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

Press Release
issued by the Registrar of the Court

ECHR 114 (2026)
05.05.2026

The applicant's conviction for membership of an armed terrorist organisation and the conditions of his detention entailed violations of Article 7 and Article 3 of the Convention

In today's **Grand Chamber** judgment[1] in the case of Yasak v. Türkiye (application no. 17389/20) the European Court of Human Rights held:

by eleven votes to six, that there had been **a violation of Article 7 (no punishment without law)** of the European Convention on Human Rights**, and**

by nine votes to eight, that there had been **a violation of Article 3 (prohibition of inhuman and degrading treatment)**.

The case concerned the applicant's conviction, under Article 314 § 2 of the Turkish Criminal Code, for membership of an armed terrorist organisation, and the conditions in which he was detained in Çorum Prison.

The case is one of many sets of criminal proceedings brought against persons accused of membership of an armed terrorist organisation, namely the group described by the Turkish authorities as the "Fetullahist Terror Organisation/Parallel State Structure" ("the FETÖ/PDY"), an organisation that the Turkish authorities have held responsible for the attempted *coup d'état* in Türkiye on 15 July 2016.

The Court found that the domestic courts, contrary to the requirements of national law, had not explained why the fact that the applicant had held certain responsibilities within the organisation's educational branch – well before the FETÖ/PDY was designated as a terrorist organisation by the national authorities and the courts – had led to the conclusion that he was aware of the organisation's nature and terrorist objectives, intended to be part of that organisation, and had actively and continuously contributed to it. This failure to conduct any assessment of the applicant's intent – namely the mental element of the offence of membership of a terrorist organisation – in the light of concrete evidence regarding his actions and the role played by him had amounted to a fundamental breach of the requirement to conduct an individualised assessment of criminal liability.

With regard to the conditions of detention, the Court noted that the applicant had been held for almost four years in a situation of serious and persistent overcrowding, marked in particular by the lack of an individual bed for around 14 months, insufficient sanitary facilities, lack of privacy and limited access to activities and outdoor exercise. Taken cumulatively, those conditions had amounted to treatment attaining the level of severity required to fall within the scope of Article 3 of the Convention.

A legal summary of this case will be available in the Court's database HUDOC (link).

The public delivery is available on the Court's YouTube channel.

1. Grand Chamber judgments are final (Article 44 of the Convention).
All final judgments are transmitted to the Committee of Ministers of the Council of Europe for supervision of their execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

Principal facts

The applicant, Mr Şaban Yasak, is a Turkish national who was born in 1987 and lives in Stockhausen-Illfurth (Germany). On the date that his application was lodged he was serving a prison sentence in the Çorum L-type prison (Türkiye).

Following the attempted coup, the Çorum prosecutor's office opened a criminal investigation into the FETÖ/PDY's activities in Çorum Province. In the context of that investigation, the applicant was accused of belonging to the organisation in question; this marked the start of the criminal proceedings against him.

On 6 February 2017 the applicant appeared before the Çorum Magistrate's Court, which remanded him in custody on a charge of membership of the FETÖ/PDY. In his submission, he repeated the statements he had made to the police, stating that he did not wish to benefit from the active repentance regime, since, he claimed, he had no connection with the organisation in question.

On 4 August 2017 the Çorum Public Prosecutor's Office lodged an indictment against the applicant with the Çorum Assize Court. He was accused of being a member of the FETÖ/PDY, and of having carried out activities in Çorum Province in 2016 on behalf of that organisation, acts falling within the scope of Article 314 § 2 of the Criminal Code. The indictment concluded that, in the applicant's case, having regard to the continuity, diversity and intensity of his activities as described, the offence of membership of an armed organisation had been made out.

On 27 November 2017 the Assize Court held a hearing, during which the applicant filed defence pleadings denying all of the charges against him.

On 14 February 2018 the Assize Court held a hearing in the presence of the applicant's lawyer. The applicant took part via a video link.

At the close of the hearing, the Assize Court unanimously found the applicant guilty of the charges against him and sentenced him to seven years and six months' imprisonment.

In its judgment, the Assize Court set out the prosecution's arguments and the applicant's defence, then analysed in detail the FETÖ/PDY's activities. It determined that these amounted to a gradual infiltration of State institutions, use of intimidation and pressure, especially by initiating criminal proceedings on the basis of falsified evidence and the use of psychological violence and coercion, culminating in the attempted coup of 15 July 2016. It concluded that the organisation was aiming to overthrow the constitutional order and ought to be classified as an armed terrorist organisation. It also considered, on the basis of a series of concordant elements, that the applicant had maintained close ties with the organisation, as shown, in particular, by the fact that his social-security contributions were paid by a company affiliated to the FETÖ/PDY, telephone contacts with members of the organisation, the use of a code name, witness statements describing him as a regional leader within the organisation, and the fact that he had deposited money with Bank Asya on the instructions of the organisation's leader. Assessing those elements individually and as a whole, the Assize Court concluded that their continuity, diversity and intensity were sufficient to demonstrate that the applicant had committed the offence of membership of terrorist organisation. On 16 February 2018 the applicant's lawyer lodged an appeal against the judgment of 14 February 2018. In a judgment of 3 July 2018, the Samsun Regional Court of Appeal dismissed the appeal, holding that the first-instance court had not erred in either its assessment or its conclusions.

On 23 July 2018 the applicant appealed on points of law to the Court of Cassation against the judgment of the Samsun Regional Court of Appeal. On 21 January 2019 the Court of Cassation upheld the applicant's conviction.

On 22 May 2019 the applicant lodged an individual appeal with the Constitutional Court complaining, among other points, of a violation of his right to a fair trial. In a judgment delivered on 25 February 2020, the Constitutional Court rejected the complaint of a general lack of procedural fairness, finding

it manifestly ill-founded; it also rejected the complaint relating to the alleged restrictions on the rights of the defence, considering that all the ordinary legal avenues had not been used; lastly, it rejected the complaint alleging a violation of the right to liberty, on the ground that this complaint had already been submitted in the context of another individual application.

After being placed in pre-trial detention on 6 February 2017, the applicant was taken to Çorum L-type prison ("Çorum Prison"), where he was assigned to Unit F-5 until 8 March 2018, and then moved to Unit F-10.

On 24 April 2019 the applicant lodged an individual application with the Constitutional Court, complaining about his conditions of detention in Çorum Prison. He stated, in particular, that the prison's capacity, initially set at 477 prisoners, had been increased to 2,000 without any compensatory measures being introduced.

In a decision of 3 September 2020, the Constitutional Court dismissed this individual appeal as manifestly ill-founded.

Complaints, procedure and composition of the Court

Relying on Article 7 (no punishment without law), the applicant complained that the acts that formed the basis of his conviction had been lawful at the relevant time and that in holding him criminally liable for the acts he was alleged to have carried out the authorities had engaged in an expansive and arbitrary interpretation of the relevant laws.

Relying on Article 3 (prohibition of inhuman and degrading treatment), he complained about the conditions in which he was held in Çorum Prison.

The application was lodged with the European Court of Human Rights on 2 April 2020. In a judgment of 27 August 2024 the Court concluded, unanimously, that there had been no violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, and no violation of Article 7 (no punishment without law) of the Convention. On 26 November 2024 the applicant requested that the case be referred to the Grand Chamber under Article 43 (referral to the Grand Chamber) and on 16 December 2024 the panel of the Grand Chamber accepted that request. A public hearing was held on 7 May 2025.

Judgment was given by the Grand Chamber of 17 judges, composed as follows:

Mattias **Guyomar** (France), *President*,
Ivana **Jelić** (Montenegro),
Lado **Chanturia** (Georgia),
Ioannis **Ktistakis** (Greece),
Kateřina **Šimáčková** (the Czech Republic),
Faris **Vehabović** (Bosnia and Herzegovina),
Jolien **Schukking** (the Netherlands),
Gilberto **Felici** (San Marino),
Saadet **Yüksel** (Türkiye),
Anja **Seibert-Fohr** (Germany),
Peeter **Roosma** (Estonia),
Ana Maria **Guerra Martins** (Portugal),
Anne Louise **Bormann** (Denmark),
Úna **Ní Raifeartaigh** (Ireland),
Artūrs **Kučs** (Latvia),
Mateja **Đurović** (Serbia),
Juha **Lavapuro** (Finland),

and also Abel **Campos**, *Deputy Registrar.*

Decision of the Court

Article 7

From the standpoint of Article 7 § 1, the Court's role was to consider whether the acts for which the applicant had been punished fell within the definition of a criminal offence that was sufficiently foreseeable. In other words, the examination of the complaint under Article 7 rested on the premise that the applicant had committed all of the acts established in the domestic courts' findings of fact.

The issue in the present case was whether the approach taken by the domestic courts in establishing the intentional element (the applicant's *mens rea*), prior to convicting him of membership of an armed terrorist organisation, had been compatible with Article 7 of the Convention. The Court emphasised that the offence of membership of a terrorist organisation, a particularly serious one, required that a conviction be based on the individualised establishment of criminal liability, implying evidence of intent through the nature of the relationship between the accused and the organisation, and ruling out any collective guilt or guilt by association.

With regard to the temporal element of the offence, the Court considered that the first-instance court's judgment had lacked the necessary rigour, a shortcoming that was not remedied in the later stages of the proceedings. The bill of indictment did not indicate clearly the time-period during which the applicant was alleged to have been a member of the organisation and aware of its violent objectives. The period of the applicant's alleged membership ended sometime in 2014. However, that time-period not only preceded by one and a half to two years the attempted coup of 15 July 2016, but was also well before the Turkish authorities' official recognition of the FETÖ/PDY as a terrorist organisation. The domestic courts should have assessed, with particular rigour, whether the applicant's involvement in an educational structure within that organisation could be regarded as amounting to deliberate and conscious adhesion to a terrorist project, or whether, on the contrary, it corresponded to participation without any criminal intent.

In addition, the Court noted that all of the acts in respect of which the applicant had been charged related to posts that he had held within the organisation's educational branch. The organisation in question had for many years been deeply embedded in several sectors of Turkish society, especially in the field of education, where it operated in a legal manner, presenting itself as a "moral and educational movement". This way of operating, which encompassed various spheres, could have led many individuals to maintain ties with the organisation's visible structures, without being aware of its real objectives.

The domestic courts had essentially relied on the applicant's role in the field of education, without establishing – or even seeking to establish – the existence of a personal, functional or hierarchical link with the organisation's strategic branches. Nor had they ascertained the extent of his responsibilities in relation to those branches, or his knowledge of the organisation's terrorist objectives, at a time when no act of violence had been attributed to it. The mere fact of belonging to a structure that was, at the time, largely perceived as a religious group could not, by itself, lead to a conclusion that the applicant, when carrying out the acts which formed the basis of his conviction, had possessed the requisite intentional element for the offence.

This failure by the domestic courts to conduct any assessment of the applicant's intent in the light of the specific evidence regarding his actions and the role played by him had amounted to a fundamental breach of the requirement to conduct an individualised assessment of criminal liability.

The Court noted the absence of any meaningful explanation in the relevant domestic judgments as to how one of the essential elements of the offence, namely the intentional element, had been determined in the applicant's case. In particular, the domestic courts had not explained why the fact

that the applicant had held certain responsibilities within the organisation's educational branch – well before it was designated as a terrorist organisation by the national authorities and the courts – had led to the conclusion that he was aware of the organisation's nature and terrorist objectives, intended to be part of that organisation, and had actively and continuously contributed to it.

The Court held that there had been a violation of Article 7 of the Convention.

Article 3

As a preliminary consideration, the Court noted that following the attempted coup of 15 July 2016 Türkiye experienced a surge in the prison population in several prison facilities. It noted that from 6 February 2017 the applicant had been held in Çorum Prison, initially in Unit F-5 for 13 months, then in Unit F-10 for more than three years, and that this prison too had been confronted with the problem of overcrowding.

During the applicant's detention in Çorum Prison, it had been operating in a situation of manifest overcrowding: although its maximum capacity had been increased to 1,592 places through the addition of bunk beds, the actual prison population had reached a figure of between 1,950 and 2,000 persons. This persistent overcrowding had been accompanied by inadequate sanitary facilities. Those factors were combined with the exceptional precariousness of sleeping arrangements: the applicant had been deprived of an individual bed in the dormitory for a total of 14 months, during which time he had endured a lack of privacy, constant exposure to artificial light at night, and sleep disruption. Furthermore, given that the courtyard measured only 64.36 sq. m, such a high prison population had been able to benefit from outdoor exercise to only a very limited extent, which constituted an aggravating factor and had exacerbated the harmful effects of the overcrowding.

The deficiencies identified, stemming from the overcrowding to which the applicant had been exposed, were far from occasional or exceptional, as they had persisted for approximately four years.

The Court considered that the applicant had been subjected to treatment exceeding the unavoidable level of suffering inherent in detention and attaining the minimum level of severity required to fall within the scope of Article 3 of the Convention.

It held that there had been a violation of this Article.

Just satisfaction (Article 41)

The Court held that Türkiye was to pay the applicant 2,800 euros (EUR) in respect of the non-pecuniary damage sustained as a result of the violation of Article 3, and EUR 9,050 in respect of costs and expenses.

Separate opinions

Judges **Vehabović**, **Schukking**, **Chanturia**, **Yüksel**, **Seibert-Fohr**, **Roosma**, **Guerra Martins** and **Ní Raifeartaigh** expressed a joint partly dissenting opinion; Judge **Guerra Martins** expressed a partly dissenting opinion; Judge **Lavapuro**, joined by Judges **Jelić**, **Ktistakis**, **Šimáčková** and **Đurović**, expressed a partly dissenting opinion; Judges **Vehabović**, **Chanturia**, **Felici**, **Yüksel**, **Ní Raifeartaigh** and **Kučs** expressed a joint dissenting opinion, and Judge **Ní Raifeartaigh** expressed a dissenting opinion. These opinions are annexed to the judgment.

The judgment is available in English and French.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int.

Follow the Court on Bluesky @echr.coe.int, X ECHR_CEDH, LinkedIn, and YouTube.
Contact ECHRPress to subscribe to the press-release mailing list.
Where can the Court's press releases be found? HUDOC - Press collection

Press contacts
echrpress@echr.coe.int | tel.: +33 3 90 21 42 08

We are happy to receive journalists' enquiries via either email or telephone.

Denis Lambert (tel: + 33 3 90 21 41 09)
Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)
Inci Ertekin (tel: + 33 3 90 21 55 30)
Jane Swift (tel: + 33 3 88 41 29 04)
Claire Windsor (tel: + 33 3 88 41 24 01)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.