

POLICY BRIEF

Judicial independence as a safeguard against torture

SRL Swiss | EN | 25.10.2026

Scope and principal conclusion

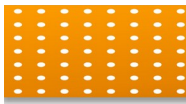
The June 2024 second submission to the Committee against Torture examines judicial independence as an institutional safeguard against abuse. It argues that legal declarations of independence must be tested against appointments, discipline, effective remedies and implementation of judgments. Prevention requires courts able to scrutinise state action without external pressure.

Findings from the case records

The source contrasts constitutional and statutory guarantees for the Council of Judges and Prosecutors with international assessments of executive influence. Formal wording does not establish practical independence; appointment and disciplinary arrangements influence the environment in which judges decide cases.

The Can Atalay controversy and reactions to reinstatement decisions illustrate the report's concern about compliance with binding judicial review. Political criticism, administrative re-examination and the legal effects of a judgment should be examined through their own records and chronology.

Yalçinkaya is used to examine legality, defence safeguards and the structural consequences of automatic reasoning. The report also criticises vague affiliation concepts in dismissals. Similar cases require assessment of their actual evidence and legal grounds, rather than an assumption about every individual outcome.



Priorities for action

1. Protect judges and prosecutors through appointment and disciplinary safeguards operating in practice. Ensure that professional measures are reasoned, contestable and independently reviewed, including when the person has delivered an unpopular decision.
2. Implement binding constitutional and European human-rights judgments with effective individual and general measures. Require reasoned explanations of how domestic practice addresses the defect identified, rather than relying on the existence of written rules.
3. Use foreseeable legal criteria and individual evidence in criminal and professional proceedings. Provide access to the evidence and an effective opportunity to respond. Link judicial-independence monitoring to investigation of torture and protection against arbitrary detention.

Evidence and limits

This summary retains the June 2024 submission's historical scope. It neither updates every subsequent proceeding nor treats the source's institutional assessment as a separate judicial finding in each case.

SRL Swiss, Submission to the Committee against Torture, Report 2, June 2024, pp. 2–9.

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