61. Article 314 § 1 of the Criminal Code reads as follows:

“1. Anyone who establishes or leads an armed organisation with the intention of committing the offences listed in the fourth and fifth parts of this chapter shall be sentenced to a term of imprisonment ranging from ten to fifteen years.”²

THE LAW

I. PRELIMINARY QUESTION CONCERNING THE DEROGATION BY TÜRKİYE

62. The Government indicated at the outset that all of the applicant's complaints should be examined with due regard to the derogation of which

² The fourth and fifth parts in question provide respectively for “offences against State security” and “offences against the constitutional order and its functioning”.

the Secretary General of the Council of Europe had been notified on 21 July 2016 under Article 15 of the Convention. In this connection, they submitted that in availing itself of its right to make a derogation from the Convention, Türkiye had not breached the provisions of the Convention. In that context, they noted that there had been a public emergency threatening the life of the nation on account of the risks caused by the attempted military coup and that the measures taken by the national authorities in response to the emergency had been strictly required by the exigencies of the situation.

63. The applicant contested the Government's submissions.

64. In its judgment in the case of *Mehmet Hasan Altan v. Turkey* (no. 13237/17, § 93, 20 March 2018), the Court held that the attempted military coup had disclosed the existence of a "public emergency threatening the life of the nation" within the meaning of the Convention. As to whether the measures taken in the present case were strictly required by the exigencies of the situation and consistent with the other obligations under international law, the Court considers it necessary to examine the applicant's complaints on the merits, and will do so below.

II. PRELIMINARY OBJECTION AS TO THE ADMISSIBILITY OF THE APPLICATION

65. The Government invited the Court to declare the application inadmissible for non-exhaustion of domestic remedies, arguing that the applicant had submitted her application to the Court while her individual application before the Constitutional Court had still been pending.

66. The applicant contested the Government's argument.

67. The Court reiterates that an applicant's compliance with the requirement to exhaust domestic remedies is normally assessed with reference to the date on which the application was lodged with the Court. However, the Court's well-established case-law shows that it allows the last stage of a particular remedy to be reached after the application has been lodged but before its admissibility has been determined (see *Karoussiotis v. Portugal*, no. 23205/08, § 57, ECHR 2011 (extracts); *Mehmet Hasan Altan*, cited above, § 107; *Şahin Alpay v. Turkey*, no. 16538/17, § 86, 20 March 2018; *Molla Sali v. Greece* [GC], no. 20452/14, §§ 90-91, 19 December 2018; and *A.M. v. France*, no. 12148/18, § 66, 29 April 2019).

68. The applicant in the present case lodged her application with the Court on 7 September 2017. The individual application which she had lodged with the Constitutional Court on 29 May 2017 was declared inadmissible on 18 July 2018, before the Court's decision on admissibility.

69. This general objection by the Government must therefore be dismissed.

III. ALLEGED VIOLATION OF ARTICLE 5 §§ 1 AND 3 OF THE CONVENTION

70. Relying on Article 5 §§ 1 and 3 of the Convention, the applicant complained that she had been detained in the absence of a “reasonable suspicion” that she had committed a criminal offence. She further complained that the domestic courts had failed to provide relevant and sufficient reasons justifying the necessity of her continued detention. Article 5 §§ 1 (c) and 3 of the Convention reads:

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

...

(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

...

3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article ... shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.”

A. Admissibility

1. Plea of non-exhaustion due to failure to raise the complaints under Article 5 § 3 before the Constitutional Court

71. The Government asserted that the applicant had not raised her complaints under Article 5 § 3 of the Convention in her individual application to the Constitutional Court. They argued that this part of the application should be declared inadmissible on account of the applicant’s failure to exhaust domestic remedies.

72. The applicant maintained that she had raised her complaints under Article 5 § 3 of the Convention before the Constitutional Court.

73. The Court observes, based on the copy of the application form submitted in the context of the individual application to the Constitutional Court, that the applicant explicitly relied on Article 5 § 3 of the Convention before that court. She clearly complained about the lack of reasoning in the decisions concerning her detention (pages 8 and 15 of the application form) and about the failure to apply an alternative measure to pre-trial detention (page 16 of the same form).

74. The Court notes that, in its decision, the Constitutional Court examined the reasoning provided by the Diyarbakır 3rd Magistrate’s Court in the detention order. The higher court held that the magistrate’s findings regarding the proportionality of the detention measure and the inadequacy of

alternative measures had neither been arbitrary nor unfounded (see paragraph 44 above).

75. In these circumstances, the Court considers that the applicant's individual application to the Constitutional Court substantively set out her complaints under Article 5 § 3 of the Convention, as raised before the Court (see *Selahattin Demirtaş v. Turkey (no. 2)* [GC], no. 14305/17, § 198, 22 December 2020).

2. Plea of non-exhaustion due to failure to use the remedy of a compensation claim

76. The Government raised a further plea of non-exhaustion of domestic remedies, arguing that the applicant should have lodged a claim under Article 141 § 1 (a) and (d) of the Code of Criminal Procedure. They contended that she could have challenged the lawfulness of her pre-trial detention and the alleged lack of reasoning in the detention decisions once her detention had ended with her conviction on 16 March 2018.

77. The applicant contested the Government's argument. She argued that a compensation claim could not have led to an acknowledgment that she had been arbitrarily deprived of her liberty.

78. The Court has already examined identical preliminary objection raised by the Government in the case of *Selahattin Demirtaş* (cited above, §§ 205-14). In that case, the Court held that a compensation claim under Article 141 § 1 (a) and (d) of the Code of Criminal Procedure could not be regarded as an effective remedy for either the alleged lack of reasonable suspicion that an individual committed an offence or the alleged lack of relevant and sufficient reasons to justify pre-trial detention under Article 5 §§ 1 and 3 of the Convention (*ibid.*, § 214). Having reviewed the parties' submissions, the Court sees no reason to depart from its findings in the above-mentioned case.

79. The Government's objection of non-exhaustion of domestic remedies must therefore be dismissed.

3. Conclusion

80. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicant

81. The applicant submitted that the prosecuting authorities and the domestic courts had failed to provide reasonable evidence that she had

committed the criminal offences of which she was suspected. She asserted that the decisions taken against her had been based solely on her political activities during her tenure as a member of parliament. The applicant maintained that press statements, meetings and demonstrations in which she had participated in her capacity as a politician had been unjustly treated as grounds for suspicion. She alleged that, like many other members of the HDP, she had been detained as part of a broader strategy by the public authorities to silence political opposition. In this connection, she affirmed that numerous HDP members – including members of parliament, party executives, mayors and local representatives – had been prosecuted and remanded in custody in the furtherance of that strategy.

82. The applicant asserted that the primary reason for her pre-trial detention had been her role as co-chair of the Democratic Society Congress. She argued that the DTK had been established to seek peaceful solutions to societal issues and had never supported violence or any illegal armed organisation. She maintained that the DTK could not be criminalised merely because its objective of achieving peace aligned with the aims of an illegal armed organisation. Furthermore, she emphasised that the DTK, as one of the country's most influential civil organisations, had been recognised as an interlocutor by government officials on various platforms and initiatives, particularly regarding the resolution of the Kurdish issue. The DTK had also hosted numerous delegations, including members of the ruling party at that time, from both domestic and international spheres, and had provided insights on political, economic and social matters.

83. Additionally, she pointed out that in 2012, while serving as co-chair of the DTK, its representatives had officially been invited by the President of the Grand National Assembly of Türkiye (GNAT) to present their views during the Constitutional Consensus Committee's discussions on drafting a new constitution. In this regard, the applicant submitted an invitation letter dated 19 January 2012, signed by the then President of the GNAT. She argued that this demonstrated that the authorities had regarded the DTK as a lawful organisation at the time.

84. Furthermore, she argued that the decisions ordering both her initial and continued pre-trial detention had been based on formulaic reasoning and lacked any individualised assessment of her personal circumstances or the specific facts of the case. She maintained that the judicial authorities had failed to engage with the arguments she had raised in favour of her release and had not demonstrated why less restrictive alternatives, such as judicial supervision, would have been inadequate in her case.

(b) The Government

85. The Government argued that the applicant had been placed in detention on the basis of concrete evidence for the offence of establishing or leading an illegal armed organisation. They stated that, at the time of her

pre-trial detention, there had been sufficient evidence to convince an objective observer that she had served as co-chair of the DTK and had acted in accordance with the orders of PKK executives. Furthermore, they alleged that she had participated in demonstrations, meetings, press statements and funerals of PKK members organised by the DTK; that she had sought to engage in self-criticism in line with the policies of the illegal armed organisation; that she had openly criticised the DTK structure; and that she had given interviews on Roj TV, a channel controlled by the PKK.

86. The Government asserted that, in various decisions, national judicial authorities had stressed the organic link between the DTK and the PKK/KCK organisation. To support this assertion, the Government submitted three decisions delivered by the Court of Cassation. In the first decision (of the 9th Criminal Chamber, decision no. 2011/30790, dated 28 December 2011), the Court of Cassation had held that the Patriotic Democratic Youth (*Yurtsever Demokratik Gençlik*) and the Patriotic Democratic Youth Assembly (*Yurtsever Demokratik Gençlik Meclisi*) had been youth organisations linked to the PKK and had themselves been considered illegal armed organisations. The second decision (of the 9th Criminal Chamber, decision no. 2014/11592, 20 November 2014) related to unlawful activities of local politicians who had been members of city councils allegedly founded by the PKK/KCK in the region. That decision, along with the third decision (of the 16th Criminal Chamber, decision no. 2019/5300, 17 September 2019) which had concerned a person who had given a speech in a meeting organised by the DTK, had stated that the KCK illegal armed organisation had aimed to expand its base and achieve mass mobilisation through the so-called four-pillar paradigm proposed by the organisation's founding leader.

87. The Government further noted that, during both the investigation and the proceedings, the applicant had admitted to serving as co-chair of the DTK. They submitted that the fact that the applicant had assumed the role of co-chair of the DTK on the orders of the leaders of the PKK/KCK and that her activities had aligned with its aims had been sufficient to establish reasonable suspicion that she had committed the offence of forming or leading a terrorist organisation.

88. The Government further argued that the applicant had participated in several unlawful demonstrations and meetings, during which she had made statements inciting violence and armed rebellion and had sought to disrupt Türkiye's territorial integrity by advocating for autonomy in certain regions of the country. They pointed out that, in her statements, she had expressed opposition to the unitary State structure and had declared her desire for an autonomous Kurdistan. In the Government's view, the applicant's statements in support of violence had directly contributed to serious violent clashes across the country, particularly during the events referred to as the "trench events" of 2015 and 2016 (see, for further details, *Elçi v. Turkey* (dec.), no. 63129/15, §§ 8-18, 29 January 2019). The Government singled out the

following statements made by the applicant during some meetings in 2012 and 2013.

- “Decisions may also be taken at this conference on the implementation of certain acts of civil disobedience (*Bu konferansta bazı sivil itaatsizlik eylemleri yapılması yönünde kararlar da alınabilir*).”

- “From the Kurdish perspective, we also want an autonomous Kurdistan (*Kürtler açısından da özerk Kürdistan istiyoruz*).”

- “As the DTK, we consider the Kurdish movement to be a movement of rebellion (*Kürtlük hareketini biz DTK olarak da bir isyan hareketi olarak görüyoruz*).”

- “We must seize this opportunity and transform this advantage into a process aimed at achieving our freedom, our four-part freedom, in reality. (*Fırsatı değerlendirmeliyiz ve bu avantajı gerçekte özgürlüğümüz, dört parçalı özgürlüğümüzü sağlamak temelinde bir sürece evrilmeliyiz*).”

89. The Government also maintained that the applicant had participated in demonstrations, meetings and interviews with Roj TV – a channel linked to the PKK/KCK – in accordance with orders she had received from the terrorist organisation via email and text messages. In this regard, they referred to an email sent by N.O., allegedly the spokesperson of the terrorist organisation, with the subject line “Circular of the Spokesmanship”.

90. They asserted that the detention measure had been in compliance with the law and that the evidence referred to by the domestic courts had been sufficient to demonstrate that the applicant had committed the offence attributed to her, namely that of forming or leading a terrorist organisation.

91. As to the reasoning in the decisions, the Government submitted that there had been relevant and sufficient grounds for ordering the applicant’s pre-trial detention. They further argued that her detention had not breached Article 5 § 3 of the Convention, as it had been justified in the light of the complexity and significance of the case, the nature of the offence with which she had been charged, its connection to the fight against organised crime, the severity of the potential penalty and the risk of her absconding or tampering with evidence.

92. Lastly, the Government emphasised that the applicant’s complaints under Article 5 should be examined with due regard to the derogation of which the Secretary General of the Council of Europe had been notified on 21 July 2016 under Article 15 of the Convention.

2. The Court’s assessment

(a) Alleged lack of reasonable suspicion that the applicant committed a criminal offence (Article 5 § 1 of the Convention)

93. For the general principles as established in the Court’s case-law, the Court refers to *Selahattin Demirtaş* (cited above, §§ 311-21).

94. The Court notes that the crux of the matter is whether, at the time of the applicant's detention, there was a reasonable suspicion that she had committed the offence with which she had been charged, within the meaning of sub-paragraph (c) of Article 5 § 1 of the Convention. The Court observes that the applicant was suspected of establishing or leading an illegal armed organisation, a serious criminal offence which is punishable by imprisonment under Turkish law.

95. The Court's task under Article 5 of the Convention is to ascertain whether there were sufficient objective elements to satisfy an impartial observer that the applicant might have committed the offence of which she was accused. In view of the seriousness of the offence and the severity of the potential sentence, the facts had to be examined with great care. In that connection, it was essential that the facts grounding the suspicion should have been justified by verifiable and objective evidence and that they could be reasonably considered to have fallen under one of the sections describing criminal behaviour in the Criminal Code.

96. The Court reiterates that in view of the difficulties inherent in the investigation and prosecution of terrorism-related offences, the "reasonableness" of the suspicion justifying deprivation of liberty cannot always be judged according to the same standards as are applied in dealing with conventional crime (see *Selahattin Demirtaş*, cited above, § 323).

97. The suspicion against the applicant was based on two main elements: (i) the assessment by the investigating authorities that the DTK was an organisation linked to the PKK and (ii) the activities attributed to the applicant in her capacity as co-chair of the DTK.

98. As to the first element, the Court notes at the outset that the competent judicial authorities who ordered the applicant's detention considered that the DTK had been established to support the terrorist activities of the PKK/KCK and to expand public support for that organisation (see paragraphs 24 *in fine* and 51 above). In this context, the Court observes that, according to the domestic authorities, the DTK functioned as a constituent assembly of the PKK/KCK, described as an illegal armed organisation.

99. In response to these allegations, the applicant asserted before both the domestic authorities and the Court that the DTK had no links with any illegal armed organisation and that it was, in fact, a legal organisation which was aimed at addressing social issues, particularly the Kurdish question, through peaceful and democratic means.

100. The Court observes that the applicant's position as co-chair of the DTK between 2011 and 2014 was known to the public authorities. However, the case file contains no indication that any criminal investigation was initiated against her during that period in relation to her association with the DTK. On the contrary, during her tenure as co-chair, representatives of the DTK were officially invited to the Grand National Assembly to present their views before the Constitutional Consensus Committee in the context of

discussions on drafting a new constitution. In the Court's view, such an invitation may be seen as an indication that, at the material time, the DTK was not regarded as an unlawful organisation, but rather as a legitimate interlocutor in matters of significant public interest, such as constitutional reform.

101. The Court has also carefully examined the judicial decisions submitted by the Government (see paragraph 86 above). It observes that the decisions did not examine the nature of the DTK's activities or assess any allegedly unlawful conduct attributed to it. The Court further notes that none of the decisions concerned proceedings against a leader, member or individual identified as being part of the DTK's organisational structure.

102. Having regard to the considerations above, the Court does not consider it necessary to dwell further on this first element, as there is no indication that the DTK was regarded as an unlawful entity at the time when the applicant served as its co-chair. Moreover, there is no evidence to suggest that the DTK was involved in any criminal activity. In the Court's view, this consideration was not supported by sufficiently concrete evidence and therefore cannot be regarded as a relevant factor capable of convincing an objective observer that the applicant committed a criminal offence.

103. That being said, the Court does not rule out the possibility that the applicant's criminal liability may be engaged if evidence were to emerge that convincingly demonstrates her individual involvement in activities that constitute a criminal offence under domestic law and are compatible with the requirements of Article 5 § 1 (c) of the Convention.

104. The Court will therefore turn to the second element, namely the activities attributed to the applicant in her capacity as co-chair of the DTK. In doing so, and as was likewise done by the Constitutional Court, the Court will attach particular weight to the evidence that was available at the time when the applicant's pre-trial detention was ordered (see paragraph 18 above).

105. The Court notes that the investigating authorities referred to two email messages allegedly sent to the applicant by a certain N.O., described as the purported spokesperson of the PKK/KCK. These messages were interpreted as containing orders from the organisation, in particular inviting a DTK delegation to visit its members in Northern Iraq. The applicant contested the authenticity of these emails, asserting that they had been sent from her email address after her email account had been hacked. She further asserted that she had had no connection to the content of the messages and had never responded to them.

106. The Court acknowledges that the interception of communications, including telephone calls or email exchanges, may constitute important evidence in the fight against organised crime. However, when the accused disputes the authenticity of such material, the judicial authorities are under an obligation to verify its credibility (see, *mutatis mutandis*, *Gäffen v. Germany*

[GC], no. 22978/05, § 164, ECHR 2010; *Allan v. the United Kingdom*, no. 48539/99, § 43, ECHR 2002-IX; and *Selahattin Demirtaş*, cited above, § 336). In the present case, however, the domestic courts do not appear to have conducted any meaningful examination of the authenticity or reliability of the emails relied on by the public prosecutor. Nor did the Government produce any material capable of refuting the applicant's challenge regarding their authenticity and evidentiary value. Even assuming the messages were genuine, the Court finds no indication in the case file that the applicant acted on them in a way that could substantiate the suspicion underlying her pre-trial detention.

107. The considerations above also apply to the text message received by the applicant in 2010 from an unidentified source (see paragraph 18 above). The Court notes that, although the authorities presumed it had been sent by members of the illegal armed organisation, the sender could not be identified. In the Court's view, a reference to a message of unknown origin, particularly where the content contains no unlawful or incriminating elements, cannot be regarded as sufficient to support a reasonable suspicion justifying pre-trial detention.

108. Furthermore, the Court notes that the national authorities considered that the applicant's participation in meetings, demonstrations and press statements – as well as speeches she delivered on various occasions, including those broadcasted on Roj TV – were relevant elements substantiating the suspicion that she had committed the offence of forming or leading an illegal armed organisation. It was further alleged that the applicant's participation in those events had occurred in accordance with orders from the illegal armed organisation allegedly conveyed by N.O. (see paragraphs 18 and 29-30 above).

109. In that regard, the Court first observes that the authorities were unable to produce any concrete evidence indicating that the applicant had received direct or indirect orders from the PKK/KCK to attend meetings, participate in demonstrations or deliver speeches to disseminate the organisation's policies. Furthermore, the Court finds no indication in the domestic decisions as to how the applicant's participation in the aforementioned events or her public statements could be construed as constituting a terrorism-related offence.

110. The Court notes that the domestic authorities referred, in particular, to a meeting held at the Swiss Parliament in Bern, which was reportedly attended by politicians, representatives of civil society organisations, writers and journalists. They emphasised that certain individuals alleged to be affiliated with the illegal armed organisation had also been present. The applicant denied taking part in the meeting, stating that she had never travelled to Bern. Even assuming that she had participated, the Court fails to see how attending a meeting held in a lawful forum, such as the Swiss

Parliament, could justify the suspicion against the applicant and her subsequent pre-trial detention several years later.

111. As to the other meetings and demonstrations, the Court observes that the domestic authorities merely listed the events attended and the statements made by the applicant, without providing any reasoning as to how these elements substantiated or reinforced the suspicion against her. The same lack of assessment is apparent with regard to other items included in the case file, such as books and a muslin cloth found during a search of her home.

112. The Government highlighted certain statements made by the applicant in 2012 and 2013, alleging that their violent content had incited or contributed to the so-called “trench events” – clashes between members of the PKK and security forces at the end of 2015 and the beginning of 2016. In this regard, the Court observes that the case file contains neither judicial findings nor specific allegations directly linking the applicant’s statements to those events. Furthermore, the Government failed to explain how statements made in 2012 and 2013 could have incited incidents that occurred several years later, in 2015 and 2016.

113. As to their content, contrary to the Government’s submissions, the Court is not persuaded that the statements in question amounted to incitement to violence or could be regarded as evidence of the applicant’s involvement in the formation or leadership of an illegal armed organisation. While it is true that the statements touched upon sensitive matters, such as the notion of “democratic autonomy”, they must be seen as political opinions expressed by the applicant, in her capacity as a politician, on the resolution of the Kurdish question. In the Court’s view, the statements do not contain any elements that incite violence or glorify terrorism. Taken as a whole, they cannot be considered capable of encouraging violent action or exacerbating the security situation in any part of Türkiye. Rather, they constitute an exercise of the applicant’s rights to freedom of expression and freedom of assembly, as guaranteed by Articles 10 and 11 of the Convention.

114. In connection with this question, the Court has noted a tendency in its recent judgments against Türkiye on the part of the domestic courts to establish individuals’ links with an illegal armed organisation on the basis of very weak evidence, where the charges relate to the content of their statements (see, for example, *Selahattin Demirtaş*, cited above, § 280, and *Yüksek v. Türkiye*, no. 4/18, § 90, 22 October 2024). In those judgments, the Court emphasised that the range of acts considered sufficient to justify pre-trial detention under Article 314 of the Criminal Code was so broad that, taken together with its interpretation by the domestic courts, the provision failed to afford adequate protection against arbitrary interference by the national authorities. On that basis, it found that the terrorism-related offences, as interpreted and applied by the domestic courts, lacked the requisite foreseeability (see *Selahattin Demirtaş*, cited above, § 337).

115. In the Court's view, this consideration likewise applies in the present case. The Court finds that the remarks made by the applicant in her capacity as co-chair of the DTK and an opposing politician cannot be regarded as sufficient to establish a reasonable suspicion justifying her pre-trial detention. It also considers that, having regard to the broader context of the case, the opening of a criminal investigation and the imposition of a measure as severe as detention more than three years after the impugned statements and activities of the applicant in her standing as an opposition political figure undermines pluralism and restricts political debate, which is at the very core of the concept of a democratic society (see, in the same vein, *Selahattin Demirtaş*, cited above, § 437).

116. As regards Article 15 of the Convention and Türkiye's notice of derogation, the Court notes that the Council of Ministers, convened under the chairmanship of the President of the Republic and acting in accordance with Article 121 of the Constitution, adopted several legislative decrees during the state of emergency by which it imposed significant restrictions on the procedural safeguards afforded under domestic law to individuals in police custody or pre-trial detention. However, in the present case, the applicant was placed and held in pre-trial detention under Article 100 of the Code of Criminal Procedure in connection with charges brought under Article 314 of the Criminal Code. It should be noted, in particular, that Article 100 of the Code of Criminal Procedure, which requires the presence of factual elements demonstrating a strong suspicion that the accused committed the offence in question, was not amended during the state of emergency. Indeed, the impugned measures were taken on the basis of legislation that was applicable both before and after the declaration of the state of emergency. Accordingly, the measures complained of in the present case cannot be regarded as having met the requirements of Article 15 of the Convention, since, ultimately, no derogating measure was applicable to the applicant's situation. To conclude otherwise would nullify the minimum requirements of Article 5 § 1 (c) of the Convention (see *Parıldak v. Türkiye*, no. 66375/17, § 88, 19 March 2024).

117. For the reasons set out above, the Court considers that none of the decisions on the applicant's initial and continued pre-trial detention contain evidence that could indicate a clear link between her actions and the offences for which she was detained.

118. Finally, the Government have not demonstrated that the evidence purportedly available to the judicial authorities met the standard of "reasonable suspicion" that is required by Article 5 of the Convention, such as to satisfy an objective observer that the applicant could have committed the offence for which she was detained.

119. The Court therefore concludes that there has been a violation of Article 5 § 1 of the Convention on account of a lack of reasonable suspicion that the applicant had committed an offence.

(b) Whether the decisions concerning the applicant's pre-trial detention were sufficiently reasoned (Article 5 § 3 of the Convention)

120. The Court refers to the general principles under Article 5 § 3 of the Convention concerning the justification of detention, as set out in *Buzadji v. the Republic of Moldova* [GC] (no. 23755/07, §§ 87-91, 5 July 2016) and *Merabishvili v. Georgia* ([GC], no. 72508/13, §§ 222-25, 28 November 2017).

121. In the present case, the Court has already found that no specific facts or information capable of giving rise to a suspicion justifying the applicant's pre-trial detention were put forward by the national courts at any time during her detention and that there was therefore no reasonable suspicion that she had committed an offence.

122. The Court reiterates that the persistence of a reasonable suspicion that a detainee has committed an offence is a condition *sine qua non* for the validity of his or her continued detention (see *Merabishvili*, cited above, § 222, with further references). In the absence of such suspicion, the Court considers that there has also been a violation of Article 5 § 3 of the Convention.

123. The Court's reasoning above concerning Article 15 of the Convention and Türkiye's derogation (see paragraph 116 above) is equally applicable to the present complaint.

124. In view of the above, it is not necessary to ascertain whether the competent national authorities gave relevant and sufficient grounds to justify the applicant's pre-trial detention or whether they displayed "special diligence" in the conduct of the proceedings.

IV. ALLEGED VIOLATION OF ARTICLE 5 § 4 OF THE CONVENTION

125. Relying on Article 5 § 4 of the Convention, the applicant submitted that the restriction on her access to the investigation file meant that she had been unable to properly challenge the lawfulness of her deprivation of liberty. On that account she alleged a violation of Article 5 § 4 of the Convention, which provides:

"Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful."

126. The Government argued that the applicant could not be considered to have exhausted the remedy of individual application in relation to her complaint under Article 5 § 4 of the Convention concerning the restriction of access to the case file. They submitted that, as also noted by the Constitutional Court in its decision, the applicant had failed to include the restriction order in question in her individual application. In the alternative, they invited the Court to declare the complaint inadmissible for non-exhaustion of domestic

remedies given that the applicant had failed to lodge an objection against the order restricting her access to the case file.

127. As to the merits, the Government submitted that the applicant and her lawyers had had sufficient knowledge of the substance of the evidence forming the basis for her pre-trial detention and had therefore been in a position to effectively challenge the grounds relied on to justify that detention.

128. The applicant contested the Government's arguments. She maintained that she had raised the complaint in her individual application to the Constitutional Court. She argued that, contrary to the Government's assertion, the restriction order had prevented her from effectively challenging the lawfulness of her detention. In particular, she submitted that no evidence had been presented, read out or explained to her during her interrogation and that only general accusations had been made.

129. The Court notes that, in her individual application, the applicant did not submit to the Constitutional Court the decision adopted by the competent authority that imposed the restriction on her and her lawyers' access to the case file. She also failed to submit the decision in question in her application to the Court. At no stage – either before the Constitutional Court or before the Court – did the applicant claim that no such decision had been served on her or her representatives. Nor did she provide any other explanation for her failure to include the decision in her submissions. The applicant also failed to appropriate documents demonstrating that she had lodged an objection against such a decision. Furthermore, in its decision, the Constitutional Court emphasised that the competent authorities had informed the applicant and her counsel of the grounds for the accusations, thereby affording her an opportunity to challenge them.

130. Having regard to the considerations above, the Court concludes that the applicant has failed to substantiate her allegations under Article 5 § 4 of the Convention in a concrete and convincing manner. Accordingly, this part of the application must be declared inadmissible pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

V. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

131. The applicant alleged a violation of her right to freedom of expression and to freedom of peaceful assembly as guaranteed by Articles 10 and 11 of the Convention on account of her remand and continued pre-trial detention.

132. She argued that a criminal investigation had been opened against her on account of statements she had made during DTK meetings, demonstrations she had attended, and interviews she had given.

133. The Government contested that allegation both as to its admissibility and its merits.

134. Being master of the characterisation to be given in law to the facts of the case, the Court will consider these complaints under Article 10 of the Convention (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 114 and 126, 20 March 2018, and *Grosam v. the Czech Republic* [GC], no. 19750/13, § 90, 1 June 2023). The relevant parts of Articles 10 of the Convention provide as follows:

Article 10 – Freedom of expression

“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. ...

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

A. Admissibility

135. The Government invited the Court to declare the complaint under Article 10 inadmissible as being incompatible *ratione materiae* with the provisions of the Convention, arguing that the applicant’s acts fell within the scope of Article 17 of the Convention in that, by her speeches and statements, she, as the co-chair of the DTK, had (i) produced propaganda for a terrorist organisation and (ii) incited people to violence. In the alternative, the Government invited the Court to declare the complaint inadmissible as being manifestly ill-founded.

136. The applicant contested these arguments.

137. The Court reiterates, firstly, that “the purpose of Article 17, in so far as it refers to groups or to individuals, is to make it impossible for them to derive from the Convention a right to engage in any activity or perform any act aimed at destroying any of the rights and freedoms set forth in the Convention; ... therefore, no person may be able to take advantage of the provisions of the Convention to perform acts aimed at destroying the aforesaid rights and freedoms ...” (see *Lawless v. Ireland* (no. 3), 1 July 1961, p. 45, § 7, Series A no. 3). Since the general purpose of Article 17 is, in other words, to prevent individuals or groups with totalitarian aims from exploiting in their own interests the principles enunciated in the Convention, this Article is applicable only on an exceptional basis and in extreme cases, as indeed is illustrated by the Court’s case-law (see *Paksas v. Lithuania* [GC], no. 34932/04, § 87, ECHR 2011 (extracts) and the case-law references therein).

138. The Court's decision in the case of *Roj TV A/S v. Denmark* ((dec.), no. 24683/14, §§ 32-38, 17 April 2018) provides a summary of the statements or activities which it held should be exempted by Article 17 from the protection of Article 10 of the Convention on account of their Islamophobic, anti-Semitic or racist purpose and/or their incitement to hatred and violence (see also *Yüksekdağ Şenoğlu and Others v. Türkiye*, nos. 14332/17 and 12 others, § 486, 8 November 2022).

139. In the present case, there is no evidence to suggest that the applicant intended to pursue such an aim. The Court finds that her statements did not reach the high threshold required for the applicability of Article 17. Although some of her statements were controversial, it is not clear that they were intended to incite to violence and hatred, or to undermine the rights and freedoms protected by the Convention (compare also *Yüksek*, cited above, § 68 and the case-law references therein). The applicant is therefore not prevented from invoking her right to freedom of expression in this instance. The Government's objection of incompatibility *ratione materiae* must therefore be dismissed.

140. The Court further notes that the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

141. The applicant submitted that her pre-trial detention had been in breach of Article 10 because her speeches had not contained any elements of incitement to violence or terrorist propaganda. She claimed that she had made speeches in her capacity as co-chair of DTK, a lawful organisation, and as a politician. She stressed that her speeches and criticisms aimed at finding peaceful solutions to the Kurdish problem. She argued that her legitimate participation in meetings and her statements and her opinions supporting democratic autonomy fell within the scope of freedom of expression.

142. The Government first submitted that there had been no interference with the applicant's right to freedom of expression. They argued that her pre-trial detention had been ordered on suspicion of forming or leading an armed terrorist organisation. They contended that the competent judicial authorities had given sufficient reasons when they decided to order and extend the applicant's pre-trial detention. The applicant's pre-trial detention was justified as she had engaged in terrorist propaganda and incited people to violence by her statements.

143. In any event, any interference by the authorities had been in accordance with the law and necessary in the interests of national security, public safety, and for the prevention of disorder or crime.

144. As to the necessity of the interference in a democratic society, the Government submitted that the authorities had not transgressed the principles of reasonableness and proportionality. They argued that there had been a pressing social need for the applicant's initial and continued pre-trial detention because she had produced propaganda for the PKK and incited people to violence by her statements aiming at the division of Türkiye's territorial integrity. In this regard, the Government referred to some of the statements made by the applicant during some meetings in 2012 and 2013 (paragraph 88 above).

2. *The Court's assessment*

(a) **Whether there was an interference**

145. The Court reiterates that certain circumstances with a chilling effect on freedom of expression will confer on applicants who have yet to be convicted in a final judgment the status of victims of an interference with the freedom in question (see *Yüksek*, cited above, § 75 and the case-law references therein).

146. In the present case, the Court observes that the applicant was arrested and placed in pre-trial detention on suspicion of forming or leading an armed illegal organisation. She had been kept in pre-trial detention for approximately one year and three months.

147. In the light of the foregoing, the Court considers that the applicant's initial and continued detention on account of her statements amounted to an interference with the exercise of her freedom of expression (see *Açık and Others v. Turkey*, no. 31451/03, § 40, 13 January 2009, and *Sabuncu and Others v. Turkey*, no. 23199/17, § 226, 10 November 2020).

(b) **Whether the interference was justified**

148. Such interference will breach Article 10 of the Convention unless it satisfies the requirements of the second paragraph of that Article. It therefore remains to be determined whether the interference was "prescribed by law", pursued one or more of the legitimate aims referred to in paragraph 2 and was "necessary in a democratic society" in order to achieve them.

149. The Court reiterates that the expression "prescribed by law", within the meaning of Article 10 § 2, requires firstly that the interference should have some basis in domestic law; it also refers to the quality of the law in question, requiring that it should be accessible to the person concerned, who must moreover be able to foresee its consequences, and that it should be compatible with the rule of law. A law which confers a discretion is not in itself inconsistent with this requirement, provided that the scope of the discretion and the manner of its exercise are indicated with sufficient clarity, having regard to the legitimate aim in question, to give the individual

adequate protection against arbitrary interference (see *Sabuncu and Others*, cited above, § 229 and the case-law references therein).

150. In the present case, the Court has already found that the applicant's detention was not based on a reasonable suspicion that she had committed an offence for the purposes of Article 5 § 1 (c) of the Convention, and that there has therefore been a violation of her right to liberty and security under Article 5 § 1 (see paragraph 119 above). Furthermore, according to Article 100 of the Turkish Code of Criminal Procedure, a person may be placed in pre-trial detention only where there is factual evidence giving rise to a strong suspicion that he or she has committed an offence, and considers in this connection that the absence of reasonable suspicion should, *a fortiori*, have implied an absence of strong suspicion when the national authorities were called upon to assess the lawfulness of the applicant's detention. The Court reiterates in this regard that sub-paragraphs (a) to (f) of Article 5 § 1 contain an exhaustive list of permissible grounds on which persons may be deprived of their liberty and that no deprivation of liberty will be lawful unless it falls within one of those grounds (see *Khlaifia and Others v. Italy* [GC], no. 16483/12, § 88, 15 December 2016, and *Sabuncu and Others*, cited above, § 230).

151. The Court further notes that the requirements of lawfulness under Articles 5 and 10 of the Convention aim to protect the individual from arbitrariness in both cases (see *Sabuncu and Others*, cited above, § 230). Therefore, a detention measure that is not lawful, as long as it constitutes an interference with one of the freedoms guaranteed by the Convention, cannot, in principle, be regarded as a restriction of that freedom prescribed by national law (compare also *Sabuncu and Others*, cited above, § 230).

152. It follows that the interference with the applicant's rights and freedoms under Article 10 § 1 of the Convention cannot be justified under Article 10 § 2 since it was not prescribed by law (compare also *Steel and Others v. the United Kingdom*, 23 September 1998, §§ 94 and 110, *Reports of Judgments and Decisions* 1998-VII, and, *mutatis mutandis*, *Huseynli and Others v. Azerbaijan*, nos. 67360/11 and 2 others, §§ 98-101, 11 February 2016). The Court is therefore not called upon to examine whether the interference in question had a legitimate aim and was necessary in a democratic society.

153. Lastly, as regards the notice of derogation lodged by Türkiye, the Court refers to its findings set out above in paragraph 116. In the absence of any serious reason to depart from its assessment concerning the application of Article 15 of the Convention in connection with Article 5 § 1, the Court considers that those conclusions likewise apply in the context of its examination under Article 10 of the Convention.

154. Accordingly, there has been a violation of Article 10 of the Convention.

VI. ALLEGED VIOLATION OF ARTICLE 18 IN CONJUNCTION WITH ARTICLE 5 § 1 OF THE CONVENTION

155. The applicant alleged a violation of Article 18 of the Convention, in conjunction with Article 5 § 1, on the grounds that her right to liberty had been restricted for purposes other than those prescribed by the Convention. She alleged that her pre-trial detention had pursued a hidden purpose, namely the elimination of political opposition and the restriction of political debate. In particular, government repression had intensified following the success of her political party, the HDP, in the parliamentary elections of 7 June and 1 November 2015. She argued that the detention of elected HDP members had been driven by the covert objective of facilitating the transition to a presidential system.

Article 18 of the Convention reads:

“The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.”

156. The Government contested that argument.

A. Admissibility

157. The Government considered that Article 18 of the Convention did not have an autonomous role and could only be applied in conjunction with other provisions of the Convention. In their view, given that there had been no violation of Article 5 of the Convention, the complaint under that provision had to be rejected as incompatible *ratione materiae* with the provisions of the Convention.

158. The applicant contested that argument.

159. The Court observes that it has found a violation of Article 5 § 1 of the Convention on account of the lack of reasonable suspicion that the applicant had committed the offences of which she was accused. Considering that the complaint under Article 18 is closely linked to the complaint under that provision, it dismisses the Government’s objection concerning the compatibility *ratione materiae* of this complaint.

160. In conclusion, this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention and it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties’ submission

(a) The applicant

161. The applicant submitted that her pre-trial detention had been ordered as part of a broader policy by the public authorities aimed at suppressing

political debate. She pointed out that, at the time of her arrest and pre-trial detention, she was the deputy co-chair in charge of legal and human rights affairs of the HDP, the country's second-largest opposition party. She maintained that she had been detained solely on account of her political activities, in the context of a wave of systematic arrests and detentions targeting HDP members and deputies.

162. The applicant further submitted that the government crackdown had intensified following the success of her party in the elections of 7 June 2015. In those elections, the AKP, which had been in power since 2002, lost its majority in the National Assembly, largely as a result of the HDP's success; the latter obtained 13% of the vote and, for the first time, passed the threshold for representation in Parliament. Subsequently, after the failure of negotiations to form a coalition government, early elections were held on 1 November 2015, in which the HDP received 10% of the vote. Both elections were crucial, as the AKP was unable to secure a sufficient majority to amend the Constitution so as to introduce a presidential system, as desired by the President of Turkey.

163. As regards the question of proving the existence of an ulterior purpose in the context of Article 18 of the Convention, the applicant, referring to the *Merabishvili v. Georgia* judgment (cited above), submitted that the Court was not required to seek direct evidence or follow special rules and criteria when examining complaints under Article 18. In her view, it could not have recourse to a rigid application of the principle *affirmanti incumbit probatio* in cases concerning that Article. In that regard, consideration should be given to the difficulties faced by applicants in proving their allegations. The applicant contended that she was not under an obligation to submit a document providing proof of the violation of Article 18, in so far as the burden of proof in proceedings before the Court, which examined all the material before it, was not borne by one or the other party.

164. The applicant argued that her arrest and pre-trial detention, as a former member of parliament from an opposition party and as a co-chair in charge of legal and human rights affairs of the HDP, pursued the purpose of punishing her for her political activities. She maintained that her detention, which lacked a legitimate basis, amounted to a violation of Article 18 of the Convention taken in conjunction with Article 5.

(b) The Government

165. The Government submitted that the system for the protection of fundamental rights and freedoms under the Convention rested on the assumption that the authorities of the High Contracting Parties acted in good faith. It was for the applicant to demonstrate convincingly that the authorities' real aim had differed from the one proclaimed. A mere suspicion was not sufficient to prove that Article 18 had been breached.

166. The Government argued that the criminal proceedings against the applicant were being conducted by independent judicial authorities. In the Government's argument, the applicant had not submitted any evidence demonstrating that the contested pre-trial detention was imposed with a hidden objective. Moreover, in the Government's argument, the applicant had been unable to prove her allegations.

2. The Court's assessment

167. The Court refers to the general principles concerning the interpretation and application of Article 18 of the Convention as they were set out, particularly in its judgments in *Merabishvili* (cited above), *Navalnyy v. Russia* ([GC], nos. 29580/12 and 4 Others, §§ 164-65, 15 November 2018) and *Selahattin Demirtaş* (cited above).

168. In the present case, the Court reiterates that it has found that the applicant's pre-trial detention was not based on a "reasonable suspicion" within the meaning of Article 5 § 1 (c) of the Convention (see paragraphs 118-119 above). In the Court's view, the finding of a violation of Article 5 § 1 cannot be regarded as sufficient in itself to conclude that Article 18 of the Convention has also been violated (see *Navalnyy*, cited above, § 166). It remains for the Court to determine whether, in the absence of reasonable suspicion, there was an identifiable ulterior purpose from the standpoint of Article 18 of the Convention.

169. The Court notes that, in contrast to the cases of *Selahattin Demirtaş* and *Yüksekdağ Şenoğlu and Others* (both cited above), the applicant was not a member of parliament when the investigation against her was opened. At that time she was the deputy chair of the HDP and held an important position within the party. In this capacity, she was nevertheless one of the party's leading figures and played a prominent role in its political activities and decision-making processes.

170. Additionally, the timing of the applicant's initial and ongoing pre-trial detention is another factor to be taken into account in the Court's examination under Article 18 of the Convention (see *Selahattin Demirtaş*, cited above, § 429). The Court notes that more than three years elapsed between the applicant's impugned statements and activities, in her capacity as an opposition political figure, and the decision to place her in pre-trial detention. More importantly, she was arrested and placed in pre-trial detention at around the same time as numerous HDP members of parliament, mayors and other party members. The Court therefore considers that the decisions on the applicant's initial and continued pre-trial detention were not an isolated example but, on the contrary, appear to form part of a broader pattern. The Court stresses that the applicant was deprived of her liberty during two crucial campaigns, namely the referendum of 16 April 2017 and the presidential election of 24 June 2018 (for more information on the

circumstances surrounding those campaigns, see the above-mentioned cases of *Selahattin Demirtaş* and *Yüksekdağ Şenoğlu and Others*).

171. In the present case, the concordant inferences drawn from this background information support the argument that the judicial authorities reacted harshly to the applicant's conduct as a well-known opposition political figure and executive member of the HDP, to the activities of HDP members of parliament and elected mayors, and to dissenting voices in general. In this regard, the Court reiterates its findings above in its assessment under Article 5 § 1 (c) of the Convention. According to these findings, the opening of a criminal investigation and the imposition of a measure as severe as detention more than three years after the applicant's impugned statements and activities, in her capacity as an opposition political figure, undermines pluralism and restricts political debate, which lies at the very core of a democratic society (see paragraph 115 above).

172. In the Court's view, the applicant's initial and continued pre-trial detention sent a dangerous message to the entire population, significantly reducing the scope of free democratic debate. These factors enable the Court to conclude that the purposes put forward by the authorities for the applicant's pre-trial detention were merely cover for an ulterior political purpose, which is a matter of indisputable gravity for democracy (see *Cebotari v. Moldova*, no. 35615/06, §§ 52-53, 13 November 2007; *Ilgar Mammadov v. Azerbaijan* (no. 2), no. 919/15, § 143, 16 November 2017; *Rasul Jafarov v. Azerbaijan*, no. 69981/14, § 162, 17 March 2016; and *Mammadli v. Azerbaijan*, no. 47145/14, § 104, 19 April 2018).

173. Having regard to the foregoing, the Court finds that it has been proven beyond reasonable doubt that the applicant's detention, in particular during two crucial campaigns relating to the referendum and the presidential election, pursued the ulterior purpose of stifling pluralism and limiting freedom of political debate, which lies at the very core of the concept of a democratic society.

174. As regards the Government's derogation under Article 15 of the Convention, the Court considers that its findings in paragraph 116 apply also in the context of its assessment under Article 18 of the Convention taken in conjunction with Article 5 § 1 (c).

175. The Court therefore concludes that there has been a violation of Article 18 of the Convention in conjunction with Article 5 § 1.

VII. APPLICATION OF ARTICLE 41 OF THE CONVENTION

176. Article 41 of the Convention provides:

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

A. Damage

177. The applicant claimed 16,000 euros (EUR) in respect of non-pecuniary damage.

178. The Government argued that the applicant's claim in respect of non-pecuniary damage was unsubstantiated, excessive and did not correspond to the Court's case-law.

179. Ruling on an equitable basis, the Court awards the applicant EUR 16,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

180. The applicant also claimed EUR 2,500 for the costs and expenses incurred before the domestic courts and the Court.

181. The Government argued that the applicant had failed to submit any valid supporting documents to show that the costs and expenses, including the lawyer's fees, had actually been incurred. They asked the Court to reject the applicant's claim in respect of costs and expenses.

182. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum (see, among many other authorities, *Pindo Mulla v. Spain* [GC], no. 15541/20, § 193, 17 September 2024).

183. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 1,500 for costs and expenses incurred in the domestic proceedings and before the Court, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT

1. *Declares*, unanimously, the complaints concerning Article 5 §§ 1 and 3 and Articles 10 and 18 of the Convention admissible;
2. *Declares*, unanimously, the complaints concerning Article 5 § 4 of the Convention inadmissible;
3. *Holds*, by six votes to one, that there has been a violation of Article 5 §§ 1 and 3 of the Convention;
4. *Holds*, by six votes to one, that there has been a violation of Article 10 of the Convention;

5. *Holds*, by six votes to one, that there has been a violation of Article 18 of the Convention in conjunction with Article 5 § 1;
6. *Holds*, by six votes to one,
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
 - (i) EUR 16,000 (sixteen thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 1,500 (one thousand five hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
7. *Dismisses*, unanimously, the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 14 October 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Dorothee von Arnim
Deputy Registrar

Arnfinn Bårdsen
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judge Yüksel is annexed to this judgment.

PARTLY DISSENTING OPINION OF JUDGE YÜKSEL

As I maintain my legal views expressed in the dissenting opinion annexed to the judgment in *Selahattin Demirtaş v. Turkey (no. 2)* ([GC], no. 14305/17, 22 December 2020) which the present judgment principally relied on, I respectfully disagree with the finding of violations of Article 5 §§ 1 and 3, Article 10 and Article 18 of the Convention, in conjunction with Article 5 § 1, in the present case.