



Inter-Parliamentary Union  
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## Türkiye

*Decision adopted by consensus by the IPU Governing Council at its 210<sup>th</sup> session  
(Kigali, 15 October 2022)<sup>1</sup>*



Aysel Tugluk during an interview with AFP in Diyarbakir, 17 July 2007. AFP PHOTO/STR

- |                                       |                                   |
|---------------------------------------|-----------------------------------|
| TUR-69 - Gülser Yildirim (Ms.)        | TUR-107 - Ferhat Encü             |
| TUR-70 - Selma Irmak (Ms.)            | TUR-108 - Hişyar Özsoy            |
| TUR-71 - Faysal Sariyildiz            | TUR-109 - Idris Baluken           |
| TUR-73 - Kemal Aktas                  | TUR-110 - Imam Taşçier            |
| TUR-75 - Bedia Özgökçe Ertan (Ms.)    | TUR-111 - Kadri Yildirim          |
| TUR-76 - Besime Konca (Ms.)           | TUR-112 - Lezgin Botan            |
| TUR-77 - Burcu Çelik Özkan (Ms.)      | TUR-113 - Mehmet Ali Aslan        |
| TUR-78 - Çağlar Demirel (Ms.)         | TUR-114 - Mehmet Emin Adiyaman    |
| TUR-79 - Dilek Öcalan (Ms.)           | TUR-115 - Nadir Yildirim          |
| TUR-80 - Dilan Dirayet Taşdemir (Ms.) | TUR-116 - Nihat Akdoğan           |
| TUR-81 - Feleknas Uca (Ms.)           | TUR-118 - Osman Baydemir          |
| TUR-82 - Figen Yüksekdağ (Ms.)        | TUR-119 - Selahattin Demirtaş     |
| TUR-83 - Filiz Kerestecioğlu (Ms.)    | TUR-120 - Sirri Süreyya Önder     |
| TUR-84 - Hüda Kaya (Ms.)              | TUR-121 - Ziya Pir                |
| TUR-85 - Leyla Birlik (Ms.)           | TUR-122 - Mithat Sancar           |
| TUR-86 - Leyla Zana (Ms.)             | TUR-123 - Mahmut Toğrul           |
| TUR-87 - Meral Daniş Beştaş (Ms.)     | TUR-124 - Aycan Irmez (Ms.)       |
| TUR-88 - Mizgin Irgat (Ms.)           | TUR-125 - Ayşe Acar Başaran (Ms.) |
| TUR-89 - Nursel Aydoğan (Ms.)         | TUR-126 - Garo Paylan             |
| TUR-90 - Pervin Buldan (Ms.)          | TUR-128 - Aysel Tugluk (Ms.)      |
| TUR-91 - Saadet Becerikli (Ms.)       | TUR-129 - Sebahat Tuncel (Ms.)    |
| TUR-92 - Sibel Yiğitalp (Ms.)         | TUR-130 - Leyla Guven (Ms.)       |
| TUR-93 - Tuğba Hezer Öztürk (Ms.)     | TUR-131 - Ayşe Sürücü (Ms.)       |
| TUR-94 - Abdullah Zeydan              | TUR-132 - Musa Farisogullari      |
| TUR-95 - Adem Geveri                  | TUR-133 - Emine Ayna (Ms.)        |

TUR-96 - Ahmet Yildirim  
TUR-97 - Ali Atalan  
TUR-98 - Alican Önlü  
TUR-99 - Altan Tan  
TUR-100 - Ayhan Bilgen  
TUR-101 - Behçet Yildirim  
TUR-102 - Berdan Öztürk  
TUR-105 - Erol Dora  
TUR-106 - Ertuğrul Kürkcü

TUR-134 - Nazmi Gür  
TUR-135 - Ayla Akat Ata (Ms.)  
TUR-136 – Beyza Ustün (Ms.)  
TUR-137 - Remziye Tosun (Ms.)  
TUR-138 - Kemal Bulbul  
TUR-140 - Gülşan Kışanak (Ms.)  
TUR-141 - Semra Güzel (Ms.)  
TUR-142 - Saliha Aydemir (Ms.)

### Alleged human rights violations

- ✓ Failure to respect parliamentary immunity
- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings and excessive delays
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Arbitrary arrest and detention
- ✓ Ill-treatment
- ✓ Abusive revocation or suspension of the parliamentary mandate

#### A. Summary of the case

Over 600 criminal and terrorism charges have been brought against the members of parliament of the People's Democratic Party (HDP) since 20 May 2016, when the Constitution was amended to authorize the wholesale lifting of parliamentary immunity. They are being tried on terrorism-related charges and charges of defamation of the President, Government or State of Türkiye. Some of them also face older charges in relation to the Kurdistan Communities Union (*Koma Civakên Kurdistan* – KCK) first-instance trial that has been ongoing since 2011, while others face more recent charges. In these cases, their parliamentary immunity was allegedly not lifted.

Since 2018, over 30 parliamentarians have been sentenced to terms of imprisonment. Since 4 November 2016, scores of parliamentarians have been detained and others have gone into exile. Eleven current and former parliamentarians are in prison, namely the former HDP co-chairs, Mr. Selahattin Demirtaş and Ms. Figen Yüksekdağ, as well as Ms. Gülser Yildirim, Mr. Idris Baluken, Ms. Leyla Güven, Ms. Semra Güzel, Ms. Gülşan Kışanak, Mr. Sebahat Tuncel, Ms. Aysel Tuğluk, Ms. Ayla Akat Ata and Mr. Nazmi Gur. Some of them were arrested in September 2020, although the accusations against them relate to the events in the distant past that unfolded soon after the siege of Kobane in Syria in 2014. Thirteen HDP members of parliament have lost their parliamentary mandates in recent years, largely due to the fact that their prison sentences became final. According to the complainant, Ms. Aysel Tuğluk is suffering from dementia and her health is getting worse by the day. She was sentenced in 2018 to 10 years in prison for “belonging to a terrorist organization”. The Constitutional Court rejected a plea for her release but ordered that she receive regular neurological and psychiatric treatment in hospital. In another case against her, the Constitutional Court ruled in a case against her that her right to a fair trial had been violated and ordered a retrial.

According to the complainant, the charges against HDP members of parliament are groundless and violate their rights to freedom of opinion and expression, and freedom of assembly and association. The complainant claims that the evidence adduced to support the charges against the members of parliament relates to public statements, rallies and other peaceful political activities carried out in furtherance of their parliamentary duties and political party programme. Such activities include mediating between the Kurdistan Workers' Party (*Partîya Karkerên Kurdistanê* – PKK) and the Turkish Government as part of the peace process between 2013 and 2015, publicly advocating political autonomy and criticizing the policies of President Erdoğan in relation to the current conflict in south-eastern Türkiye and at the border with Syria (including denouncing the alleged crimes committed by the Turkish security forces in that context). The complainant alleges that such statements, rallies and

#### Case TUR-COLL-02

**Türkiye:** Parliament affiliated to the IPU

**Victims:** 67 opposition members of parliament (33 men and 34 women)

**Qualified complainant(s):** Section I.(1)(c) of the Committee Procedure (Annex I)

**Submission of complaint:** June 2016

**Recent IPU decision:** February 2022

**IPU mission:** June 2019

**Recent Committee hearings:** Hearings with the Turkish delegation and the complainant at the 141st IPU Assembly (October 2019)

#### Recent follow-up:

- Communications from the authorities: Responses from the President of the Turkish IPU Group (September 2022)
- Communication from the complainant: September 2022
- Communication to the authorities: Letter to the President of the IPU Group (September 2022)
- Communication to the complainant: September 2022

activities do not constitute any offence, and that they fall under the clear scope and protection of the fundamental rights of members of parliament.

An IPU trial observer concluded in 2018 that the prospects for Ms. Yüksekdağ and Mr. Demirtaş receiving fair trials were remote and that the political nature of both prosecutions was evident. It should be noted that, on 17 July 2022, the Constitutional Court ruled in one of the cases against Ms. Yüksekdağ that her rights to freedom of thought and expression, as well as to be elected, were violated when she was stripped of her parliamentary immunity in 2016.

A 2018 IPU review of 12 court decisions issued against HDP members reached similar conclusions. It concluded, *inter alia*, that the judiciary in Türkiye, from the first-instance courts to the Constitutional Court, completely disregarded the case law of the European Court of Human Rights and the main judgment of the Turkish Constitutional Court in relation to freedom of expression when evaluating whether an expression constituted incitement to violence or one of the other offences with which the members of parliament were charged.

On 22 December 2020, the Grand Chamber of the European Court of Human Rights delivered its judgment in the case of *Demirtaş v. Türkiye* (No. 2) (Application No. 14305/17), and held that there had been violations of his rights to freedom of expression, to freedom and security, to a speedy decision on the lawfulness of detention and to free elections. The Court also found that Mr. Demirtaş' detention, especially during two crucial campaigns relating to the referendum of 16 April 2017 and the presidential elections of 24 June 2018, had pursued the ulterior motive of stifling pluralism and limiting freedom of political debate, which was at the very core of the concept of a democratic society. **The Court held that the respondent state was to take all necessary measures to secure his immediate release.** Since then, European parliamentary and executive institutions have called on the Turkish authorities to implement the judgment without delay. On 7 January 2021, the Ankara 22<sup>nd</sup> Assizes Court accepted a 3,500-page indictment against Mr. Demirtaş and 107 other defendants, issued by the Ankara public prosecutor on 30 December 2020, regarding the same protests that took place in October 2014, this time charging Mr. Demirtaş with 30 new offences. Since then, Mr. Demirtaş has been sentenced to prison terms in other criminal cases, reportedly most recently on 24 January 2022 with regard to public criticism voiced in February 2016 against the then Prime Minister, Mr. Ahmet Davutoğlu, during a rally held in Mersin. The Turkish authorities have stated that the ruling of the European Court of Human Rights could not be implemented, given that Mr. Demirtaş' ongoing detention was related to new evidence that is substantially different from that examined by the Court.

On 1 February 2022, the European Court of Human Rights ruled that the lifting of the parliamentary immunity of 40 Peoples' Democratic Party (HDP) lawmakers, who had brought their case to the European Court following the constitutional amendment in May 2016, had violated their right to freedom of expression. In so doing, the Court responded to their assertion that the lifting of their immunity came in response to their political opinions and drew for its conclusions on this point on its rulings in the cases of *Demirtaş v. Türkiye* and *Demir v. Türkiye*.

On 19 October 2021, in the landmark decision *Vedat Şorli v. Turkey*, the European Court of Human Rights found that Article 299 of the Turkish Criminal Code, which criminalizes insulting the President, was incompatible with the right to freedom of expression, and urged the Government to align legislation with Article 10 of the European Convention on Human Rights.

The Turkish authorities have provided extensive information on the legal status of the criminal proceedings against the HDP parliamentarians, without, however, providing information on the precise facts to support the charges or convictions. According to the official information note dated 21 September 2022, provided by the President of the Turkish IPU Group, with regard to the 531 criminal files against 51 HDP parliamentarians (out of the 66 that are the subject of the present case) 33 rulings were issued concluding that there was no room for prosecution and 126 merger/postponement/administrative sanction decisions were made. According to the official information note dated 21 September 2022, provided by the President of the Turkish IPU Group, with regard to the 531 criminal files against 51 HDP parliamentarians (out of the 66 that are the subject of the present case) 33 rulings were issued concluding that there was no room for prosecution and 126 merger/postponement/administrative sanction decisions were made. Moreover, legal proceedings were launched in 349 files, 51 of which are still pending, while convictions have been handed down in 79 files against 38 HDP parliamentarians. Moreover, 230 files, closed through resolutions, indicate that there is no room for acquittal/punishment/postponement of the prosecution. The note specifies in this regard that 23 files were sent to parliament with a decision to stop after the relevant person was

elected as a member of parliament while the trial was still ongoing, and after these files were returned to their place; that a conviction decision was given for three members of parliament in three files; that, with regard to 11 files, there is no room for acquittal/punishment/postponement of prosecution and that they were closed through resolutions; and that nine files are still pending/ongoing.

The Turkish authorities have repeatedly justified the legality of the measures taken against the HDP parliamentarians, and invoked the independence of the judiciary, the need to respond to security and terrorism threats and legislation adopted under the state of emergency. The authorities have provided detailed information on parliament's May 2016 "provisional constitutional amendment" on parliamentary immunity, which has been used to prosecute parliamentarians from all parties. They have asserted that there is no "HDP witch-hunt" in Türkiye; that women parliamentarians are not being specifically targeted; that there is no Kurdish issue in Türkiye and no current conflict in south-eastern Türkiye; that Türkiye is facing a terrorism issue at multiple levels involving the PKK and its "extensions"; that the HDP has never publicly denounced the violent activities of the PKK; that HDP members, including members of parliament, have made many statements in support of the PKK and their "extensions"; that HDP members have attended funerals of PKK suicide bombers and called for people to take to the streets, which has resulted in violent incidents with civilian casualties; that this does not fall within the acceptable limits of freedom of expression; that the Constitutional Court has reached such conclusions in several cases and, in other cases, domestic remedies have not yet been exhausted; and that the independence of the judiciary and the rule of law in Türkiye must be respected.

On 17 March 2021, the chief prosecutor of the Turkish Court of Cassation referred a request for the dissolution of the HDP to the Constitutional Court, accusing the HDP of terrorist activities. On 21 June 2022, the Constitutional Court accepted the indictment presented by the chief prosecutor. On 20 September 2022, the Constitutional Court rejected the defence's request for the recusal of a judge in the case, who had reportedly previously taken part as a prosecutor in investigations against at least 47 of the HDP members who were facing a ban from politics in the same "HDP closure" case. It appears that the prosecution is drawing heavily on the ongoing proceedings against several HDP politicians in the 2014 Kobane case referred to earlier, which is ongoing.

The complainant affirms that 1,231 summary proceedings have been brought and are currently pending against HDP parliamentarians. In this regard, it points out that the parliamentary immunity of Ms. Saliha Aydemir is expected to be lifted soon in connection with her participation in the Gemlik demonstration on 12 June 2022.

In January 2022, the complainant stated that photos that had been leaked of current HDP parliamentarian Ms. Semra Güzel, showing her together with PKK fighter Mr. Volkan Bora, whom she had known from their time at Harran University, were being used to criminalize her and to strengthen the push for the closure of the HDP. The complainant asserts that the photos were taken in 2014 during the peace process when the HDP was interacting directly with the PKK on behalf of the Turkish Government. Ms. Güzel was not involved with the HDP at that time. According to the complainant, at the time the Government also actively encouraged Kurdish families to meet their children in the mountains as part of an effort to convince them to contribute to a peaceful settlement and to return home. According to the complainant, even though the photos showing Ms. Güzel were reportedly found by the authorities in 2017, she was never investigated or questioned until these photos were leaked to the press in late 2021. According to the official information note dated 21 September 2022, provided by the President of the Turkish IPU Group, the prosecution has found significant evidence showing Ms. Güzel mingling with the PKK/KCK fighters at their camps and wearing their organization's uniform; the prosecution affirms that Ms. Güzel has been involved in the women's organization of the KCK, the umbrella organization of the PKK, and subsequently the DTK, and that the KCK administration suggested that she run for parliament to further the aims of the organization. On 1 March 2022, the Turkish Parliament lifted her parliamentary immunity.

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the President of the Turkish IPU Group for her latest communication and for her continuous cooperation and spirit of dialogue;

2. *Remains deeply alarmed* at the continued prospect of the dissolution of the HDP party, also bearing in mind that its predecessors were dissolved by court order; *considers* that this step shows once again that the authorities continue to view, wrongly, the PKK and the HDP as one and the same entity; *recalls* in this regard that, while recognizing that the two organizations rely largely on the same support base and pursue similar objectives, the HDP is a legal political party that does not in any way advocate violence to achieve its goals; *is concerned* that its dissolution will deprive not only HDP parliamentarians of their right to participate in public life, but also their electorate of their right to representation in the Turkish parliament; *underlines* that the European Court of Human Rights has ruled that the dissolution or ban of a party is an extreme measure only justified as a last resort, in very exceptional circumstances, and that it has already handed down several rulings, notably against Türkiye, in which the ban on a political party had been considered a human rights violation; *and urges the Turkish authorities, therefore, to do their utmost to comply with its obligations under the European Convention on Human Rights in this area;*
3. *Notes with concern* in this regard, also, that the European Court of Human Rights' rulings in cases affecting several of the HDP parliamentarians underscore that the legal steps to which they have been subjected come in direct response to the exercise of their freedom of expression and, as determined in the case of Mr. Demirtaş, were aimed at stifling the opposition;
4. *Reaffirms its long-standing view* that, in their legitimate fight against terrorism, the Turkish authorities need to take more decisive action to ensure that current national legislation and its application are in line with international and regional standards on freedom of opinion and expression, assembly and association;
5. *Remains deeply concerned* in this regard that 11 current and former parliamentarians continue to languish in prison; *considers*, once more, that the latest extensive information provided by the *Turkish Parliament does nothing to dispel the doubts that the HDP parliamentarians have been targeted in connection with the legitimate exercise of their political rights; urges, therefore, the Turkish authorities to review their situation and, where possible, release them and terminate the criminal proceedings; and sincerely hopes that the authorities will release Ms. Aysel Tuğluk forthwith in light of her poor health;*
6. *Remains concerned* that new legal proceedings could be prepared and brought against current HDP parliamentarians; *calls on* the Turkish Parliament to ensure that their parliamentary immunity is scrupulously protected, that any requests made for the lifting of immunity is carefully analysed with regard to each parliamentarian concerned and only lifted if the legal proceedings are founded in law and do not run counter to basic human rights; and *wishes* to receive detailed information from the authorities on these points;
7. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant and any third party likely to be in a position to supply relevant information, and to undertake efforts to organize a Committee mission to Türkiye that would enable the delegation to discuss directly the issues at hand with all the relevant authorities and other stakeholders;
8. *Requests the Committee to continue examining this case and to report back to it in due course.*