

DGI — Directorate General of Human Rights and Rule of Law

Department for the Execution of Judgments of the ECtHR

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Rule 9.2 Submission

for the cases of

Nedim Şener Group of Cases (Appl. No. 38270/11)

by

Media and Law Studies Association (MLSA)

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The Media and Law Studies Association (MLSA) is a non-profit civil society organisation established in Istanbul in December 2017 (registered as Medya ve Hukuk Çalışmaları Derneği). MLSA provides legal support to journalists whose freedom of expression has been violated, in response to the urgent and growing need for a return to democracy and normalisation in Turkey.

MLSA's legal unit provides legal representation and advisory services to journalists facing threats to their freedom of expression, regardless of their institutional affiliation, political views, gender, or ethnic background. The legal unit also engages in strategic litigation in cases where freedom of expression is systematically violated.

Since 2017, MLSA has also operated a trial monitoring programme. Under this programme, over 2,500 hearings have been monitored across the country. The programme follows cases concerning freedom of expression and/or freedom of assembly and demonstration.

MLSA also maintains **Free Web Turkey**, a platform monitoring internet freedom in Turkey. This project monitors and reports on internet bans in Turkey annually, and publishes weekly

"censorship agendas" compiling all news related to internet censorship. This content is shared both on the website and via Twitter.

Following the adoption of new legislation affecting civil society organisations (CSOs) in Turkey, MLSA operates a programme aimed at strengthening civil society against legal threats. This includes providing legal and administrative training to CSO members and conducting simulation audits for CSOs under threat.

MLSA's editorial unit publishes commentaries and news on various aspects of Turkey's media landscape in collaboration with freelance journalists, providing a platform for journalists to express themselves.

INTRODUCTION

- This submission is made pursuant to Rule 9.2 of the Rules of the Committee of Ministers, in advance of the Committee of Ministers' 1563rd meeting to be held in June 2026. The Media and Law Studies Association (MLSA) aims to inform the Committee of Ministers of developments in the context of the Nedim Şener group of cases.
- This submission demonstrates that the failure of the authorities to fully and effectively execute the judgments in the aforementioned group of cases is ongoing, and presents evidence that the systematic violations giving rise to these judgments continue.
- The **Nedim Şener Group** (Appl. No. 38270/11) concerns the **pre-trial detention of journalists** facing serious charges without relevant and sufficient grounds under **Articles 309–314** (crimes against the constitutional order and its functioning) and **Article 220** (establishing an organisation for the purpose of committing crimes) of Turkish Criminal Code No. 5237. This group also encompasses the **violation of the right to liberty and security** and **freedom of expression** arising from the applicants' unlawful detention.
- In the most recently submitted **Action Plan**, the authorities contend that journalistic activities cannot, per se, be the subject of investigation in Turkey, and claim that general measures have been taken with respect to violations of **Article 5 in conjunction with Article 10** of the Convention (paragraphs 449–450). However, the Action Plan does not present **any positive examples** to substantiate these claims.
- Turkey remains among the countries imprisoning the greatest number of journalists. As of 28 November 2025, the date of the Report's publication, **29 journalists were in prison**; according to the Report, journalist arrests have increased significantly. During the 2025 monitoring period, 66 individuals were held in pre-trial detention across 275 monitored cases, representing a **560% increase** compared to the 10 defendants held in

pre-trial detention in the previous year (MLSA 2025 Trial Monitoring Report).[¹] According to data published by MLSA on Working Journalists Day on 10 January, **the number of journalists in prison stood at 26 as of January 2026**, rising to **28 as of March 2026** before falling back to **26 by April**. [²]

- Pre-trial detentions were most commonly observed in cases involving counter-terrorism legislation, charges of organisation membership, organisation propaganda, and insulting the President. As a new development, a significant number of individuals were held in pre-trial detention in cases brought under Law No. 2911, which played a major role in this increase.
- Throughout the monitoring period, journalists were prosecuted on charges of **"membership in a terrorist organisation"**, **"making propaganda for a terrorist organisation"**, **"targeting individuals involved in counter-terrorism operations"**, **"publicly disseminating misleading information"** (under the regulation popularly known as the **"censorship law"**), and **"violating Law No. 2911"**. While Alican Uludağ and İsmail Arı — charged under Article 217/A of the Criminal Code for "publicly disseminating misleading information" — were remanded in custody, a judicial supervision measure of "prohibition from leaving one's residence" was imposed on Furkan Karabay on 23 January 2026, following his release on 2 December 2025 after 206 days in pre-trial detention.
- Prolonged pre-trial detention of journalists was also frequently observed throughout the monitoring period. During this period, journalists **Eylem Babayiğit, Ercüment Akdeniz, Kaj Joakim Medin, Mehmet Baransu, Mehmet Üçar, Öznur Değer, Suat Toktaş, Reyhan Hacıoğlu, Rahime Karvar, Necla Demir, Velat Ekin, Züleyha Müldür, and Vedat Örüç** were held in pre-trial detention at different times, and a number of other journalists were detained prior to hearings. [³] Trials of journalists arrested and remanded in custody at different dates in 2025 are ongoing without pre-trial detention.
- The publication policies of media organisations where journalists work, as well as their commentaries and interviews, were frequently cited as grounds for their detention. During this period, in the HDK investigation in which journalists Elif Akgül, Yıldız Tar, and Ercüment Akdeniz were prosecuted, telephone intercepts and call records relating to phone conversations dating back thirteen years were used as grounds for pre-trial detention — contrary to the rulings of the Constitutional Court. In this investigation, journalists Elif Akgül and Yıldız Tar were released before their hearings, while Ercüment Akdeniz was released at the second hearing. Their cases concerning alleged organisation membership are ongoing. [⁴] Whilst journalist Elif Akgül was acquitted, proceedings against Yıldız Tar and Ercüment Akdeniz continue. Although journalists detained on various charges during the 2025 monitoring period have been released, journalist arrests continued in the first quarter of 2026.

- At the end of 2025, following the arrest of Pîrha correspondent **Cihan Berk**, Ajansa Welat correspondent **Nedim Oruç** was detained while pursuing a story in January 2026. At the beginning of February, journalists **Pınar Gayıp**, **Elif Bayburt**, and **Nadiye Gürbüz** were arrested in an operation against Etkin Haber Ajansı. These February arrests were followed by the arrest of Deutsche Welle correspondent **Alican Uludağ** on 20 February.^[^5] One month after Uludağ's arrest, on 22 March, *Birgün* newspaper correspondent **İsmail Arı** was detained during a family visit for the Ramadan holiday. Based on the data presented, as of April 2026, journalists from entirely different news organisations have been arrested each month on entirely different charges.
- New legislative and judicial practices have been implemented with the **aim of sustaining judicial harassment** of journalists. Judicial authorities impose **preventive measures** during proceedings, including **travel bans**, **house arrest**, and **prohibition from leaving designated areas**.
- Journalist İsmail Saymaz was detained in a dawn raid at his home on 19 March in connection with the Gezi Park investigation, and after two days in custody was referred to the examining magistrate by the prosecutor with a recommendation for judicial supervision in the form of house arrest. A measure of "prohibition from leaving one's residence" was imposed on Saymaz on 21 March 2025. After 56 days of house arrest, the measures were converted to a travel ban and a requirement to report to authorities by signature. The Report emphasises that throughout the monitoring period, judicial supervision measures have become a tool of punishment, and the imposition of travel bans as judicial supervision has become routine.^[^6]
- Another example of the use of judicial supervision measures as a tool of judicial harassment concerns Rahime Karvar, who was detained and remanded in custody on charges of "membership in an organisation" in connection with an Istanbul-based investigation launched on 17 January 2025. Karvar was released at the first hearing before Istanbul 24th Heavy Criminal Court in June, with a "travel ban" imposed as judicial supervision. However, after she failed to attend a subsequent hearing, measures of an electronic monitoring tag, a prohibition from leaving the province, and a requirement to report by signature twice a month were imposed.^[^7] The judicial supervision measures imposed on her were lifted upon her conviction at the hearing held on 13 November 2025.^[^8] In this case, Karvar — who was sentenced to 1 year and 13 months' imprisonment — spent approximately 5 months in pre-trial detention and was subject to various judicial supervision measures for approximately 3 months. This case is but one example where the judicial supervision measures applied during proceedings were more onerous than the ultimate sentence imposed.
- As noted above, following his release on 2 December 2025 after 206 days of pre-trial detention, Furkan Karabay was subjected to a judicial supervision measure of "prohibition from leaving one's residence" from 26 January in connection with an investigation for "publicly disseminating misleading information". This measure was

applied for 3 months before being lifted on 26 March 2026.

CONCLUSIONS AND RECOMMENDATIONS

- The **structural problems** within this group of cases, despite a limited number of positive decisions from courts of first instance, **remain systemic**, are ongoing, and extend beyond the individual circumstances of these cases.
- In the Action Plan, the authorities claim that the problems stem from the **application** of the relevant provisions. However, the **root cause of the persisting problems lies in the provisions themselves**.
- In light of the foregoing, MLSA respectfully requests that the Committee of Ministers continue to supervise the execution of the **Şener group of cases** under **enhanced procedure** and at **frequent intervals**, and that the Committee take the following steps:
- **Call on the authorities to revise their Action Plans** to address the **structural problems emanating from the legislative framework** identified by the European Court of Human Rights in this group of cases.
- **Request the authorities** to provide **detailed statistical information** on the application of **Articles 220/6 and 220/7 of the Turkish Criminal Code** and **Articles 6 and 7 of the Anti-Terror Law**, including in particular **data on the nature of the relevant acts**.
- **Insist** on the provision of **up-to-date and detailed statistics** on criminal investigations and prosecutions relating to **freedom of expression and press freedom** (in particular, data on the duration of proceedings and detailed figures on the number of investigations and prosecutions under Articles 6/2 and 7/2 of the Anti-Terror Law), and **request from the authorities explanatory assessments** of these statistics.
- **Call on the authorities** to once again and publicly issue **strong, high-level political messages** acknowledging their respect for and commitment to the decisions of higher courts, emphasising the importance of freedom of expression, **calling upon and commending judges and prosecutors for applying criminal law in a manner compatible with the right to freedom of expression**.
- Given the **failure to achieve meaningful progress** in the execution of this group of cases, and the **continued, repeated, and widespread use** of the said legislative provisions to **target journalists, media workers, and others exercising freedom of expression**, **instruct the President of the Committee to send a letter to the Turkish**

Minister of Justice regarding the non-execution of this group of cases.

- **Instruct the Secretariat to prepare a draft interim resolution** on this group of cases should the Turkish authorities **fail to provide the information required by Committee decisions** at the next review.

[^1]: MLSA Justice Trial Monitoring Report, page 34. [^2]:

<https://www.mlsaturkey.com/tr/cezaevindeki-gazeteciler-ve-medya-calisanlari-listesi> [^3]: MLSA Justice Trial Monitoring Report, page 34. [^4]: MLSA Justice Trial Monitoring Report, page 34.

[^5]:

<https://mlsaturkey.com/en/journalist-alican-uludag-i-practiced-journalism-i-did-not-commit-a-crime> [^6]: MLSA Justice Trial Monitoring Report, page 37. [^7]: MLSA Justice Trial Monitoring Report, page 36-37. [^8]:

[^8]:

<https://www.mlsaturkey.com/en/journalist-rahime-karvar-sentenced-to-1-year-and-13-months-in-prison-on-aiding-terrorist-group-charge>