Human Rights Review Report

Liberty and the Right to a Fair Trial in the Tahşiye Cases

Submitting Organisation

Security Studies and Rule of Law Association (SRL Swiss)

Security Studies and Rule of Law Association (SRL Swiss) is a Geneva-based, non-profit, non-political civil society organisation established under Articles 60–79 of the Swiss Civil Code. The Association works to protect human rights, strengthen the rule of law and assess the compatibility of security policies with fundamental rights.

31 October 2026

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Executive summary

Tahşiye is the name of a religious group led by Mehmet Doğan. The defence states that intelligence work within the Istanbul police began in 2008 with information communicated by the National Intelligence Organisation (MİT). Following a prosecutorial investigation and court-authorised measures, members of the group were taken into police custody in January 2010 and prosecuted for organisation-related and weapons offences. While those proceedings were continuing, a new process began in 2014 against the investigating police officers and certain media professionals on charges of false accusation, fabrication of evidence and organisation-related offences; convictions followed in subsequent years. This report examines safeguards for liberty and a fair trial in the proceedings against the investigators and media professionals.

At the hearing of 25 February 2021 in case no. 2020/90 E. before the Istanbul 14th Assize Court, defendant S10 requested the replacement of the judicial panel whose impartiality he questioned. Presiding judge Akın Gürlek's response linking that request to instructions from an organisation, together with accusatory questioning at other hearings, undermines the appearance of impartiality. Differences between the hearing minutes and recording transcripts also impede effective scrutiny of legal assistance and procedural objections.

The examination of technical evidence concerns telephone subscriptions and user accounts on the messaging application ByLock. An institutional reply established that a telephone device was unsuitable for using that application; discrepancies in linking the accounts allegedly used on that telephone to the user require explanation. Three different accounts in the judgment of who placed the hand grenades found at an address, and the failure to grant the request to hear those who carried out the destruction of the ammunition, are also significant for proof of individual conduct and the right to challenge evidence.

The report examines whether detention decisions individualised the risks of absconding and interference with evidence. The European Court of Human Rights did not uphold Hidayet Karaca's allegation that reasonable suspicion was lacking at his initial detention, but found violations concerning subsequent detention decisions and other safeguards governing review. These two conclusions must not be conflated.

The political character of the proceedings is examined by considering accusatory statements by the executive alongside sanctions against judges and appointments. In 2015, Metin Özçelik granted requests by certain defendants for the disqualification of judges reviewing their detention; Mustafa Başer ordered the release of suspects including Karaca and police officers. The decisions were not implemented, and both judges were detained shortly afterwards. By contrast, the appointment of Hasan Yılmaz and Akın Gürlek, who participated in the proceedings against the investigators, to senior political positions in the executive aggravates the concern that judicial activity operates within a system of political rewards and sanctions.

The defence objection concerning the non-receipt of additional information requested from MİT is addressed separately from the MİT reply of 2015 already in the file. The dismissal of the related US action and its reasoning on inferring criminal instructions from a speech are also examined. The Court of Cassation's 2025 affirmance concerns only the organisation-offence convictions of eight individuals; it does not mean that all proceedings have ended.

The authorities concerned are asked to resolve discrepancies in the records, open technical evidence to independent examination, and specify individual responsibility and grounds for detention. Judicial safeguards, review by the Council of Judges and Prosecutors (HSK) and appellate scrutiny should be strengthened. Effective monitoring and assessment by UN, OSCE and Council of Europe mechanisms are requested within their respective mandates.

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Abbreviations and reading guide

Institutions and judicial abbreviations

ACM: Assize Court (Ağır Ceza Mahkemesi).

AGİT: Organisation for Security and Co-operation in Europe (OSCE).

AİHM / ECHR: European Court of Human Rights. ECtHR is used in this translation for the Court.

AİHS: European Convention on Human Rights (the Convention).

AK Parti: Justice and Development Party.

AYM: Constitutional Court of Türkiye.

BAM: Regional Court of Appeal, which conducts intermediate appellate review.

BD: Grand Chamber (GC), used in ECtHR case references.

BM: United Nations (UN).

BTK: Information and Communication Technologies Authority.

CD / CGK: Criminal Division / Criminal General Assembly, used in Court of Cassation case references.

CMK: Code of Criminal Procedure.

FETÖ/PDY: Fetullahist Terrorist Organisation / Parallel State Structure, the designation used by the Turkish judicial authorities.

HAGB: Deferral of the pronouncement of judgment.

HSK: Council of Judges and Prosecutors.

MİT: National Intelligence Organisation.

ODIHR: OSCE Office for Democratic Institutions and Human Rights.

OHCHR: Office of the United Nations High Commissioner for Human Rights.

SRL Swiss: Security Studies and Rule of Law Association, the submitting organisation.

TEM: Counter-Terrorism, referring to the relevant police branch.

TÜGİK: Turkish Young Businessmen Confederation, mentioned as the setting of the reception at which an official statement was made.

UNODC: United Nations Office on Drugs and Crime.

Technical terms and citation markers

CGNAT: Carrier Grade Network Address Translation, used here in connection with records matching shared external IP addresses to individual internet connections.

GSM: Mobile communications system, used in this report in relation to telephone subscriptions and cell-site data.

Telephone subscription: A telephone number and connection records associated with a GSM subscription. Whether the same person used a device, subscription and ByLock account must be established separately.

HTS: Historical Traffic Search, communications traffic records containing information such as the time, duration and cell-site details of a call; they are distinct from the content of the conversation.

HUDOC: Database publishing ECtHR judgments and related documents.

IMEI: International Mobile Equipment Identity, used to identify and match devices.

IP: Internet Protocol address, identifying an address for a network connection.

PDF / UDF: Portable Document Format / UYAP document format. Annex 38 contains both the original UDF files and a PDF reading copy.

SEGBİS: Audio and Video Information System, used for remote participation in hearings. A 'transcript' is a written rendering of a recording.

User ID: User identification number identifying an account within an application.

Raw data: Source records generated by a system; in this report, data not reprocessed or analysed for the report. They are distinct from subsequently compiled user lists or analytical reports.

UYAP: National Judicial Network Information System.

E. / K. / D.İş: Case register / decision register / miscellaneous proceedings. 2021/123 E. denotes a case entered in the 2021 register; 2022/172 K. denotes a decision entered in the 2022 register.

B. No. / m. / s.: Application number / article / page in Turkish references. '§' denotes a paragraph and '§§' multiple paragraphs.

CM/Rec and CCPR/C/GC: Document codes for Council of Europe Committee of Ministers recommendations and UN Human Rights Committee general comments, respectively.

Annexes 01–42 / E33: Annex numbers identify the report's source documents. [E33-7–9] refers to sources 7, 8 and 9 within Annex 33, not to footnotes 7–9 of this report.

S01–S13 / M01: S codes identify defendants; M01 identifies defence counsel. Each code denotes the same person throughout the text, tables and footnotes.

Disqualification of a judge or panel: A request for the judge or panel to withdraw and for other judges to hear the case because circumstances cast doubt on impartiality. 'Attendance at the hearing' means the defendant's presence at their own trial; it must not be confused with a victim's admission as an intervening party.

Account A / Account B: Codes for two ByLock user accounts attributed to one defendant, not bank accounts or telephone numbers. A user account belongs to the application; a telephone subscription is a GSM subscription.

PDF p. / printed p.: The physical page of the file / the document's own pagination. Covers and annexes may cause the two to differ.

1 Scope and documentary basis of the review

The review is based on indictments, reasoned judgments and appellate decisions from 2015–2025, police and prosecutorial documents, replies from technical institutions, hearing documents, defence submissions and application forms. Annexes 10–20 and 39–41 are copies extracted from the files supplied. Annex 21 contains press records; Annexes 33 and 42 contain analyses prepared for this report. These analyses do not replace primary documents. 'PDF p.' refers to physical pagination and 'printed p.' to a document's own numbering. Official correspondence appended to a submission is assessed separately from defence commentary.

The examination and delivery record of 3 March 2021 and the expert's covering letter of 8 March 2021 document that the transcript of the hearing of 25 February 2021 was prepared pursuant to a court appointment. Annex 38 contains hearing documents for eleven hearing dates between 25 September 2020 and 21 January 2022. Eight have a recording transcript separate from the minutes. The two files dated 25 September 2020 and the files entitled minutes and transcript dated 27 April 2021 repeat the same text. The document of 27 April has therefore not been counted as a separate recording transcript. The review compares existing minutes with written transcripts; the original audio and video recordings have not been transcribed anew.[12]

In the digital examination, 'subscription' means the GSM subscription associated with a mobile telephone number, while 'account' means a user identity within ByLock. The two telephone subscriptions and the two ByLock accounts coded Account A and Account B are not the same thing. Raw data are source records generated by an institution or system, not reprocessed or analysed for this report. This review has not reanalysed those records; it compares institutional letters with existing technical reports and defence submissions. The detailed examples concern one defendant's subscriptions and accounts, another defendant's questioning about cell-site records, and a witness at a single hearing conducted on judicial request.

Discrepancies directly apparent between institutional letters and records constitute documentary findings; explaining their cause or attributing them to intentional alteration requires further proof. Documentation, causation and legal consequences are distinguished. Independent expert assessment requires the

1 Istanbul 14th Assize Court, 3 March 2021, 2020/90 E., expert examination and delivery record, Annex 28; expert's covering letter and transcript, 8 March 2021, Annex 11.
2 Istanbul 14th Assize Court, 2020/90 E., UDF documents dated 25 September 2020–21 January 2022 (Annex 38, reading copy and original archive); document and duplication schedule: Annex 42, sections 1 and 3.

original text, relevant expertise, data, methodology and a specific connection to the case.

International reports explain the institutional context, while case-law provides legal standards. The prosecution's and State's counterarguments are examined through indictments, domestic courts' reasoning and submissions in the relevant ECtHR judgments. An account of a decision whose full text is unavailable is not used as though the entire decision had been examined.

1.1 Codes for individuals and accounts

Individuals in the hearing and technical-evidence examples are designated S01–S13, counsel M01, and technical accounts Account A/B. This is coding that reduces direct personal identifiers in the main text, rather than complete anonymisation: identification through the source annexes remains possible. Published case names and the names of public officials in the institutional chain of responsibility are retained for examination and source tracing.

2 Initial investigation and prosecution of the Tahşiye group

Tahşiye is a religious group led by Mehmet Doğan. The defence states that intelligence work began following information communicated by MİT to the Istanbul police in 2008, and subsequently developed into judicial proceedings through a prosecutorial investigation and orders authorising interception of communications and surveillance. Group members were taken into police custody in the January 2010 operation and tried for organisation-related and weapons offences. This report calls that process 'the proceedings against the Tahşiye group', and the process initiated in 2014 against police officers and certain media professionals 'the proceedings against investigators and media professionals'. The parties and allegations differ: the former concerned charges against group members; the latter concerned allegations that the investigators who accused those individuals had unlawfully fabricated evidence.

2.1 Commencement of intelligence work

The Istanbul Police Intelligence Branch began work on the Tahşiye group in the third quarter of 2008. The defence attributes its commencement to an oral communication of information from MİT. The recorded interception order of 31 August 2008 and distribution letter of 3 December 2008 show that intelligence work predated the speeches and publications of spring 2009. MİT's letter of 5 March 2009 contains assessments of the group communicated to the General

Staff. The assertion of oral sharing in 2008 and the date and recipient of the written document of 2009 are separate facts.[3]

The scope of MİT information and its sharing with the police are central matters which the defence sought to clarify at trial. The defence records that additional information requested by the court from MİT was not received, and that interlocutory order no. 9 at the 108th hearing on 22 September 2017 dispensed with awaiting the outstanding replies. This objection does not mean that the file contains no MİT correspondence: the institutional reply of 28 April 2015 is in the file; it states that there was no letter addressed to the police around the relevant time and explains that the letter of 5 March 2009 was sent to the General Staff. Without distinguishing the allegedly unanswered supplementary questions from this existing reply, one cannot conclude either that interinstitutional information flow was investigated or that no information was shared.[4]

Information obtained through preventive interception and physical surveillance was sent by letter of 3 December 2008 to the Intelligence Department and intelligence units in twelve relevant provinces. At that stage the aims were to identify activities and connections in other provinces, compare available information and develop the intelligence assessment.[5]

2.2 Transition to a prosecutorial investigation

The Intelligence Branch transmitted the information to the Istanbul Counter-Terrorism Branch by letter of 29 April 2009. The latter notified the prosecutor on 4 May 2009, and the Istanbul Public Prosecutor's Office opened investigation no. 2009/1016 on 5 May 2009. Judicial proceedings thus followed the preventive work. The intelligence unit collected and transmitted information; the judicial police notified the prosecutor; and the prosecutor opened the investigation and conducted the judicial process.[6]

Court-authorised interception and technical surveillance measures were applied during the criminal investigation. The schedule of measures in the 2015

3 Istanbul Intelligence Branch, communications-record destruction record of 16 February 2010, recording an interception order of 31 August 2008 (within Annex 06, copy p.253); Erzincan Provincial Police Directorate, intelligence letter of 19 December 2008 (within Annex 06, copy pp.246–252); MİT Undersecretariat, reply of 28 April 2015 explaining the letter of 5 March 2009 (within Annex 06, copy p.245).
4 Defence of 22 September 2021, Annex 06, PDF pp.80–88, especially p.88 and footnote 141, recounting interlocutory order 9 at the 108th hearing on 22 September 2017. Copy of MİT's reply of 28 April 2015: Annex 06, PDF p.245. Oral-communication assertion and 2008 measure: same annex, pp.27–29, 88, 253. The account of unanswered requests derives from the defence's procedural narrative.
5 Istanbul Chief Public Prosecutor's Office, indictment 2015/2872 (Annex 31), PDF pp.8–12, 100, 219–225: account of interinstitutional correspondence of 3 December 2008 and transmission of 29 April 2009; initial police investigation report, Annex 29, PDF pp.1–3. Document dates are distinguished from the indictment's assessment of criminal purpose.
6 Istanbul Chief Public Prosecutor's Office, indictment 2015/2872 (Annex 31), PDF p.34: 66 suspects, 97 subscriptions, 19 email addresses of 15 suspects and technical-surveillance schedule concerning 64 individuals. Reference to the indictment's account of measures.

indictment lists 97 telephone subscriptions belonging to 66 suspects, 19 email addresses belonging to 15 suspects, and orders for surveillance by technical means in respect of 64 suspects. This schedule shows the scope of the measures; their purpose and lawful implementation are disputed in the subsequent proceedings.[7]

Correspondence approving the planned intelligence operation in January 2010 establishes the administrative chain of approval between the Istanbul Police Directorate, Intelligence Department and General Directorate of Security. The institutional basis and allocation of duties are fundamental to determining which actions may be attributed to public officials in the subsequent proceedings.[8]

2.3 January 2010 operation and initial detention orders

On the prosecutor's application, the Istanbul 14th Assize Court issued orders on 21 January 2010 for the apprehension of 32 individuals and search and seizure at 38 addresses. In an Istanbul-centred operation across eight provinces on 22 January 2010, 31 individuals were taken into police custody. Thirteen were released by the prosecutor and eight by the court; ten were remanded in custody. The indictment's title page records Mehmet Doğan's police custody on 22 January and remand in custody on 25 January 2010.[9]

Weapons and explosives seized during the searches were assessed as evidence of organisation-related and weapons offences in the first proceedings. The ammunition found at one address in particular became the subject of an allegation in the subsequent proceedings that police officers had planted it. Physical evidence in the proceedings against the Tahşiye group thus became central to the fabrication-of-evidence charge in the proceedings against investigators and media professionals. The subsequent trial required clarification not only of the ammunition's existence but also of its origin, arrival at the address, preservation and the specific acts involved.[10]

7 Istanbul Chief Public Prosecutor's Office, indictment 2015/2872 (Annex 31), PDF p.34, dates and scope of judicial measures. Institutional commencement: Annex 29, PDF pp.1–3 and Annex 25, title and factual narrative.
8 Istanbul Police Directorate and General Directorate of Security, approval correspondence for the planned intelligence operation, January 2010 (Annex 16).
9 Istanbul Chief Public Prosecutor's Office, 12 May 2010, indictment 2010/323 (Annex 25), title and operation/search sections; police investigation report of 25 January 2010 (Annex 29), PDF pp.1–10; title copy, Annex 15. Police-custody and remand dates are read alongside individual records.
10 First indictment, Annex 25, and police report, Annex 29, search and seizure sections; first judgment, Annex 26, PDF pp.46–54; subsequent allegation: Annex 31, PDF p.34 and relevant reasoning. Seized objects are distinguished from placement attributed to a particular person.

2.4 Indictment and proceedings instituted in 2010

The proceedings instituted by the indictment of 12 May 2010 were registered as case no. 2010/123 before the Istanbul 14th Assize Court. The charges included establishing, leading or belonging to an armed terrorist organisation, and unauthorised possession of weapons and dangerous substances. A process originating in intelligence inquiries thus became a criminal trial concerning the nature of the organisation and attribution of the seized material.[11]

The first hearing took place on 27 September 2010. Five detained defendants were released at that hearing, four at the fourth hearing on 20 May 2011, and the remaining individual at the fifth hearing on 16 September 2011. By September 2011 no defendant remained detained, and the trial continued with the defendants at liberty.[12]

At the eighth hearing on 6 June 2012, the public prosecutor presented final submissions on the merits, seeking acquittal for certain defendants and conviction of Mehmet Doğan and specified others for organisation-related, weapons and explosives offences. The minutes show that at this stage the charges were differentiated by defendant and act.[13]

2.5 Changes of court and the stage concluding in acquittal

The final submissions were repeated at the hearing of 21 January 2014. Following the abolition of the specially authorised courts, a decision declining subject-matter jurisdiction was issued on 11 March 2014; the Istanbul 4th Assize Court, to which the file was transferred, also declined territorial jurisdiction on 12 May 2014. The first proceedings subsequently continued before the Bakırköy 3rd Assize Court. The new investigation against police officers began while these changes of court were taking place.[14]

By judgment of 15 December 2015, case no. 2015/264 E., decision no. 2015/417 K., the Bakırköy 3rd Assize Court acquitted the defendants of organisation-related charges. The same judgment contains separate outcomes concerning weapons, cartridges and prohibited implements seized at different locations. The

11 Istanbul Chief Public Prosecutor's Office, 12 May 2010, investigation 2009/1016, indictment 2010/323 (Annex 25), title and charges; Istanbul 14th Assize Court, 2010/123 E. (Annex 17).
12 Bakırköy 3rd Assize Court, 15 December 2015, 2015/264 E., 2015/417 K. (Annex 26), trial and release records; defence schedule of 2010–2011 hearings, Annex 06, PDF p.35.
13 Istanbul 14th Assize Court, 6 June 2012, 2010/123 E., eighth-hearing minutes (Annex 17); Istanbul Chief Public Prosecutor's Office, final submissions of the same date (Annex 30), PDF pp.1–7.
14 Bakırköy 3rd Assize Court, 15 December 2015, 2015/264 E., 2015/417 K. (Annex 26), procedural history; defence chronology of court transfers, Annex 06, PDF pp.35–37.

first proceedings therefore cannot be summarised as a single acquittal or conviction encompassing all individuals and offences.[15]

Operative provisions 2 and 3 separately set out acquittals on organisation-related charges and acquittals concerning explosives at the disputed address. The weapons and dangerous-substances acquittals relied on insufficient evidence and on the search's non-compliance with Article 119(4) of the Code of Criminal Procedure. By contrast, provisions 4–7 imposed sentences, with pronouncement of judgment deferred, for a dagger, knuckleduster and dirk, 58 pistol cartridges, a pistol and 25 cartridges, and another pistol and group of cartridges seized from other individuals. These objects are not identical to the material underlying the grenade-planting allegation in section 6.2.[16]

The Court of Cassation decision of 14 November 2016, no. 2016/5932 E., 2016/5637 K., is not an affirmance re-examining the merits of the organisation-offence acquittals. It addresses the refusal of applications to intervene on the ground that the applicants had not suffered direct injury from the offence, and the resulting appellate outcome. The dates on which all acquittals and weapons rulings became final cannot be derived from this document; finality endorsements for the relevant rulings are required.[17]

The proceedings against the Tahşiye group may be summarised as preventive intelligence activity beginning in 2008, a prosecutorial investigation opened in May 2009, the January 2010 operation, and the trial in 2010–2015. In the subsequent proceedings, the same measures were reconsidered under allegations of abuse of official authority and fabrication of false evidence. That reassessment requires an explanation of each measure's institutional basis and the connection between the charge and the specific act.

3 Transition to proceedings against police officers and media professionals

3.1 Complaints against investigators during the Tahşiye group trial

During the political conflict following the investigations of 17 and 25 December 2013, the Tahşiye case returned to public attention. A Haber and Odatv

15 Bakırköy 3rd Assize Court, 15 December 2015, 2015/264 E., 2015/417 K. (Annex 26), PDF pp.53–55. Organisation-offence acquittals, weapons rulings and deferral of pronouncement occupy separate provisions. The 2016 decision's subject is explained in the following paragraph.
16 Bakırköy 3rd Assize Court, 15 December 2015, 2015/264 E., 2015/417 K. (Annex 26), PDF pp.53–54, operative provisions 2–7; distinction between explosives at the disputed address and objects from elsewhere.
17 Court of Cassation, 16th Criminal Division, 14 November 2016, 2016/5932 E., 2016/5637 K.; full two-page copy in Annex 06, PDF pp.231–232. Concerns intervention and the associated appeal. First judgment: Annex 26, PDF pp.53–55.

publications of 23 March 2014, relaying a Sabah report, framed the initial investigation as a 'conspiracy'. In December 2014, certain publications presented the allegation that police had planted ammunition as an established sequence of events. An accusatory public narrative about the investigators thus preceded the first judgment of 15 December 2015. Contemporary reports retaining the language of allegation and including responses show, however, that the media approach was not uniform.[18]

An email sent by Mehmet Nuri Turan, a defendant in the Tahşiye group proceedings, to the 155 Police Tip-Off Line on 16 May 2014 was followed by an information-taking record of 31 May 2014. On 13 October 2014 the Counter-Terrorism Branch sent the tip-off, relevant records and transcripts of a television series and speeches to the prosecutor. An investigation for membership of an organisation, false accusation and forgery of official documents began the same day. Investigative measures in the Tahşiye group proceedings thus became criminal allegations in the proceedings against investigators and media professionals.[19]

3.2 Combining media publications and police actions in the same allegation

The prosecution treated Fethullah Gülen's speech of 6 April 2009, television broadcasts and police measures as elements of common organisational direction. The chronological objection to this allegation is that intelligence work already existed in 2008 and the prosecutor opened the criminal investigation in May 2009. Earlier work does not automatically rule out subsequent unlawful direction. The human-rights inquiry concerns whether the court answered that objection and explained, through concrete evidence, the link between a media broadcast, a particular official act and the alleged offence.[20]

The same speech and television broadcasts were considered in Ates and others v. Gulen, brought by Tahşiye group members in the United States. The US District Court for the Middle District of Pennsylvania dismissed the action on 29 June 2016. It stated that the speech contained no direct instructions to undertake particular actions and that the asserted causal connection between the speech, broadcasts and measures in Türkiye remained speculative. Dismissal concerned the extraterritorial application of US jurisdiction and the act-of-state doctrine. It is

18 Tahşiye narrative in contemporary media, 23 March–16 December 2014, open-source references and short quotations (Annex 21), sources 1–6.
19 Istanbul Police Directorate, investigation request of 13 October 2014, investigation 2014/133596 (within Annex 06, copy pp.258–260).
20 Defence on the merits, Istanbul 14th Assize Court, 2015/281 E., 2 November 2017 (Annex 02), copy pp.10–15; defence submission and annexes, same court, 2020/90 E., 22 September 2021 (Annex 06), copy pp.84–89.

not an acquittal of the defendants in Türkiye; it is, however, a comparative judicial assessment showing that deriving a specific criminal instruction from the same speech requires separate proof.[21]

The prosecutor's requisition of 25 November 2014 shows that a copy of the first case file was requested from the Bakırköy 3rd Assize Court. On 13 December 2014 a restriction on access to the investigation file was requested, and the Istanbul 3rd Magistrate's Court issued miscellaneous decision no. 2014/3044. These measures document how the first case's evidence became material for the second investigation and how defence access to that new file was restricted.[22]

An operation against police officers and media professionals took place on 14 December 2014. This phase, beginning with police custody and remand in custody, also became subject to international human-rights scrutiny. Detention measures at this stage were examined by the ECtHR on an application by media defendant Hidayet Karaca. The judgment's personal and substantive scope is addressed in section 5.

The December 2014 measures were followed by further deprivations of liberty in July 2015 in connection with the same investigation. Annex 40 contains a suspect's voluntary attendance at the police and an instruction to place him in custody on 10 July; the release of two individuals on 11 July because the statutory period had expired; and a remand order of 15 July for the individual examined. These documents establish the sequence for particular individuals, not a complete account covering everyone affected by the operation. Individual assessment appears in section 5.2.[23]

3.3 Proceedings instituted in 2015 and the 2017 judgment

Police officers and certain media professionals were accused of falsely incriminating the Tahşiye group through fabricated evidence within the Gülen movement structure designated FETÖ/PDY by the Turkish judicial authorities. Charges of establishing or leading an organisation, membership, offending on its

21 US District Court for the Middle District of Pennsylvania, Ates et al. v. Gulen et al., No.3:15-cv-02354, 29 June 2016, Doc.55, especially pp.27–32, 35–39. Reasoned opinion: https://cases.justia.com/federal/district-courts/pennsylvania/pamdce/3%3A2015cv02354/105471/55/0.pdf .
22 Istanbul Chief Public Prosecutor's Office, requisition to the Bakırköy 3rd Assize Court for a file copy, 25 November 2014, investigation 2014/133596 (Annex 18); Istanbul 3rd Magistrate's Court, restriction order, 13 December 2014, 2014/3044 D.İş (Annex 19); prosecutor's restriction request of the same date, investigation 2014/133596 (Annex 20).
23 Police, prosecutorial, questioning and remand documents, 10–15 July 2015, Annex 40, PDF pp.1–9; source application package, Annex 36, PDF pp.27–35.

behalf, false accusation and forgery of official documents vary by individual and procedural stage.[24][25]

The indictment against police officers and media professionals was accepted on 2 October 2015 and registered as case no. 2015/281 before the Istanbul 14th Assize Court. The first hearing was set for 22 December 2015. The group members' acquittal on organisation-related charges in the first proceedings occurred one week earlier, on 15 December 2015. The assessment of evidence in the Tahşiye group trial and the allegations in the trial of investigators and media professionals became two interacting spheres of adjudication during the same period.[26]

The Istanbul 14th Assize Court delivered judgment no. 2015/281 E., 2017/172 K. on 3 November 2017. Appeals challenged individual participation, the origin of the ammunition, communications records, witnesses and trial procedure. Subsequent appellate documents include the Istanbul Regional Court of Appeal 3rd Criminal Division's decision no. 2018/707 E., 2018/1102 K. and supplementary decision of 3 October 2018.[27]

Thirty-three defendants were tried in the main case; two defendants' cases were severed. On 3 November 2017, Karaca received 31 years and 6 months' imprisonment; one former senior police officer received 16 years and 6 months; three other former senior police officers each received 25 years and 6 months. Other defendants had differing convictions and acquittals on certain charges. These figures concern the main case.[28]

The 2020 indictment and related files

A new prosecution was brought by the Istanbul Chief Public Prosecutor's Office under investigation no. 2015/90707, prosecution register no. 2020/26798 and indictment no. 2020/6495, and registered as case no. 2020/90 before the Istanbul 14th Assize Court. Although allegations differ by individual, they include unlawful

24 Istanbul Chief Public Prosecutor's Office, indictment 2015/2872 (Annex 31), investigative and procedural history; Karaca v. Türkiye, 25285/15, 20 June 2023, facts and §141. https://hudoc.echr.coe.int/eng?i=001-225310

25 Istanbul Chief Public Prosecutor's Office, investigation 2014/133596, prosecution register 2015/34757, indictment 2015/2872 (Annex 31); investigation 2015/90707, prosecution register 2020/26798, indictment 2020/6495 (Annex 32), titles, allegations and charges. Indictments establish the charges, not their independent verification.

26 Istanbul 14th Assize Court, 3 November 2017, 2015/281 E., 2017/172 K. (Annex 22), PDF p.22: acceptance of indictment on 2 October 2015; first-hearing record and defence account, Annex 04. The first judgment in Annex 26 is dated 15 December 2015.

27 Istanbul 14th Assize Court, 3 November 2017, 2015/281 E., 2017/172 K. (Annex 22); Istanbul Regional Court of Appeal, 3rd Criminal Division, 21 September 2018, 2018/707 E., 2018/1102 K., and supplementary decision of 3 October 2018 (Annex 23).

28 Istanbul 14th Assize Court, 3 November 2017, 2015/281 E., 2017/172 K. (Annex 22), individual outcomes and reasoning, especially PDF pp.2895–2920; Istanbul Regional Court of Appeal, 3rd Criminal Division, 21 September 2018 (Annex 23), convictions and sentences. Contemporary news is not substituted for the judgment.

deprivation of liberty, causing police custody or detention through false accusation, and organisation-related offences for certain individuals. This is the principal file underlying the report's analysis of hearings in 2020–2022; it is not the same case number as the main proceedings, 2015/281 E.[29]

3.4 Proceedings following quashing and joinder

The Court of Cassation's 16th Criminal Division reached differing conclusions by individual and offence in its decision of 31 December 2020. It affirmed with corrections convictions for leadership and certain convictions for membership of an organisation, while quashing membership convictions for seven defendants and convictions for offending on behalf of an organisation and forgery of official documents for others. Its reasoning required investigation of the organisational purpose of acts performed in the course of duties, personal connections, witness statements and digital records. The decision does not produce a uniform outcome for all defendants or offences.[30]

Following quashing, the Istanbul 14th Assize Court files include nos. 2021/53 and 2021/123. According to its reasoned judgment of 2022, proceedings for specified offences against five individuals in case no. 2020/90 E. were severed, registered as no. 2022/89 and joined to case no. 2021/123 E. The unsevered part appears to have continued under no. 2020/90 E. at that time. This information reflects the position recorded in the 2022 judgment. Current UYAP records as at 31 October 2026 have not been examined.

Final submissions on the merits were presented on 13 April 2022. The hearing analysis in section 4 concerns case no. 2020/90 E.; the judgments and appellate outcomes below are considered within their respective personal and substantive scope, including the severed and joined portions.[31]

Following quashing, the Istanbul 14th Assize Court delivered reasoned judgment no. 2021/123 E., 2022/172 K. on 10 June 2022. It imposed differing terms for membership of an organisation on seven individuals and convicted two of offending on behalf of an organisation without being members. It held that no additional ruling was required for one individual; certain allegations concerning two individuals were severed. Concerning some charges in joined case no.

29 Istanbul Chief Public Prosecutor's Office, indictment 2020/6495, investigation 2015/90707, prosecution register 2020/26798 (Annex 32), title and individual charges, PDF pp.1–35; 2020/90 file identity: Annexes 10, 38; severance/joinder: Annex 27, PDF p.65.
30 Court of Cassation, 16th Criminal Division, 31 December 2020, 2019/4737 E., 2020/6918 K., Annex 24, PDF pp.10–13.
31 Response to quashing, Istanbul 14th Assize Court, 2021/53 E., 28 May 2021 (Annex 07), title; defence on the merits and annexes, 2021/123 E., 1 June 2022 (Annex 08), copy pp.33–36; fourth-hearing minutes, 25 February 2021, 2020/90 E. (Annex 10); expert's covering letter of 8 March 2021 and fourth-hearing SEGBİS transcript, 25 February 2021, same court and case (Annex 11); Istanbul 14th Assize Court, 10 June 2022, 2021/123 E., 2022/172 K., Annex 27, PDF p.65.

2022/89 E., severed from no. 2020/90 E., three individuals were convicted of unlawful deprivation of liberty. The judgment indicated a direct appeal to the Court of Cassation because of its previous examination.[32]

The Court of Cassation's 3rd Criminal Division decision of 21 April 2025 records the outcome of the post-quashing organisation-offence proceedings involving nine defendants. For one defendant the file was returned without examination of the merits following withdrawal of the appeal; the remaining eight convictions were affirmed with corrections, six for membership and two for offending on behalf of an organisation. The corrections concerned citation of section 5(1) of the Anti-Terrorism Law and a reference in the recidivism provision. The decision cannot be read as disposing of the entirety of case no. 2020/90 E. or all convictions for unlawful deprivation of liberty.[33]

3.5 Map of proceedings and case numbers

Table 1 Relationship between the case files

The first two rows show the initial investigation against the Tahşiye group and its outcome in 2015. From the third row onwards, the table traces the second process against investigating police officers and media professionals. Numbers on the left identify documents or files, the middle column shows links with other files, and the right column states the outcome recorded in the document. 'E.' is the court case-register number and 'K.' its decision number; investigation and indictment numbers are separate.

A change of case number does not mean that every defendant and offence shares the same outcome. For example, 2022/89 E. → 2021/123 E. denotes joinder of a specific part severed from no. 2020/90 E. to the post-quashing file. The 2025 Court of Cassation row likewise concerns only the specified organisation-offence review involving nine defendants. The file to which hearing records belong and the scope of judgment and appellate review can thus be traced separately.

File and document	Scope and connection	Outcome or stage recorded
Investigation 2009/1016; indictment 2010/323; case 2010/123 E.	Initial Tahşiye group investigation and Istanbul 14th Assize Court proceedings. Annexes 25, 29–30.	2010 operation; organisation and weapons allegations.
2015/264 E.; 2015/417 K.; Bakırköy 3rd Assize Court	Judgment in the first proceedings following transfer between courts. Annex 26.	15 December 2015: organisation-offence acquittals; differing weapons rulings by object and individual.

32 Istanbul 14th Assize Court, 10 June 2022, 2021/123 E., 2022/172 K., Annex 27, PDF pp.697–703.
33 Court of Cassation, 3rd Criminal Division, 21 April 2025, 2025/2143 E., 2025/11659 K. (Annex 34), pp.1–2, 8; outcomes by individual and offence: Annex 42, section 2.

File and document	Scope and connection	Outcome or stage recorded
Indictment 2015/2872; 2015/281 E.; 2017/172 K.	Main proceedings against police officers and media professionals. Annexes 22, 31.	Judgment of 3 November 2017; 2018 intermediate appeal; partial affirmance/quashing on 31 December 2020. Annexes 23–24.
Indictment 2020/6495; 2020/90 E.	Deprivation of liberty of individuals in the Tahşiye group proceedings and related allegations. Principal file for hearing analysis. Annexes 32, 38.	The 2022 judgment records severance of specified allegations against five individuals and continuation of the unsevered proceedings.
2021/53 E.; 2021/123 E.	Post-quashing files. No. 2021/53 appears in Annexes 07 and 09 headings; no. 2021/123 in Annex 27.	Judgment of 10 June 2022, 2021/123 E., 2022/172 K. Each intermediate transfer between files requires a separate decision.
2022/89 E. → 2021/123 E.	Joinder of specified charges against five individuals severed from 2020/90. Annex 27, PDF p.65.	The joined part also contains unlawful-deprivation-of-liberty convictions for certain individuals.
2025/2143 E.; 2025/11659 K.; Court of Cassation, 3rd Criminal Division	Nine-defendant organisation-offence portion of the appeal against the 2022 judgment. Annex 34.	21 April 2025: no merits examination for one individual; affirmance with corrections for eight.

Sources: Annexes 22–27, 31–32, 34 and 38. The map reflects the stage at the document's date; it does not assume that all charges in one file transferred to another or have now been finally determined.

4 Issues concerning the right to a fair trial

4.1 An independent and impartial tribunal

Judicial independence safeguards a judge's ability to decide without being subject to influences other than evidence and law; impartiality safeguards freedom from prejudgment of the dispute. Security of tenure, transfer and promotion procedures, and safeguards in disciplinary and criminal investigations form part of the independence assessment. Language at hearings, the approach to evidentiary objections and the space afforded to the defence reveal the practical appearance of impartiality.[34]

Assessing responsibility in the Tahşiye case requires consideration of those serving at different levels of the same process. The prosecutor requesting a measure, judge authorising it, senior official approving the operation and police officer implementing the order perform different functions; that chain of authority cannot, however, be obscured when the implementing officer's acts are

34 UN Basic Principles on the Independence of the Judiciary (1985), principles 1–2, 13, 17–20; Council of Europe Committee of Ministers, CM/Rec(2010)12, §§44–49, 66–71; UN Human Rights Committee, General Comment No. 32, §§19–21. Source details and application: Annex 33, section 1.

tried. The comparison below places sanctions and continuation in office in the initial investigation alongside moves to senior executive office by those conducting the later trial. Individual and source details appear in Annex 33.

4.1.1 Chain of responsibility and differing outcomes

Table 2 Comparison of officials in the decision-making and implementation chain

The table presents three stages together: officials requesting, authorising, approving and implementing measures in the first investigation; judges subsequently reviewing detention; and prosecutors and judges conducting the second trial against police officers and media professionals. Read from left to right, each row identifies the person's role, the measure in which they participated, their subsequent professional or judicial position, and the comparison's significance for this report. Dates in the 'Documented subsequent position' column identify the relevant record's time.

References prefixed E33 refer to Annex 33's source list. Direct sources for subsequent appointments and sanctions concern: Altınışık; Kuban, Açar and Ede; dismissal records; administrative approval authorities; Başer and Özçelik; Yılmaz; and Gürlek.[35363738394041]

35 Constitutional Court, Kadir Altınışık, application 2021/18544, 15 November 2023, §§2, 9–10 and operative provisions: https://kararlarbilgibankasi.anayasa.gov.tr/BB/2021/18544 . Tahşiye duties are recounted alongside other facts relied upon in conviction.
36 Kuban: HSK, 20 June 2025, decision 963, p.3, https://hsk.gov.tr/Eklentiler/2006202514462006 2025-963-adli-siralipdf.pdf ; Ede: HSK 2025 annual recess list, pp.52, 55, https://www.hsk.gov.tr/Eklentiler/0807202516422025-yili-yillik-ara-vermeden-yararlanacaklara-iliskin-listepdf.pdf ; Açar: copy of HSK allocation list hosted by a news site, p.1, https://s.ekranhaber.com/storage/files/documents/2025/11/28/yetki1-ubnm.pdf . The last is a published document copy, not on an official server.
37 HSYK, list appended to decision 2016/426 of 24 August 2016: https://www.hsk.gov.tr/Eklentiler/files/liste.pdf ; Resul Çakır: HSK notice of 15 November 2024, 2024/795 E.: https://www.cumhuriyet.com.tr/resmi-ilanlar/hakimler-ve-savcilar-kurulu-2270411 . These establish sanctions, not a Tahşiye-specific reason for each person's sanction.
38 Köksal: Grand National Assembly, 24th-term MP record, https://www.tbmm.gov.tr/Milletvekili/MilletvekiliDetay?DonemId=f72877c2-f50a-037b-e050-007f01005610&id=f72877c2-d51d-037b-e050-007f01005610 ; Namal: Denizli Governorate, 10 September 2016, https://denizli.gov.tr/sehit-polis-memuru-dualarla-memleketine-ugurlandi ; Çapkın: Anadolu Agency, court report of 23 November 2022, https://www.aa.com.tr/tr/gundem/fetonun-mulkiye-yapilanmasi-davasi-yeniden-karara-baglandi-/2746316 . The acquittal source is a hearing report, not a judgment copy.
39 ECtHR, Başer and Özçelik v. Türkiye, 30694/15 and 30803/15, 13 September 2022, §§148–159, 167–168, 194–203: https://hudoc.echr.coe.int/eng?i=001-219095 ; domestic process: Court of Cassation Criminal General Assembly, 26 September 2017, 2017/16.MD-956 E., 2017/370 K., https://rayp.adalet.gov.tr/resimler/552/dosya/2017-95628-06-202113-55.pdf .
40 Ministry of Justice, General Directorate of Legal Affairs, news record of 8 January 2021 identifying Hasan Yılmaz as Deputy Minister: https://hhgm.adalet.gov.tr/Home/TumHaberler/1 ; appointment date: Anadolu Agency, 16 October 2020, https://www.aa.com.tr/tr/turkiye/adalet-bakan-yardimciligina-hasan-yilmaz-atandi/2008226 . Appointment-date source and later official office record are distinct.
41 Ministry of Justice, Akın Gürlek's official biography: https://www.adalet.gov.tr/adalet-bakani/ ; Training Board membership: https://edb.adalet.gov.tr/SayfaDetay/egitim-kurulu-uyeleri12052020114327 . Dates: Deputy Minister, 2 June 2022; Istanbul Chief Public Prosecutor, 2 October 2024; Minister, 11 February 2026. Şenol Kartal presides in the judgment of 10 June 2022 (Annex 24); it is not treated as delivered under Gürlek's presidency.

Stage and role	Individual / act in the file	Documented subsequent position	Significance of comparison
Initial investigation: prosecution	Kadir Altınışık — first indictment, 12 May 2010 (Annex 25).	Dismissal and detention in 2016; following quashing and release, sentenced on 27 April 2023 to 8 years, 1 month and 15 days. The Constitutional Court's decision of 15 November 2023 records a pending appeal.	His Tahşiye duties were used alongside other facts in the conviction's reasoning. The initial prosecutor's work became part of a criminal allegation. [E33-20]
Initial investigation: judges authorising measures	Oktay Kuban, Oktay Açar, Necat Ede — technical surveillance list in Annex 37.	Kuban: president, Istanbul 11th Commercial Court, 2025. Açar: Gaziosmanpaşa 27th Criminal Court of First Instance in the 2025 allocation-of-duties record. Ede: Bakırköy judge, 2025.	Some judges involved in decisions continued in office while implementing police officers were tried. These records do not establish that the judges never underwent investigation. [E33-7–9]
Initial investigation: judges dismissed from office	Murat Üründü, Ali Efendi Peksak, Rüstem Eryılmaz, Gökmen Demircan, Resul Çakır — same technical-surveillance group.	Listed in the dismissal decision of 24 August 2016; a 2024 notice also exists for Çakır.	The same decision chain includes both those retained and those dismissed. A reason specific to the Tahşiye decision is not shown for each dismissal. [E33-6, 11, 14]
Initial investigation: implementing police	Police defendants conducting operational and intelligence measures (Annexes 22, 24, 34, 42).	2017 convictions; appellate outcomes vary by person and offence. Decision of 21 April 2025: affirmance with corrections for eight individuals.	Court-authorised measures must be distinguished from individual criminal acts exceeding authorisation. Implementation of an order cannot alone substitute for criminal intent linked to an organisation.
Initial investigation: administrative approval	Hüseyin Çapkın → Hüseyin Namal → Oğuz Kağan Köksal; correspondence and approval chain of 7–8 January 2010 (Annex 16).	Köksal: AK Party member of the 24th Parliament and committee chair. Namal: provincial police director in a 2016 record. Çapkın: acquitted in separate proceedings concerning civil administrators in 2022.	The operation proceeded with institutional approval. Differing outcomes for approval authorities raise questions about the justification for attributing responsibility solely to implementers. [E33-21–23, 27]

Stage and role	Individual / act in the file	Documented subsequent position	Significance of comparison
Judges reviewing detention	Metin Özçelik: disqualification request granted, 24 April 2015; Mustafa Başer: release order, 25 April 2015.	Orders not implemented; remand on 30 April/1 May; convictions in 2017. ECtHR: Article 5 §1 violations concerning procedure and reasonable suspicion at initial detention; no violation concerning the detention authority's jurisdiction/impartiality.	Detention of judges shortly after release decisions is significant for decisional freedom and the chilling effect on other judges. [E33-15]
Subsequent proceedings: prosecution	Hasan Yılmaz — 2015 indictment; deputy chief prosecutor approval in the 2020 indictment (Annexes 31–32).	Appointed Deputy Minister of Justice in October 2020.	Inclusion of the first prosecutor's duties in criminal allegations must be compared with the later prosecutor's move to senior executive office in terms of career criteria and independence. [E33-24]
Subsequent proceedings: presiding judge	Akın Gürlek — presided over hearings in 2020–2022 under registration no. 109702 (Annex 38).	Deputy Minister of Justice, June 2022 → Istanbul Chief Public Prosecutor, October 2024 → Minister of Justice, 11 February 2026.	The move to the executive forms part of the objective-impartiality assessment alongside the accusatory response to a disqualification request and disparagement of the defence examined below. [E33-25]
Subsequent proceedings: other prosecutors and panel members	Mehmet Yeşilkaya: 2020 indictment; panel members Mücteba Akkaya, Oğuzhan Gül, Hatice Kozan Didinmez, Şenol Kartal, Ferhat Şahin; hearing prosecutors Ercan Gümüş/Süleyman Erturan.	Signatures and changes of panel are documented in the file. These documents do not establish subsequent individual career outcomes or sanctions.	Panel membership is distinct from promotion or sanctions. These individuals cannot be classified without documentation as promoted or unaffected by sanctions.

Sources for acts and signatures: Annexes 16, 22, 24–25, 31–32, 34, 37–38; comparative schedules: Annexes 33 and 42. Sources for later duties and sanctions are separately identified in the table's footnotes.

The judges, prosecutors, approval authorities and implementing police in the table do not share the same category of authority and responsibility. The comparison does not assume identical outcomes for all; it requires differing outcomes to be explained through evidence of each individual's authority, specific acts, contemporaneous knowledge and criminal intent. Altınışık's conviction likewise does not rest solely on his Tahşiye duties. Nevertheless, concern over selective attribution of responsibility cannot be dispelled unless a

consistent distinction is drawn within the same chain between legitimate duties and knowing participation in a criminal plan.[42]

For each implementing officer, the following connections must therefore be made explicit: which measure relied on a valid prosecutorial instruction or judicial order; what part of that authority was exceeded; and what evidence links fabrication, forgery or an organisational purpose to the individual's own conduct? An act outside authorisation, such as planting evidence, may be separately proved; the existence of authorised interception or surveillance does not alone establish the implementer's criminal intent. Without explaining the concrete reasons for differing treatment of decision-makers, approval authorities and implementers in the same chain, concern over selective application of criminal responsibility cannot be dispelled.

4.1.2 Appearance of impartiality at hearings in 2020–2021

Akın Gürlek is the presiding judge in the 2020–2022 documents. The following examples from 2020–2021 are direct records permitting his move to political office to be assessed alongside his conduct in this case (Annex 38; hearing schedule in Annex 33).

On 30 December 2020, when questioning a defendant about cell-site data in HTS records, the presiding judge stated 'you met face to face', moving from technical data to a finding of a meeting. During the same questioning, earlier explanations were described as 'empty confessions'; the absence of a lawyer was discussed only at its end. Another defendant was told that, as producer, he must be 'responsible for everything' in the film. The issue in these examples is not asking about inconsistencies, but treating a disputed technical inference and responsibility inferred from an institutional role as established and expecting a confession from the defendant.[43][44]

On 25 February 2021 in case no. 2020/90 E., defendant S10 questioned the panel's approach to the file and impartiality and requested its replacement. This is an application for disqualification of the judge or panel, a procedural remedy distinct from denying the charge. Presiding judge Akın Gürlek's response, 'you are seeking disqualification on instructions', and a courtroom-discipline warning

42 Comparison of individuals, duties, dated status and sources: Annex 33, sections 2–3. Bangalore Principles, value 1, §§1.1, 1.3, 1.5; value 2, §§2.1–2.2. These are principles of judicial conduct and independence, not a criminal-law test independently determining political reasons for differing sanctions.
43 Istanbul 14th Assize Court, 30 December 2020, 2020/90 E., second-hearing transcript, questioning of S01 and S02 (Annex 38), reading copy pp.25–28, 31–32. Technical evidentiary assessment also in section 6.1.
44 Court of Cassation Criminal General Assembly, 24 March 2015, 2013/247 E., 2015/60 K.: signals in the same cell-site coverage alone do not prove a meeting. Republication: https://www.hukukihaber.net/ceza-genel-kurulunun-2013247-e-ve-201560-k-sayili-karari . Specific objection: HSK complaint, Annex 05, PDF p.3, §§20–21; questioning transcript: Annex 38, PDF p.28.

when the defendant asked what instructions were meant, accusatorily associated the request for an impartial tribunal with presumed organisational instructions. Disparaging questioning and discrepancies in the minutes at the same hearing can be compared through the transcript and official record. The HSK complaint and application for correction of the minutes document challenges to these actions.[45]

On 19 March 2021, a defendant who said he could not remember past official acts was told, 'if you do not remember, we will treat you accordingly'. After his answers were declared unconvincing, counsel's request for expert examination of whether initials on a document belonged to him was refused. The court's 'visual attribution' meant comparing the initials' appearance without expert examination and attributing them to the defendant. The official minutes record renewed questioning; the transcript also records this language. Attributing disputed initials by this method, coupled with language suggesting differential treatment depending on the answer, creates objective doubt about open and impartial examination of a technical objection.[46]

On 2 July 2021, a defendant referring to ECtHR case-law on the burden of proof and privilege against self-incrimination was told to address the facts; later, he was reminded that his time had expired, and the judgments he was reading were called 'unnecessary European Court of Human Rights judgments'. Courts may limit repetition and manage time. Here, however, the references were connected to objections about evidence and the burden of proof, rather than abstract remarks. Treating that legal defence as unnecessary risks restricting the defence to factual narration and devaluing legal objections.[47]

The transcript of 5 November 2021 shows another form of the same problem. A defendant comparing the indictment to a screenplay was told 'we too can become unrestrained' and warned that his screen would be switched off if he continued; the indictment's status as an official document was emphasised. The defence then continued; the record does not show that the screen was actually switched off at that point. Nevertheless, official-document status does not place an indictment beyond criticism. Language engaging in reciprocal confrontation

45 Minutes and expert transcript of 25 February 2021 (Annexes 10–11); appointment record of 3 March 2021 (Annex 28); HSK complaint of 22 March 2021 (Annex 05), pp.1–8; correction application of 4 March 2021 (Annex 41), pp.2–3.
46 Istanbul 14th Assize Court, 19 March 2021, 2020/90 E., sixth-hearing transcript, S03 questioning (Annex 38), reading copy pp.127–131; same-date minutes, interlocutory order 11, p.115. Expertise addressed in section 6.4.
47 Istanbul 14th Assize Court, 2 July 2021, 2020/90 E., eighth-hearing transcript, S05 defence (Annex 38), reading copy pp.141–142, 150; approximately 00:20 and 00:41–00:45. Context and comparison: Annex 33, section 5.

and threatening to cut off participation goes beyond proportionate hearing management and undermines the appearance of impartiality.[48]

At the start of the same 5 November hearing, another defendant was told he had a maximum of one hour. A time limit alone does not constitute a violation; it must be assessed in light of the file's volume, the subject addressed, written submissions and effective legal assistance. The records also show time granted for preparation on 24 February and 19 March, permission for defendants to question one another on 24 February, and acceptance of an attendance request on 3 March. These safeguards are not overlooked; the impartiality assessment rests on specific conduct rather than a uniform assumption about all hearings.[49]

The records of 30 December, 25 February, 19 March, 2 July and 5 November are jointly significant in turning disputed evidence into a predetermined conclusion, disparaging defence credibility, imputing an accusatory meaning to disqualification applications and devaluing legal objections. The subjective and objective impartiality tests in Kyprianou v. Cyprus and the Bangalore Principles' standard of respectful and measured judicial conduct apply to these behaviours. The records do not prove external instructions, but show that concern about impartial appearance extends beyond one hearing.[50]

4.1.3 Akın Gürlek's move to the executive and objective impartiality

Gürlek's judicial conduct was already debated in Parliament before his move to the executive. On 13 October 2020, Özgür Özel criticised the Istanbul 14th Assize Court's approach to the Constitutional Court judgment concerning Enis Berberoğlu in the Grand National Assembly, naming Gürlek. On 10 December 2021, Tufan Köse used Gürlek's example in the same chamber to discuss the relationship between non-compliance with Constitutional Court judgments and rapid promotion. These are political criticisms by MPs, but document that the independence and impartiality debate existed during his judicial service and was not retrospectively constructed from appointments after 2022.[51]

48 Istanbul 14th Assize Court, 5 November 2021, 2020/90 E., tenth-hearing transcript, S04 defence (Annex 38), reading copy pp.208–209; same-date official minutes record SEGBİS recording of the defence. No finding that the screen was switched off during this exchange.
49 Annex 38: minutes of 24 February 2021, interlocutory orders 3, 6; 3 March, order 9; 19 March, order 2; 5 November transcript, reading copy p.193. Procedural schedule of eleven hearings: Annex 33, section 5.
50 ECtHR, Kyprianou v. Cyprus [GC], 73797/01, 15 December 2005, §§118–121; Bangalore Principles, value 2 and §6.6; hearing/document comparisons: Annex 33, section 5. Legal assistance and correction examined separately in section 4.2.
51 Grand National Assembly plenary, 27th term, 4th legislative year, 4th sitting, 13 October 2020, Özgür Özel: https://www.tbmm.gov.tr/milletvekili/UyeGenelKurulKonusmalariDetay?eid=91120 ; 27th term, 5th legislative year, 32nd sitting, 10 December 2021, Tufan Köse, printed pp.732–733: https://www5.tbmm.gov.tr/tutanaklar/TUTANAK/TBMM/d27/c085/tbmm27085032.pdf .

Official records confirm Akın Gürlek's appointments, following his presidency of hearings in 2020–2022, as Deputy Minister of Justice in June 2022, Istanbul Chief Public Prosecutor in October 2024 and Minister of Justice on 11 February 2026. Ministerial offices represent participation in the politically accountable senior executive.[52]

The detentions following disqualification and release decisions shown in Table 2, and the ECtHR's findings of violations concerning initial detention, are significant for the institutional environment in which subsequent panels served. Linking judicial decisions to risks of deprivation of liberty and professional sanctions is a source of pressure capable of chilling other judges. This assessment is distinct from alleging that a particular panel actually decided out of fear; the question is the effectiveness of safeguards against such pressure.[53]

Gürlek's and Hasan Yılmaz's moves to the executive must be assessed against this pattern of sanctions. Ministerial office involves participation in the politically accountable senior executive. Career progression in that direction does not alone prove a reward for a past decision, but reveals an institutional connection requiring explanation in terms of the appearance of independence. For Gürlek, this is compounded by conduct treating a defendant's request to replace a panel whose impartiality he questioned as presumed organisational instruction and devaluing legal objections. The concern over objective impartiality arises from considering the move to political office alongside this specific conduct in the file.

Admission to the senior political executive following judicial decisions criticised in terms of rule-of-law safeguards transformed that debate into a direct institutional relationship. The report's assessment of political reward rests not on one appointment but on the combined contemporary public statements, sanctions against judges ordering release, contemporaneous parliamentary criticism and conduct documented in the Tahşiye hearings.

4.1.4 Conclusion concerning safeguards of independence

The institutional finding in section 4.1 is the need to explain differing sanctions and career outcomes through objective criteria. Together with accusatory conduct and disparagement of the defence in hearing records, this pattern raises

52 Ministry of Justice, official biography of Akın Gürlek, record of 11 February 2026: https://www.adalet.gov.tr/adalet-bakani/ ; Training Department biography: https://edb.adalet.gov.tr/SayfaDetay/egitim-kurulu-uyeleri12052020114327 ; offices/source comparison: Annex 33, section 3. Official appointment dates are 2 June 2022 and 2 October 2024. The title of judgment 2022/172 K. dated 10 June 2022 names Şenol Kartal as president (Annex 27, PDF p.1); it must not be read as delivered under Gürlek's presidency.

53 Annex 33, section 4; Court of Cassation Criminal General Assembly, 26 September 2017, 2017/16.MD-956 E., 2017/370 K.; ECtHR, Başer and Özçelik v. Türkiye, 30694/15 and 30803/15, 13 September 2022, §§148–159, 194–203. Initial-detention violations and subsequent conviction have distinct scopes.

serious doubts requiring scrutiny under the guarantee of an independent and impartial tribunal.

Baka v. Hungary concerns the chilling effect of sanctions in public debate on judicial independence; Bilgen v. Turkey concerns judicial review of involuntary transfers. These decisions are used here as limited analogies explaining the institutional effects of sanctions and safeguards of independent review, rather than as precedents determining the correctness of decisions in Tahşiye.[5455]

4.2 Attendance at hearings, legal assistance and minutes

A fair trial requires more than formal attendance: defendants must understand the charges and evidence, prepare their defence, consult counsel effectively and participate effectively in the proceedings. Remote participation is not inherently incompatible with a fair trial; its legitimate purpose, technical conditions and effectiveness for the defence must be assessed in the circumstances. Reliable minutes and recordings are essential to reviewing whether these rights were exercised.[56]

The hearing documents show concrete problems at several hearings concerning the timing and recording of legal assistance. The detailed comparison concerning three defendants on 25 February 2021 is retained; the records of 30 December 2020 and 24 February, 3 March, 2 July and 17 September 2021 are considered in their procedural context. Counsel's complete absence, late arrival during questioning and a stated lack of opportunity to consult are different facts.[57]

Differences between hearing minutes and transcripts impede subsequent review of procedural acts. A minute recording that a person was present, informed of their rights or fully questioned must be consistent with the record explaining the actual conditions. Effective consideration of applications to correct minutes is also necessary for reliable appellate review.[58]

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54 ECtHR, Bilgen v. Turkey, 1571/07, 9 March 2021, especially §§60–64, 95–96, https://hudoc.echr.coe.int/eng?i=001-208367 ; Baka v. Hungary [GC], 20261/12, 23 June 2016, https://hudoc.echr.coe.int/eng?i=001-163113 . Subject-matter and provision distinctions: Annex 33, section 1.
55 ECtHR, Baka v. Hungary [GC], 20261/12, 23 June 2016, §§167, 173–174; Bilgen v. Turkey, 1571/07, 9 March 2021. Baka's chilling effect concerns judges' freedom of expression; used here comparatively for institutional effects. https://hudoc.echr.coe.int/eng?i=001-163113 ; https://hudoc.echr.coe.int/eng?i=001-208367
56 ECtHR Registry, Guide on the Right to a Fair Trial, criminal limb, legal assistance and participation by video link (accessed 29 October 2026); UN Human Rights Committee, General Comment No. 32, CCPR/C/GC/32, 23 August 2007, §§32–34. Guide link in bibliography.
57 Istanbul 14th Assize Court, fourth-hearing minutes, 25 February 2021, 2020/90 E. (Annex 10); expert covering letter of 8 March 2021 and same-hearing SEGBİS transcript (Annex 11); HSK complaint and annexes, same case, 22 March 2021 (Annex 05), copy pp.1–8.
58 Istanbul 14th Assize Court, fourth-hearing minutes, 25 February 2021, 2020/90 E. (Annex 10); expert covering letter of 8 March 2021 and same-hearing SEGBİS transcript (Annex 11); disqualification application, 2021/53 E., 26 May 2021 (Annex 09), copy p.4.

4.2.1 Comparison of the SEGBİS transcript and official minutes for the same hearing

There are three distinct procedural discrepancies between the official minutes and expert transcript of the hearing of 25 February 2021. The comparison is confined to the relevant portions concerning three defendants; no identical conclusion is drawn about the reliability of the entire minutes or other hearings. Formulaic entries on notification of rights do not contain the same detail as the beginnings of questioning in the transcript. Lawyers' actual arrival times do not correspond to the initial record of attendance. Furthermore, the minutes use standard wording stating that the defence was heard although it was explained that the defence on the merits had not yet been presented.[59]

Questioning of one defendant began despite notification at the start that counsel was at another hearing, with an indication that counsel's statement would be heard upon arrival. Later, counsel said that he had expected questioning to take place in his presence. The official minutes nevertheless include counsel in the general attendance entry. This recording method obscures the procedural acts in which counsel was able to participate.[60]

When procedural applications concerning subject-matter and territorial jurisdiction, authorisation to investigate and disqualification of judges were submitted, it was expressly stated that the merits defence would follow later. Nevertheless, the official minutes state that the defence was read and found similar to pre-trial statements. Recording procedural objections as though they were the examination on the merits obscures whether a genuine opportunity to answer the charge was provided.[61]

Comparison of minutes and transcript reveals procedural differences requiring explanation concerning the exercise of rights and completion of questioning. The application to correct the minutes must be examined on its merits, with comparison against audio and video where necessary. Inconsistent records are a concrete procedural finding; a separate criminal-law conclusion concerning intentional falsification requires a different inquiry.

The correction application of 4 March 2021 shows that these differences were notified to the court immediately after the hearing, rather than raised only

59 Expert covering letter of 8 March 2021 and SEGBİS transcript of the fourth hearing, 25 February 2021, Istanbul 14th Assize Court, 2020/90 E. (Annex 11), pp.2, 9, 13, 15; official minutes of that hearing (Annex 10), pp.1–4.
60 Expert covering letter of 8 March 2021 and fourth-hearing SEGBİS transcript, 25 February 2021, Istanbul 14th Assize Court, 2020/90 E. (Annex 11), pp.2, 9; same-hearing minutes (Annex 10), pp.1–2.
61 Expert covering letter of 8 March 2021 and fourth-hearing SEGBİS transcript, 25 February 2021, Istanbul 14th Assize Court, 2020/90 E. (Annex 11), pp.13–19; same-hearing minutes (Annex 10), pp.3–4; defence on the merits and annexes, 2021/123 E., 1 June 2022 (Annex 08), copy pp.35–36.

during preparation of this report. Not every allegation in the application is treated as independently verified. In particular, another defendant's alleged physical absence on 30 December 2020 cannot be accepted solely because he does not speak in the transcript; the official minutes record his presence. Connection and prison records are decisive on that point.[62]

4.2.2 Effect of legal assistance during questioning

The transcript contains portions concerning three defendants where counsel was absent or joined later. Some questioning took place without counsel present, and counsel's statements were heard later in the hearing. Allowing counsel to speak subsequently does not automatically restore the opportunity to consult the client, intervene in questioning and seek clarification at the relevant time. Effective legal assistance cannot be measured by whether a lawyer's name appears in the minutes at the end.[63]

Goddi v. Italy explains the court's duty to take necessary steps to ensure practical and effective legal assistance. In the Tahşiye proceedings, before asking whether counsel eventually spoke, the issue is whether effective assistance was provided during questioning and any resulting deficiency genuinely remedied.[64]

The transcript of 30 December 2020 expressly refers to the absence of counsel during questioning of two defendants. On 24 February 2021 another defendant stated that he had not been able to consult counsel and did not understand whether he was to defend himself again on the same evidence; because that day's minutes record counsel present, this example is not presented as absence of counsel throughout the hearing. Both records show that listing counsel as present is distinct from actual assistance and consultation.[65]

The official minutes of 2 July 2021 expressly record that another defendant's defence was heard, counsel had notified an excuse for absence, and counsel's submissions were adjourned to the next hearing. A court document thus directly confirms the separation in time between questioning and counsel's submissions at a second hearing. Without remedial measures such as repeating questioning with counsel or allowing consultation, later submissions alone do not remedy the deficiency.[66]

62 Correction application of 4 March 2021 (Annex 41), pp.2–3; official minutes and transcript of 30 December 2020 (Annex 38).
63 Expert covering letter of 8 March 2021 and fourth-hearing SEGBİS transcript, 25 February 2021, Istanbul 14th Assize Court, 2020/90 E. (Annex 11), pp.2, 9–13, 19–20.
64 ECtHR, Goddi v. Italy, 8966/80, 9 April 1984. Duty to ensure effective legal assistance.
65 Istanbul 14th Assize Court, 2020/90 E., S02 and S12 questioning in the transcript of 30 December 2020; S13 questioning in minutes and transcript of 24 February 2021 (Annex 38); comparison: Annex 42, section 3.
66 Istanbul 14th Assize Court, 2 July 2021, 2020/90 E., eighth-hearing minutes, S06 defence and interlocutory order 5; same-date transcript (Annex 38).

However, in the transcript of 3 March 2021 a defendant stated that he wished to present his defence despite counsel's excused absence; the minutes of 19 March show that counsel was subsequently heard. This demonstrates that not every delay can be assessed identically. Where waiver of legal assistance is alleged, its unequivocal, informed and voluntary character, mandatory-representation requirements and safeguards across the proceedings must be examined separately. The statement 'I have no lawyer' in the 17 September transcript is likewise a finding confined to its procedural context.[67]

4.2.3 Response to a defendant's request to attend the hearing

In response to a request for remote attendance at all hearings, limited connection capacity was cited and physical transfer from prison offered. Refusal of physical transfer because of pandemic quarantine conditions did not extinguish the request for remote participation. A timetable preserving participation, rehearing or a procedure for transmitting questions was therefore necessary.[68]

The same hearing also includes portions permitting defendants to question one another. Participation was therefore not entirely absent; the issue is its continuity and remediation of missed procedural acts. Limited technical capacity cannot justify rendering ineffective the right to question and comment when adverse evidence is discussed.[69]

The minutes of 21 January 2022 report that the prison could not digitally transmit previous hearing minutes and incoming documents. They also record that the court issued service requisitions on several dates. The question is therefore actual access to the materials sent, rather than a complete absence of correspondence. Without a delivery record showing that the reported transmission failure was remedied, an order for service cannot be equated with effective access. This is a concrete issue concerning adequate facilities to prepare the defence and awareness of adverse evidence.[70]

67 Start of S07 questioning in the transcript of 3 March 2021; counsel M01's submissions in minutes and transcript of 19 March; S08's statement in transcript of 17 September (Annex 38). ECtHR, Harun Gürbüz v. Turkey, 68556/10, 30 July 2019, §§59–60: unequivocal waiver and minimum safeguards. HUDOC: https://hudoc.echr.coe.int/eng?i=001-194858 .
68 Expert covering letter of 8 March 2021 and fourth-hearing SEGBİS transcript, 25 February 2021, Istanbul 14th Assize Court, 2020/90 E. (Annex 11), pp.13–14, transcript pp.12–13.
69 Expert covering letter of 8 March 2021 and fourth-hearing SEGBİS transcript, 25 February 2021, Istanbul 14th Assize Court, 2020/90 E. (Annex 11), pp.4–9.
70 Istanbul 14th Assize Court, 21 January 2022, 2020/90 E., eleventh-hearing minutes: prison letter of 19 November 2021, minutes of hearings 6–10 and digital transmission of documents; court service requisitions (Annex 38).

4.3 Examination of a witness at a hearing conducted on judicial request

Article 6 §3(d) of the Convention safeguards examination of prosecution witnesses and consideration of reasoned requests for defence witnesses. Assessment must address the statement's weight in the judgment and the defence's actual opportunities.[71]

The documents examined in detail concern one witness at a hearing conducted on judicial request on 4 January 2017. Taking that statement leaves open how an effective opportunity to question the witness was provided in the main trial. Objections concerning other witnesses are confined to accounts in submissions; this example does not establish a violation concerning all witness examinations.[72]

Under Schatschaschwili v. Germany, the reason for the witness's absence, the statement's weight in the conviction and counterbalancing safeguards must be assessed together. The available judicial-request documents do not alone show how decisive the statement was for each defendant.[73]

Murtazaliyeva v. Russia requires comparison of the subject and reasons for a defence-witness request with the court's response. A request material to the outcome requires a reasoned answer; there is no general duty to summon every witness.[74]

If a television statement was used as evidence in the judgment, its source, completeness, attribution and the defence's opportunity to challenge it must also be shown.[75]

4.4 Reasoned judgments and appellate review

The right to a reasoned judgment enables parties to understand that material allegations and objections were genuinely examined and permits effective review. Courts need not answer every argument in equal detail; the extent of the duty depends on the decision's nature and the importance of the issue raised.[76]

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71 ECtHR, Schatschaschwili v. Germany [GC], 9154/10, 15 December 2015, §§100–131; Murtazaliyeva v. Russia [GC], 36658/05, 18 December 2018, §§158–168.
72 Osmaneli Criminal Court of First Instance, hearing minutes of 4 January 2017, judicial request 2016/182 (within Annex 06, copy pp.233–242); intermediate appeal submission, Istanbul 14th Assize Court, 2015/281 E., 2017/172 K., 10 January 2018 (Annex 04), witness section; defence and annexes, same court, 2020/90 E., 22 September 2021 (Annex 06), copy pp.72–73.
73 ECtHR [GC], Schatschaschwili v. Germany, 9154/10, 15 December 2015, especially §§107, 118, 125–131. Witnesses unavailable for examination at trial.
74 ECtHR [GC], Murtazaliyeva v. Russia, 36658/05, 18 December 2018. Assessment of defence-witness requests; no violation in the particular case.
75 Defence submission and annexes, Istanbul 14th Assize Court, 2020/90 E., 22 September 2021 (Annex 06), copy p.73.
76 ECtHR, Ruiz Torija v. Spain, 18390/91, 9 December 1994, §§29–30; ECtHR, Guide on the Right to a Fair Trial, criminal limb, 2026, reasoned judgments section, https://ks.echr.coe.int/documents/d/echr-ks/guide_art_6_criminal_eng-pdf .

The reasoned judgments of 2017 and 2022 permit direct examination of the courts' reasoning concerning technical data and individual participation. In its 2020 decision, the Court of Cassation found certain procedural deficiencies unlawful but, in light of other evidence, not decisive for the convictions affirmed. This finding must be assessed alongside its reasons for quashing in respect of other individuals and offences.[77]

Ruiz Torija v. Spain shows that courts need not answer every argument in detail, but cannot leave unanswered a central objection capable of affecting the outcome. In Tahşiye, this applies to which user data belong to which person, differences between the three accounts of the ammunition's perpetrator and the link to individual participation, and reasons for preferring a significant witness statement.[78]

The 2022 reasoned judgment expressly records that, concerning unlawful deprivation of liberty by three individuals, the statutory provisions identified in the reasoning differed from those in the judgment pronounced in court. The court stated that it retained the wording of the pronounced judgment. This does not automatically invalidate the judgment, but requires clarification of the applicable norm and reasoning on appeal.[79]

The 2025 decision also addressed requests for an oral appeal hearing. One was refused on the basis of sentence length and statutory conditions, the other because effective defence had been provided at first instance and written submissions on appeal were unrestricted. These reasons are included in the report. Convention review concerns not an unconditional requirement for a new appellate hearing, but the reviewing court's powers, the issues examined and whether earlier deficiencies were remedied across the proceedings.[80]

The reasoning of 21 April 2025 and procedural records of 25 February 2021 differ in scope. The former examines organisation-offence convictions involving nine individuals, with no merits review for one following withdrawal; the hearing belongs to case no. 2020/90 E. A person's presence in both files does not alone establish that all acts at that hearing were reviewed by this decision. Nor does the first-instance correction application of 4 March 2021 alone prove that the same objection was raised on appeal against the relevant conviction.[81]

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77 Court of Cassation, 16th Criminal Division, 31 December 2020, 2019/4737 E., 2020/6918 K., Annex 24, PDF pp.11–13; Istanbul 14th Assize Court, 10 June 2022, 2021/123 E., 2022/172 K., Annex 27, PDF pp.691–697.
78 ECtHR, Ruiz Torija v. Spain, 18390/91, 9 December 1994, §§29–30. Reasoned answers to substantial objections.
79 Istanbul 14th Assize Court, 10 June 2022, 2021/123 E., 2022/172 K., Annex 27, PDF pp.697, 700–701.
80 Court of Cassation, 3rd Criminal Division, 21 April 2025, 2025/2143 E., 2025/11659 K. (Annex 34), p.2; S05 and S10's requests for oral appellate hearings.
81 Court of Cassation, 3rd Criminal Division, 21 April 2025, 2025/2143 E., 2025/11659 K., Annex 34, physical pp.1–2, 8. Full text examined with regard to personal and offence scope. Minutes: Annex 10, pp.1–4; expert

Table 3 Procedural discrepancies at the hearing and the 2025 appeal

Each row follows a procedural issue identified at the hearing of 25 February 2021. The first column identifies the issue, the second the minutes, transcript or application evidencing it, the third its treatment in the 2025 Court of Cassation decision, and the last the review required. S09, S10 and S11 are fixed defendant codes denoting the same individuals throughout the report, not court file or charge numbers.

The table's fundamental distinction is personal and judgment scope: S09 and S11 are not among the nine defendants in the 2025 decision; S10 is. However, the hearing belongs to no. 2020/90 E., while the decision concerns organisation-offence convictions. Whether a general finding of 'effective defence' answers a specific record discrepancy must therefore be examined separately. The last column explains the documentation and reasoning needed to establish that connection.

Procedural issue	Document / application	Treatment in the 2025 decision	Implications for review
Counsel joining questioning late	Relevant portions for S09 and S11: Annex 10, pp.1–4; Annex 11, pp.2–6 and 9–10.	These individuals are not among the nine defendants in Annex 34. The general procedural finding is not a ruling concerning them.	Whether these discrepancies were remedied must be reviewed through the individuals' own judgments and appellate decisions.
Recording procedural objections as a defence on the merits	S10: Annex 10, pp.3–4; Annex 11, pp.13–19; correction application of 4 March 2021, Annex 41, pp.2–3.	S10 falls within the decision. Page 2 finds effective defence, page 8 lawful procedure; this record discrepancy is not separately discussed.	The connection between the organisation-offence appeal and the hearing in 2020/90 must be established; how the general finding answers the specific deficiency must be explained.
Notification of rights and recording the disqualification request	Comparison of formulaic minutes and transcript: Annexes 10–11. S10's correction application includes notification of rights and the disqualification exchange (Annex 41, pp.2–3).	No separate reasoning addresses the 25 February record comparison or 4 March correction application. A correction application is not a substitute for the appeal submission.	The objection's content on appeal and effect on the judgment must be established and the adequacy of the response examined. Affirmance alone does not prove resolution of the discrepancy.

The finding of effective defence on page 2 and general conclusion of lawful procedure on page 8 do not explain how a particular record discrepancy was resolved. There is no separate analysis of counsel's arrival times on 25 February,

transcript: Annex 11, pp.2–6, 9–10, 13–19; correction request: Annex 41, pp.2–3.

recording the defence as read, or the correction application of 4 March. Affirmance cannot therefore replace concrete reasons showing that those deficiencies were remedied. For effective appellate review, the essential question is whether a decisive objection affecting the relevant judgment and raised on appeal was genuinely addressed. This criticism cannot be extended into a finding of absent review for persons or offences outside the decision's scope.[82]

The same decision finds the evidence lawful and sufficient and the defences discussed in a manner permitting appellate review. This general finding must be tested against concrete reasons answering the report's specific record, device and attribution discrepancies. Nor can the discrepancy in statutory provisions concerning unlawful deprivation of liberty in the 2022 judgment be assumed resolved by this nine-defendant organisation-offence decision.[83]

4.4.1 Counterarguments of the prosecution and courts

The prosecution's position is that apparently court-authorised measures do not exclude an organisational plan. In that view, broadcasts, investigative timing, internal coordination, witness accounts, HTS and digital records must be considered together, including whether authorisations themselves were obtained as part of the plan. The later status of some judges in the first investigation may be mentioned in that context; the evidence and knowledge underlying a particular authorisation must still be demonstrated through that measure.[84]

The report's response does not treat judicial authorisation as immunity for every act. Allegations of planting ammunition, drawing up false records or knowingly participating in unlawful deprivation of liberty must be examined separately by scope of authorisation and personal contribution. Evidence of participation in a criminal plan must be linked to each defendant's duties and knowledge; inferring intent from routine acts, official approval and communications requires reasons. Exclusion of evidence in the first trial and proof that a particular person planted it are also separate questions.

The 2025 decision considered the combined assessment of evidence sufficient and affirmed eight organisation-offence convictions with corrections. This is the strongest judicial basis for the counterposition taken into account in the report.

82 Court of Cassation, 3rd Criminal Division, 21 April 2025, 2025/2143 E., 2025/11659 K., Annex 34, physical pp.1–2, 8. Full text examined with regard to personal and offence scope. Minutes: Annex 10, pp.1–4; expert transcript: Annex 11, pp.2–6, 9–10, 13–19; correction request: Annex 41, pp.2–3.
83 Court of Cassation, 3rd Criminal Division, 21 April 2025 (Annex 34), p.8; scope of the 2022 judgment: Istanbul 14th Assize Court, 10 June 2022 (Annex 27), operative provisions and reasoning.
84 Allegations and reasons for charges: Annex 31, PDF pp.219–225 and concluding assessments; Annex 32, individual assessments. Trial and appellate approach: Annex 22, reasoning; Annex 27, PDF pp.691–697; Annex 34, PDF pp.6–8.

Rather than concealing affirmance, the human-rights review examines the specific answers given to decisive technical objections and individual elements of the offences.[85]

4.5 Monitoring public statements and media narratives

The presumption of innocence requires public authorities to refrain from statements presenting guilt as established while proceedings continue. Media freedom is assessed separately; accusatory reporting and official statements are not the same legal category.[86]

Six publications between 23 March and 16 December 2014 in Annex 21 were examined. Two March reports relay the same Sabah content. Some present the ammunition-planting allegation as fact, while others retain allegation terminology and responses. These examples document an accusatory narrative; an actual effect on judicial decisions has not been established.[87]

Under Allenet de Ribemont v. France, public authorities must not prejudge guilt when discussing undetermined charges. In the Presidency's record of the TÜGİK reception of 16 January 2015, President Erdoğan rejected the view that the Tahşiye operation interfered with press freedom, calling it 'a lie from A to Z'. The record shows direct executive participation in the public presentation of the charges during proceedings. The addressees, connection to the charges and whether the language conveyed established guilt must be assessed in context; this report does not assert an existing final Article 6 §2 violation judgment for a particular defendant. The statement shows the political executive's public endorsement of the investigation. Presenting an accusation before final judgment as though confirmed by the executive requires scrutiny for the impression of prejudged guilt and apparent pressure on the court. The verified statement is not equated with words predicting a specific defendant's sentence.[88][89]

85 Court of Cassation, 3rd Criminal Division, 21 April 2025, 2025/2143 E., 2025/11659 K. (Annex 34), PDF pp.6–8; read with distinctions of personal, offence and objection scope in sections 4.4 and 7.
86 ECtHR, Presumption of innocence, Article 6 criminal limb, 28 February 2026, https://ks.echr.coe.int/documents/d/echr-ks/presumption-of-innocence ; Axel Springer AG v. Germany [GC], 39954/08, 7 February 2012, §§89–95.
87 Tahşiye narrative in contemporary media, 23 March–16 December 2014, open-source news references and short quotations (Annex 21), sources 1–6.
88 ECtHR, Allenet de Ribemont v. France, 15175/89, 10 February 1995, especially §§35–41. Public statements and presumption of innocence.
89 Presidency of Türkiye, TÜGİK reception, 16 January 2015, 'Despite All Regional and Global Adversities, Türkiye's Power, Prestige and Influence Continue to Grow', section beginning 'Where there is no democracy…'. https://tccb.tr/haberler/410/2711/bolgesel-ve-kuresel-duzeydeki-tum-olumsuzluklara-ragmen-turkiyenin-gucu-itibari-ve-etkisi-artmaya-devam-ediyor ; accessed 28 October 2026. Annex 21's six-report sample does not include this official record.

Axel Springer AG v. Germany balances press freedom and reputation through public interest, accuracy, presentation and consequences. The proposed monitoring concerns preserving the distinction between narratives of established guilt and reporting judicial proceedings.[90]

5 Detention and effective judicial review

The right to liberty requires detention to have a lawful basis and be free from arbitrariness. Reasonable suspicion is essential in criminal investigations; continued detention also requires relevant and sufficient reasons, with individual circumstances and the adequacy of less restrictive measures assessed as time passes. Effective examination of detention objections by an independent and impartial authority is a separate safeguard.[91]

5.1 Scope of the Karaca judgment

Hidayet Karaca was an executive of the Samanyolu Broadcasting Group and a media defendant in the second proceedings. The ECtHR judgment concerning his detention was delivered on 20 June 2023 and became final on 20 September 2023. Its personal and substantive scope is distinguished from the examples concerning police defendants examined below through direct court documents.[92]

The ECtHR found no violation of Article 5 §1 concerning reasonable suspicion at initial detention. It did find violations of Article 5 §1 because disqualified judges extended detention, Article 5 §4 because safeguards for independent and impartial review were insufficient, and Article 5 §3 concerning reasons for prolonged detention. The freedom-of-expression complaint was inadmissible; the Article 7 complaint was rejected for non-exhaustion of domestic remedies. These findings are neither an Article 6 ruling on the criminal trial nor a finding that all defendants' convictions are invalid.[93]

According to §141, police custody began on 14 December 2014 and conviction occurred on 3 November 2017, a period of approximately two years and eleven months. The Assize Court's extension decisions relied on strong suspicion, a listed offence, sentence severity and risk of absconding, case complexity and

90 ECtHR [GC], Axel Springer AG v. Germany, 39954/08, 7 February 2012, §§89–95. Balancing expression, private life and reputation.
91 ECtHR, Buzadji v. the Republic of Moldova [GC], 23755/07, 5 July 2016, §§87–102; UN Human Rights Committee, General Comment No. 35, CCPR/C/GC/35, 16 December 2014, §§12, 37–38.
92 ECtHR, Karaca v. Türkiye, 25285/15, 20 June 2023, final 20 September 2023, §§98–105, 126–132, 141–150, 166 and operative provisions. Distinct conclusions concerning initial reasonable suspicion and subsequent detention review. https://hudoc.echr.coe.int/eng?i=001-225310
93 Karaca v. Türkiye, 25285/15, 20 June 2023, §§131–132, 148–150, 166 and operative provisions.

inadequate alternatives. The ECtHR found repetition of these general grounds without individual assessment insufficient.[94]

5.2 Initial deprivation of liberty in July 2015

A police record of 10 July 2015 documents a suspect's voluntary attendance; the prosecutor's instruction the same day documents his placement in custody. The Istanbul 1st Magistrate's Court questioning record of 11 July states that two individuals were released because the statutory police-custody period had been exceeded. This is not an acquittal on the merits, but directly records failure to apply the time-limit safeguard and release following judicial intervention.[95]

The Istanbul 8th Magistrate's Court ordered detention in the same example on 15 July 2015. It contains person-specific allegations concerning duties, communications and technical records, and invokes absconding and interference with evidence. The initial order cannot be said to contain no factual grounds. Nevertheless, the relationship between voluntary attendance and absconding risk, and the inadequacy of less restrictive measures, require separate explanation. Evidence considered to support the charge does not replace individual assessment of those risks.[96]

5.3 Decisions extending detention and examination of objections

Three objection decisions from 2017 permit comparison of review across defendants. The Istanbul 15th Assize Court's miscellaneous decision no. 2017/563 of 14 June 2017 rejected four defendants' objections on common grounds; no. 2017/636 of 7 July rejected twelve. Decision no. 2017/638 of the same day uses substantially the same formula. The offence's classification, listed status, potential sentence, suspicion of absconding and inadequacy of judicial supervision are enumerated, without separately explaining current facts for each person.[97]

The extension decision of 19 July 2017 lists a broader range of HTS, witness, archive and digital evidence. Although this details the basis for suspicion, it does not explain new facts supporting each person's risks of absconding and concealment of evidence. The minutes of 28 July also give collective extension grounds. Together the decisions distinguish an absence of evidence from a list of

94 Karaca v. Türkiye, 25285/15, 20 June 2023, §§141–150.
95 Police attendance record and prosecutor's custody instruction of 10 July 2015; Istanbul 1st Magistrate's Court, 11 July 2015, questioning register 2015/336 (Annex 40), pp.1–4; source package Annex 36, pp.27–30.
96 Istanbul 8th Magistrate's Court, 15 July 2015, 2015/1922 D.İş (Annex 40), pp.5–9; voluntary attendance record, same annex, p.1.
97 Istanbul 15th Assize Court, 14 June 2017, 2017/563 D.İş; 7 July 2017, 2017/636 and 2017/638 D.İş (Annex 39), pp.1, 21–22; source Annex 35, pp.12, 32, 34.

evidence unaccompanied by individual assessment of risks making deprivation of liberty necessary.[98]

In an extract from the 23 February 2017 hearing transcript, responding to a request for concrete detention grounds, the presiding judge associated specificity with the risk of indicating the eventual judgment and regarded abstract explanation as more appropriate. This makes the reason for generic extension language directly visible in the record. Yet cautiously explaining grounds for a provisional measure is not a final determination of guilt; it is a condition of effective challenge to detention.[99]

Buzadji v. the Republic of Moldova [GC] requires relevant and sufficient reasons in addition to reasonable suspicion from the first detention decision. The common risk formulas in the 2017 examples are problematic under Article 5 §3 insofar as they fail to disclose differing individual circumstances and why less restrictive measures are insufficient. Repetition by the reviewing authority does not cure that deficiency. This assessment is confined to the decisions examined; detention and imprisonment from other files have not been aggregated into a total period.[100]

The operative part of the intermediate appellate decision of 21 September 2018 states that release requests by 23 defendants were individually refused in view of sentence length. On 31 December 2020 the Court of Cassation likewise rejected release requests by detained defendants whose convictions were quashed, referring to sentence length, duration of detention and available evidence. These decisions establish the reasons at those stages, not a complete account of every detention period and objection.[101]

6 Reliability of evidence and the defence's ability to scrutinise it

In a fair trial, evidential reliability includes an effective opportunity to challenge how evidence was obtained and the conclusions drawn from it. Admissibility and assessment are primarily for domestic courts; human-rights review focuses on overall fairness, including the evidence's quality and defence opportunities. The

98 Istanbul 14th Assize Court, detention-review interlocutory order of 19 July 2017 and 104th-hearing minutes of 28 July 2017, 2015/281 E. (Annex 39), pp.13–19; source Annex 35, pp.24–30.
99 Istanbul 14th Assize Court, 23 February 2017, 2015/281 E., 67th-hearing transcript extract, printed p.26 (Annex 39), p.20; source Annex 35, p.31.
100 ECtHR, Buzadji v. the Republic of Moldova [GC], 23755/07, 5 July 2016, §§87–91, 101–102. Relevant and sufficient reasons from initial detention. https://hudoc.echr.coe.int/eng?i=001-164928
101 Istanbul Regional Court of Appeal, 3rd Criminal Division, 21 September 2018, 2018/707 E., 2018/1102 K., Annex 23, PDF p.7; Court of Cassation, 16th Criminal Division, 31 December 2020, 2019/4737 E., 2020/6918 K., Annex 24, PDF p.13.

existence, source, personal attribution and probative significance of digital or other technical data are separate questions.[102]

6.1 HTS records examined and inference of a meeting

HTS records were used for communications and location inferences. This section contains examples concerning two defendants: one's written technical objections and another's questioning about inferring a meeting from cell-site records. Accounts of signals from across the water and appearances in distant locations within a short period are not treated as verified technical events because raw network data have not undergone independent expert examination.[103]

Yüksel Yalçınkaya v. Türkiye provides guidance on testing electronic evidence and answering substantial technical objections. However, ByLock server data and GSM cell-site records are different data types. The judgment does not determine HTS technical accuracy; it informs assessment of an effective opportunity to challenge reliability.[104]

The Court of Cassation Criminal General Assembly decision of 24 March 2015, no. 2013/247 E., 2015/60 K., explains that signals within the same cell-site coverage do not demonstrate a meeting. In large cities, people living, working or passing nearby commonly use the same cell site. Treating the data as direct proof of a meeting during questioning on 30 December 2020 is incompatible with that established standard. The objection rests on domestic case-law predating trial, not only a foreign technical code.[105]

The Forensic Science Regulator's 2025 Code of Practice for England and Wales states that cell-site analysis generally cannot establish a telephone's exact location and requires uncertainty to be reflected in reporting. It is a comparative standard explaining limits of technical interpretation, not binding law in Türkiye.[106]

To move from HTS to individual participation, the evidential chain must identify the associated device or subscription, its user at the relevant time, cell and sector

102 ECtHR, Yüksel Yalçınkaya v. Türkiye [GC], 15669/20, 26 September 2023, §§305–341; Guide on the Right to a Fair Trial, criminal limb, 2026, evidence section, https://ks.echr.coe.int/documents/d/echr-ks/guide_art_6_criminal_eng-pdf .
103 Relevant portions of questioning and defence text submitted to the Istanbul 14th Assize Court, 2015/281 E. (Annex 01), PDF pp.27–34; original printed pp.465–472. Annex 01 is a 34-page partial copy of the full defence.
104 ECtHR [GC], Yüksel Yalçınkaya v. Türkiye, 15669/20, 26 September 2023, §§237–272, 300–356, especially §§324–341, 356. Effective challenge to ByLock evidence and legality.
105 Court of Cassation Criminal General Assembly, 24 March 2015, 2013/247 E., 2015/60 K., cell-site data and benefit of the doubt; objection in the file: Annex 05, PDF p.3, §§20–21. Full text source above in section 4.1.2. Defence account in 2017 judgment: Annex 22, PDF pp.268–270.
106 Forensic Science Regulator, Forensic science activities statutory code of practice version 2, 5 June 2025, §§99.3.2, 99.11.1–99.11.6, effective 2 October 2025. Applies to England and Wales.

information, time interval and coverage characteristics. It must then show which fact the record supports, to what extent and which alternative explanations it cannot exclude. The occurrence of a communication is distinct from its content or purpose.

The same technical standard applies to all parties' cell-site evidence. Distance, time and other records must be considered before inferring a definite meeting or separation from coverage. Inferring complicity without explaining that technical step expands what the data prove.[107]

6.1.1 Assumption of a meeting during questioning

In one defendant's questioning, signals from the same area were converted into questions presupposing a meeting with another person. Residence in the area was raised as an alternative explanation. This form of questioning assumes a meeting that remains to be verified and imposes an explanatory burden on the defendant. It directly reflects, in courtroom practice, the reasoning problem in moving from technical records to criminal allegations.[108]

Questioning should test whether signals can be explained by a meeting. Assuming the meeting and asking why it occurred converts an unproven intermediate fact into a reality the defendant must explain. Corroboration of residence through a lease or bill may be investigated; failure to produce these immediately does not make the technical record proof of a meeting.

An objection was also raised at the hearing concerning confusion between two similar names when identifying communication parties. This records a specific identity-matching dispute placed before the court. Resolving it requires an explicit link between subscription, user, individual and communication record. Inferring complicity from similar names or incomplete matching leaves the evidential chain uncertain at its outset.[109]

In 2025 the Court of Cassation assessed HTS alongside other evidence and its findings about organisation of the operation. The report does not argue that HTS has no probative value. It requires alternative explanations and individual contribution to be addressed when inferring knowing participation in a criminal plan from a particular call or location. Affirmance does not remove the need for human-rights scrutiny of that evidential chain.[110]

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107 Defence on the merits, Istanbul 14th Assize Court, 2015/281 E., 2 November 2017 (Annex 02), copy pp.51–56.
108 Istanbul 14th Assize Court, SEGBİS questioning-transcript extract, cell-site record and meeting questions (within Annex 05, copy pp.44–46).
109 Expert covering letter of 8 March 2021 and fourth-hearing SEGBİS transcript, 25 February 2021, Istanbul 14th Assize Court, 2020/90 E. (Annex 11), pp.18–19, transcript pp.17–18.
110 Court of Cassation, 3rd Criminal Division, 21 April 2025 (Annex 34), pp.6–8; also Annex 42, section 4.

6.2 Origin of the ammunition and preservation of evidence

The origin, preservation and destruction of explosives are also part of the human-rights review. Allegations that police planted ammunition were linked to records of presence at the address and telephone contacts. For this connection to establish criminal responsibility, procurement, transportation, access and placement must be explained by time and individual. Serving in the operational area alone does not establish which physical act was performed.[111]

Finding ammunition at an address and its placement by a particular police officer are different propositions. The former requires search and seizure records; the latter requires individual conduct, access, timing, technical traces and mutually supporting evidence. Circumstantial evidence may be assessed together, but its connection to each person and act must be explained.

The 2017 reasoned judgment contains three different accounts of who placed the ammunition in the house. This is not merely a defence hypothesis: differences between the judgment's own formulations can be compared directly. The appeal submission of 10 January 2018 and defence submission of 22 September 2021 also raise this as a substantial objection concerning identification of the perpetrator and individual participation.[112]

The first account is direct placement by police. On printed page 2837, the judgment accepts that 'police officers belonging to the organisation' put the grenades in the house; page 2838 attributes placement to Counter-Terrorism Branch officials involved in the investigation and intelligence units near the address.

The second account states that 'grenades were placed in the house under police supervision', emphasising supervision and perimeter security without naming the person placing them. This account on printed page 2837 adds that intelligence and counter-terrorism teams waited nearby to prevent mishaps. The defence interprets it as a second possibility: placement by other persons under police supervision.

The third account, on printed page 2835, states that placement was carried out 'by police officers or, under their supervision, by someone within the group working for them'. It thus adopts alternative perpetrators without choosing between direct placement and procuring placement by a group member. This

111 Defence on the merits, Istanbul 14th Assize Court, 2015/281 E., 2 November 2017 (Annex 02), copy pp.47–56; defence and annexes, 2020/90 E., 22 September 2021 (Annex 06), copy pp.70–73.
112 Istanbul 14th Assize Court, 3 November 2017, 2015/281 E., 2017/172 K. (Annex 22), PDF pp.2857–2860, printed pp.2835–2838; intermediate appeal of 10 January 2018 (Annex 04), PDF pp.226–227, printed pp.225–226, §§863–874; defence of 22 September 2021 (Annex 06), PDF/printed pp.70–71, footnotes 92–98.

requires clarification of the police officers' specific contributions as well as the physical perpetrator's identity.

The differences are not confined to the first judgment. Pages 631–633 of the post-quashing 2022 judgment repeat accounts of placement by police or through a group member, placement under police supervision and direct placement by police. The uncertainty concerning perpetrator and act identified by the defence therefore also requires examination in the later reasoning.[113]

A court may infer participation from a common plan and circumstantial evidence. Personally placing ammunition, procuring another to place it and knowingly acting as lookout are, however, different material contributions. For each defendant, the conviction must explain which act is established, what evidence proves it and how knowledge of the common plan was determined. Moving between the three accounts without that distinction leaves unclear the inference from HTS and deployment records to individual criminal responsibility. This is the issue under Article 230(1)(b)–(c) of the Code of Criminal Procedure, requiring assessment of evidence and identification of proven conduct, and Article 6 safeguards of a reasoned judgment and effective defence.[114]

Responsibility for destruction must be distinguished from responsibility of police conducting the 2010 search and investigation. The destruction request is dated 31 December 2013; court decision no. 2010/123 E., 2013/894 D.İş authorises destruction of three hand grenades and one smoke canister. The defence states that the investigator-defendants no longer held the relevant posts and the operation was carried out by replacement personnel. The request came from the then Counter-Terrorism management; the defence specifically sought investigation of Serdar Ali Sekkin's role. The prosecutor's reply of 7 October 2016 states that Sekkin was not under investigation in file no. 2015/90707. A finding that destruction prevented examination cannot therefore justify additional responsibility for the investigator-defendants without identifying who requested and carried it out.[115]

113 Istanbul 14th Assize Court, 10 June 2022, 2021/123 E., 2022/172 K. (Annex 27), PDF/printed pp.631–633. Alternative placement account on p.631; supervision and direct placement on p.632; attribution to Counter-Terrorism and intelligence units on p.633.
114 Code of Criminal Procedure no. 5271, Article 230(1)(b)–(c), Ministry of Justice UYAP legislation record: https://mevzuat.adalet.gov.tr/mevzuat/102946 ; accessed 29 October 2026. For answers to substantial objections, also Ruiz Torija v. Spain, §§29–30; for conduct and intent, section 7.
115 Istanbul 14th Assize Court, destruction order no. 2010/123 E., 2013/894 D.İş (within Annex 06, copy p.269); Istanbul Police Directorate, destruction request of 31 December 2013 (same annex, p.270); Istanbul Chief Public Prosecutor's Office, letter of 7 October 2016, no. 2015/90707, and Istanbul Police Directorate letter concerning a destruction record (same annex, pp.271–272).

The defence records repeated requests to investigate those responsible for destruction or at least hear them in court, but states that they were not heard and the process remained unclarified. The issue is not only inability to re-access the material, but failure to obtain explanations from those instructing, requesting and implementing destruction. When treating destruction adversely to defendants, the court must explain why those requests were not met and each defendant's specific contribution to destruction.[116]

The destruction documents refer to safe storage, danger and an existing forensic report. The adequacy of those grounds must be reviewed through retained samples, images and opportunities for counter-examination. Moreover, the letter on page 272 of Annex 06 concerns destruction of two grenades from another investigation under the same miscellaneous decision; it cannot be equated with the actual destruction record for the Tahşiye ammunition. The original record and procedural chain must be established without conflating the request, judicial authorisation and actual destruction date.

Matanović v. Croatia concerns effective judicial scrutiny ensuring disclosure of material potentially useful to the defence. It does not examine ammunition destruction; it is applied here to the safeguard of access to evidence. The specific inquiry concerns access to the destruction order and record, forensic reports, images and any samples, and an opportunity for defence counter-examination.[117]

6.3 Examination of two ByLock accounts attributed to one defendant

ByLock is an application for encrypted messaging and communications. 'Account' here means an application-registered user identity, not a bank account. Two accounts attributed to one defendant are coded Account A and Account B. Telephone subscription, device, internet connection and application user must be matched separately. HTS identifies telephone traffic and associated cell-site data, CGNAT internet connections, and user and content records the ByLock account.[118]

ByLock was absent from the initial allegation narrative in the investigation begun in 2014 and main proceedings instituted in 2015. The 2015 indictment centred on speeches, broadcasts and investigative acts in 2009–2010; ByLock was introduced later as evidence of organisational links and incorporated into the conviction's

116 Defence of 1 June 2022, Annex 08, PDF p.11, §7; response to quashing of 28 May 2021, Annex 07, same objection; appeal of 10 January 2018, Annex 04, PDF p.187, §§700–701; defence of 22 September 2021, Annex 06, PDF pp.107–108. Destruction order/request and institutional reply: Annex 06, PDF pp.269–272. These references show the defence's unmet requests for investigation and oral evidence, not the date and reasoning of a separate refusal order.

117 ECtHR, Matanović v. Croatia, 2742/12, 4 April 2017, disclosure and judicial scrutiny. https://hudoc.echr.coe.int/eng?i=001-172466 . Not used as a direct precedent on the lawfulness of destruction.

118 Defence on the merits and annexes, Istanbul 14th Assize Court, 2021/123 E., 1 June 2022 (Annex 08), copy pp.36, 49–52.

reasoning. It is also discussed in the 2020 indictment and 2022 judgment. This timing matters to notice of subsequently added evidence, access to underlying data and the opportunity to challenge which act and element of the offence it proves.[119]

The examination focuses on attribution discrepancies involving two subscriptions and two accounts. Connection data, account, device and date are assessed together. Specific contradictions are presented below in that order.[120]

The post-quashing judgment states that the digital matching took into account usernames and records associated with the accounts as well as findings concerning two accounts and two subscriptions. The court therefore did not rely solely on CGNAT. Nevertheless, its answers to account, subscription, device and date objections must be assessed alongside institutional letters and technical reports.[121]

Device letters from BTK and the Cybercrime Branch were compared with account and subscription records. The possibility of IMEI cloning mentioned in the cybercrime letter was not substituted for a concrete finding; nor was device model alone treated as conclusive proof of use or non-use.[122]

Applying Yüksel Yalçınkaya v. Türkiye raises two separate questions: reliable attribution of electronic data to the defendant and its connection to the offence's elements. Using ByLock not only for membership but to support an organisational purpose behind investigative measures does not extinguish the right to challenge source, integrity, user matching and meaning. The charge for which the data are used must be specified, and the inferential chain between attributed data and that charge must be effectively contestable at trial.[123]

Yalçınkaya does not recognise an unconditional right to all raw data. Where access is restricted, reasons require judicial scrutiny, the defence must be able to contest relevant material, and adequate procedural safeguards must counterbalance its disadvantage. In Tahşiye, scrutiny requires disclosure of attributed source records and decoded content, reproducible subscription–account–device–date matching, reasoned answers to technical objections and,

119 2015 indictment, Annex 31, narrative and evidence; 2017 judgment, Annex 22, ByLock assessment; 2020 indictment, Annex 32; 2022 judgment, Annex 27. Technical institutional replies date from 2017 and 2019 (Annexes 12–14). These documents establish the timing distinction between the initial allegation and later organisational evidence.
120 Istanbul Police Directorate Organised Crime Branch, letter on user and connection data, 25 July 2019 (Annex 12).
121 Istanbul 14th Assize Court, 10 June 2022, 2021/123 E., 2022/172 K., Annex 27, PDF pp.691–692; Istanbul Police Directorate Organised Crime Branch letter, Annex 12.
122 BTK, device-information letter and annexes, 5 May 2017 (Annex 13); Istanbul Police Directorate Cybercrime Branch, letter on devices' ability to run the application, 3 July 2017 (Annex 14).
123 Yüksel Yalçınkaya v. Türkiye [GC], 15669/20, 26 September 2023, §§324–341, 356.

where necessary, access permitting independent expertise. A general finding that data accord with other records does not replace these safeguards.[124]

6.3.1 Comparison of digital evidence using the available documents

Device information in 2015 connection records associated with Account A was matched to a Nokia 6131. The Cybercrime unit's reply states that this model cannot run the application. A discrepancy therefore requires explanation between the technical record underlying user attribution and device capability. Reliance on possible IMEI cloning requires concrete evidence of cloning or identification of a different device actually used. This finding rests on the appended institutional reply, separately from the submission's interpretation.[125]

The institutional reply identifying inability to run the application establishes a concrete technical obstacle to user matching. Hypothetical IMEI cloning alone cannot overcome it; if that explanation is adopted, the actual device and corroborating matching records must be produced. Its primary legal significance falls under Article 6, concerning reliability and answers to a substantial technical objection. The separate Article 7 issue is automatically treating the offence's material and mental elements as satisfied on the basis of disputed attribution.

For the other subscription, the letter of 25 July 2019 expressly distinguishes absent User ID and content information from existing CGNAT data. Inferring definite personal use and organisational intent solely from connection records without identifying the user account exceeds the data's probative value. The conviction must show what subsequent measure completed the missing matching. Here the source is the institutional letter itself; the account-activity narrative below comes from a defence submission.[126]

According to the defence, four of Account B's six application contacts are with Account A, also attributed to the same defendant. Attributing both accounts to one person makes it appear that the person communicated with their own other account; the actual user of each requires explanation. The defence further alleges Account B activity during detention. Page 52 of the same submission gives 25 October 2015; page 65 gives 23 October 2015. These are two dates in a defence text, not conflicting official records. Both postdate the stated detention

124 ECtHR, Yüksel Yalçınkaya v. Türkiye [GC], 15669/20, 26 September 2023, §§324–336, especially §§328–331, 334–335. https://hudoc.echr.coe.int/eng?i=001-227636 ; ECtHR Registry, Article 6 criminal-limb guide, electronic-evidence access and effective challenge. https://ks.echr.coe.int/documents/d/echr-ks/guide_art_6_criminal_eng-pdf
125 Defence on the merits and annexes, Istanbul 14th Assize Court, 2021/123 E., 1 June 2022 (Annex 08), copy p.50; BTK, device-information letter and annexes, 5 May 2017 (Annex 13); Istanbul Police Directorate Cybercrime Branch, device-capability letter of 3 July 2017 (Annex 14).
126 Istanbul Police Directorate Organised Crime Branch, letter on user and connection data, 25 July 2019 (Annex 12).

date. The date, whether the activity was login/connection or messaging, and the user must be determined from original application records.[127]

Against the final submissions of 13 April 2022 treating use as established by technical evidence beyond doubt, a specific technical explanation resolving device, account and detention-date contradictions is required. Proceeding to individual criminal responsibility without resolving attribution affects evidential reliability and the right to a reasoned judgment.[128]

Personal attribution of digital data and organisational criminal intent are separate evidential issues. Deficient user matching cannot justify personal use; acceptance of personal use cannot, without further reasons, justify knowing commission of investigative irregularities or participation in a criminal plan. Without determining activity date, content and actual user, digital records cannot fill the missing link between official acts and organisational purpose.

6.4 Expert examination of document attribution

An interlocutory order of 19 March 2021 refused a defendant's request for expert examination of initials he denied were his. The court relied on earlier statements and the file, adding that naked-eye inspection left no doubt about attribution. Attribution remains disputed. If it is a decisive link in the charge, the earlier admission relied upon and why technical examination would not assist the outcome must be specified; visual similarity does not scientifically resolve disputed attribution.[129]

7 Legality and individual criminal responsibility

The principle of legality safeguards foreseeability of acts or omissions attracting criminal responsibility, where necessary with judicial interpretation and legal advice, and prohibits retrospective offences and penalties. Judicial clarification is permissible, but its result must accord with the offence's essence and be reasonably foreseeable. Individual responsibility is assessed through statutory elements, personal conduct and the requisite mental element.[130]

This section examines duties, individual contribution and criminal intent by reading hearing documents, indictments, the post-quashing judgment and 2025

127 Defence on the merits and annexes, Istanbul 14th Assize Court, 2021/123 E., 1 June 2022 (Annex 08), copy pp.52, 65.
128 Defence on the merits and annexes, Istanbul 14th Assize Court, 2021/123 E., 1 June 2022 (Annex 08), copy pp.36, 49–52.
129 Istanbul 14th Assize Court, 19 March 2021, 2020/90 E., sixth hearing, interlocutory order 11 (Annex 38); signature-examination request and refusal reasons.
130 ECtHR, Guide on Article 7, 2026, §§25–30, https://ks.echr.coe.int/documents/d/echr-ks/guide_art_7_eng ; Yüksel Yalçınkaya v. Türkiye [GC], 15669/20, 26 September 2023, §§237–242.

decision together. The chain of official duties does not produce a collective conclusion of innocence or guilt for all defendants.

Official hierarchy and telephone contacts cannot be equated with organisational hierarchy. The central legality issue is what concrete facts justify moving from official acts to organisational purpose and knowing participation. The Court of Cassation itself requested further investigation of the organisational purpose of official acts and individual participation.[131]

Criminal responsibility cannot be attributed collectively from title or institutional position. The criminal act, contribution and requisite mental element require evidence. The approval and command chain explains who acted under what authority; knowledge of unlawfulness and participation in a criminal plan must be proved separately.

Yasak v. Türkiye [GC] (17389/20, 5 May 2026) found an Article 7 violation. In particular, §§211–214 require individualised examination of the mental element grounded in concrete facts and a link between knowledge, intention and conduct. In Tahşiye, the act constituting participation, contemporaneous knowledge and conduct evidencing voluntary participation must be explained. Deployment, official approval, initials, telephone contacts or application use cannot replace that examination. Authorised duties must be distinguished, for each individual, from knowing fabrication or participation in unlawful deprivation of liberty.[132]

The 2025 decision adopts the premise that someone lacking organisational motivation could not have served in this investigation, characterised by intensive and systematic unlawful acts. Its additional reliance on HTS, coordination and first-instance findings does not remove the duty to explain the connection between that premise and individual criminal intent. Under Yasak, the inquiry is why each person's conduct exceeded ordinary duties and what concrete evidence shows knowing organisational participation in illegality. A finding that the overall process was unlawful cannot replace proof that everyone involved knew the criminal plan.[133]

131 Response to quashing, Istanbul 14th Assize Court, 2021/53 E., 28 May 2021 (Annex 07), copy pp.5–7; defence on the merits and annexes, 2021/123 E., 1 June 2022 (Annex 08), copy pp.9–10.
132 ECtHR [GC], Yasak v. Türkiye, 17389/20, 5 May 2026, §§200–214. Individualised criminal responsibility and mental element; Article 7 violation.
133 Court of Cassation, 3rd Criminal Division, 21 April 2025, 2025/2143 E., 2025/11659 K. (Annex 34), pp.7–8. Relationship of general inference to individual offence elements: Annex 42, section 4.

7.1 Distinction between knowledge acquired through duties and knowledge of a crime

Hearing records show different forms of duty: deployment to the operational area, recent assignment to a unit, dispatch of teams and initialling correspondence in the signature process. These do not imply identical knowledge or contribution. Preserving these distinctions prevents conflation of institutional activity and individual criminal responsibility.[134]

Ordering an operation is not the same act as joining a criminal plan knowing ammunition was planted. Initialling a document does not automatically establish knowledge of its entire contents or a wider plan. Without explaining conduct, knowledge and intent, the official chain replaces individual responsibility.

For media workers, technical production must likewise be distinguished from authority over content. Hearings explained that assistant directing, filming, dubbing and editing were performed by different people and at different locations. Turning employment on a production into preparation of specific accusatory content or direction of police measures requires proof of concrete authority and contribution.[135]

8 Conclusions and recommendations for international monitoring

8.1 Conclusions confined to the documentary record

The questioning language and discrepancies in minutes shown in sections 4.1–4.2 require joint examination of apparent impartiality and effective defence participation. The comparison of institutional sanctions and careers likewise demonstrates a need to explain differing treatment through individual conduct and objective professional criteria.[136]

The institutional letters in section 6.3 require concrete answers concerning device and user matching. Account activity and contact counts are addressed with attribution to defence sources. Evidential attribution and criminal intent are separate questions of proof; Yalçınkaya and Yasak reinforce that distinction.[137]

134 Expert covering letter of 8 March 2021 and fourth-hearing SEGBİS transcript, 25 February 2021, Istanbul 14th Assize Court, 2020/90 E. (Annex 11), pp.2–13.
135 Expert covering letter of 8 March 2021 and fourth-hearing SEGBİS transcript, 25 February 2021, Istanbul 14th Assize Court, 2020/90 E. (Annex 11), pp.20–21.
136 Istanbul 14th Assize Court, fourth-hearing minutes, 25 February 2021, 2020/90 E. (Annex 10); expert covering letter of 8 March 2021 and same-hearing SEGBİS transcript (Annex 11).
137 Istanbul Police Directorate Organised Crime Branch, user/connection-data letter of 25 July 2019 (Annex 12); BTK, device-information letter and annexes of 5 May 2017 (Annex 13); Istanbul Police Directorate Cybercrime Branch, device-capability letter of 3 July 2017 (Annex 14); defence on the merits and annexes, Istanbul 14th Assize Court, 2021/123 E., 1 June 2022 (Annex 08), copy pp.49–52.

On ammunition placement, the 2017 and 2022 reasoning combines direct placement by police, placement under police supervision and placement through a group member. Linking these accounts to the same conviction without explaining the perpetrator, each defendant's material contribution and evidence of knowledge of the common plan is a substantial problem of coherent reasoning and proof of individual responsibility. Section 6.2 demonstrates this through judgment texts and defence objections.

Karaca found no violation concerning reasonable suspicion underlying initial detention, but violations of other safeguards governing detention review. This has not been extended into a violation finding concerning other defendants' trials.

The 2015 deprivation-of-liberty documents and 2017 extension and objection decisions ground the detention section in primary court records beyond an individual application's narrative. The 2025 decision shows affirmance with corrections of eight organisation-offence convictions. This does not mean that the entirety of no. 2020/90 E. has ended. Addressing the affirmance's reasoning as well, the report examines safeguards of reasoning, individualisation and effective evidentiary challenge.

8.2 Recommendations to the Turkish authorities

The Istanbul 14th Assize Court or competent successor court should, if portions of no. 2020/90 E. remain pending, compare identified minute–transcript discrepancies against original SEGBİS recordings and give reasoned answers to correction requests. The legally competent authority examining requests for disqualification and assignment of other judges on impartiality grounds should assess each specific hearing behaviour alleged.[138]

The court assessing digital evidence should request underlying subscription, device, account and date-matching records from the relevant police units and BTK. Those institutions should produce them on judicial request; defence access and, where necessary, independent expertise should be ensured.

The competent appellate authorities reviewing the 2017 and 2022 judgments should examine the evidence reconciling the three accounts of the ammunition's perpetrators. Within its jurisdiction, the trial court should clarify procurement, discovery and destruction conditions and protect both the complainants' investigative requests in the Tahşiye group case and the defendants' right to challenge evidence in the investigators and media case. Each defendant's proven

138 Istanbul 14th Assize Court, 3 March 2021, 2020/90 E., expert examination and delivery record, Annex 28; minutes and expert transcript of 25 February 2021, Annexes 10–11.

conduct—direct placement, procuring placement or knowingly acting as lookout—must be identified. Unmet requests to hear those preparing the destruction request, issuing instructions and implementing destruction require reasoned consideration; where destruction is attributed to defendants, their contemporaneous duties and individual contributions must be documented.

For independence and impartiality, the HSK should examine hearing behaviour and record discrepancies alleged in specific complaints under judicial ethics and disciplinary safeguards, without interfering with the substance of reasoned judgments. Complainants should be informed of outcomes; scrutiny must not become retaliation for judicial decisions. Objective criteria and independent review safeguards for appointments, promotions and transfers should be strengthened.[139]

If persons and charges remain pending in no. 2020/90 E., the competent trial court should ensure consultation with counsel, participation, document access and remediation of incomplete acts. Any continuing detention should be assessed through individual reasons addressing current circumstances and less restrictive measures. This recommendation does not confirm the file's current procedural stage.

Within their respective powers over persons and judgments before them, the relevant Regional Court of Appeal and Court of Cassation 3rd Criminal Division, and the Constitutional Court in admissible applications, should review whether objections concerning minutes, attribution and individual intent were addressed. Remedies and time limits for convictions affirmed on 21 April 2025 must be determined individually.

Position established by Annexes 35 and 36

Annex 35 contains a Constitutional Court application form and annexes; Annex 36 an ECtHR application form and annexes. Without current registration/service correspondence or a final decision, these documents do not establish registration, pendency or outcome. The status of Karaca's application has not been attributed to other individuals.[140]

8.3 International addressees and mechanisms

Council of Europe Committee of Ministers and Department for the Execution of Judgments: Rule 9.2 communications should relate to individual and general measures

139 UN Basic Principles on the Independence of the Judiciary, principles 1–2, 13, 17–20; Council of Europe Committee of Ministers, CM/Rec(2010)12, §§44–49, 66–71. Separation of judgment merits and disciplinary review; judicial safeguards.
140 Annexes 35–36, application forms and documentary annexes. These are not current-status court letters or final decisions.

remedying violations in Karaca and Başer and Özçelik. The 2020/90 E. examples were not the subject of those judgments; in execution, they may be used only insofar as concretely linked to persistence of the same structural problem and the need for general measures. This procedure does not provide a new merits review.[141][142]

UN Special Rapporteur on the independence of judges and lawyers: The sanctions, appointments and hearing findings in section 4.1 should be examined for judicial security and chilling effects. Relevant authorities should be asked to explain decisional freedom, appointment/promotion criteria and complaint outcomes, and recommendations should address independent review safeguards.[143]

OSCE Office for Democratic Institutions and Human Rights (ODIHR): If proceedings remain pending, monitoring possibilities should be assessed within its mandate/programme, cooperation with authorities and access conditions. If direct monitoring is unavailable, methodological support for independent local monitoring may be considered. Focus areas are legal assistance, participation, document access, witness examination and responses to technical objections.[144]

Council of Europe Commissioner for Human Rights: The findings should inform Türkiye country monitoring and work on judicial independence, with differential treatment, judicial safeguards and effective defence addressed in country dialogue and reform recommendations.[145]

141 Council of Europe Department for the Execution of Judgments, NHRIs/CSOs, civil-society communications under Rule 9, accessed 26 October 2026.
142 ECtHR, Başer and Özçelik v. Türkiye, 30694/15 and 30803/15, 13 September 2022, §§148–159, 167–168, 194–203; HUDOC: https://hudoc.echr.coe.int/eng?i=001-219095 . Findings summary: ECtHR Registry, Judgments of 13 September 2022, pp.1–2, https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-7429557-10171898 . Rule 9.2: https://www.coe.int/en/web/execution/nhri-ngo .
143 OHCHR, Special Rapporteur on the independence of judges and lawyers, mandate and contact information, accessed 26 October 2026.
144 OSCE/ODIHR, Trial Monitoring A Reference Manual for Practitioners, revised edition 2012.
145 Council of Europe Commissioner for Human Rights, The Mandate, accessed 26 October 2026.

9 Index of annexes

Annex 01 is a partial defence copy. Annexes 10–20 and 39–41 are extracts from source documents; Annexes 33 and 42 are analyses. Annex 38's PDF reading copy should be considered alongside the original UDF archive.

Table 4 Number and scope of source annexes

'Annex' identifies the source number, 'Document' its reference and 'Pages' its total length. For example, 2920 is Annex 22's page count. In footnotes, 'PDF p.' refers to the physical file page and 'printed p.' to the document's own number; covers and annexes may cause differences.

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03	Final statement before judgment submitted to the Istanbul 14th Assize Court, 2015/281 E., 3 November 2017	1
04	Intermediate appeal submission, Istanbul 14th Assize Court, 2015/281 E., 2017/172 K., 10 January 2018	238
05	Complaint to the Council of Judges and Prosecutors and annexes, Istanbul 14th Assize Court, 2020/90 E., 22 March 2021	85
06	Defence submission and annexes to the Istanbul 14th Assize Court, 2020/90 E., 22 September 2021	316
07	Submission responding to the quashing decision, Istanbul 14th Assize Court, 2021/53 E., 28 May 2021	7
08	Defence submission on the merits and annexes to the Istanbul 14th Assize Court, 2021/123 E., 1 June 2022	100
09	Application for disqualification of a judge, Istanbul 14th Assize Court, 2021/53 E., 26 May 2021	4
10	Istanbul 14th Assize Court, fourth-hearing minutes, 25 February 2021, 2020/90 E.	7
11	Expert's covering letter of 8 March 2021 and SEGBİS transcript of the fourth hearing on 25 February 2021, Istanbul 14th Assize Court, 2020/90 E.	30
12	Istanbul Police Directorate Organised Crime Branch, letter on user and connection data, 25 July 2019	2
13	Information and Communication Technologies Authority, device-information letter and annexes, 5 May 2017	4
14	Istanbul Police Directorate Cybercrime Branch, letter on devices' ability to run the application, 3 July 2017	1
15	Title page of the indictment of 12 May 2010, Istanbul Chief Public Prosecutor's Office, investigation 2009/1016	1
16	Istanbul Police Directorate and General Directorate of Security, approval correspondence for the planned intelligence operation, January 2010	3
17	Istanbul 14th Assize Court, eighth-hearing minutes, 6 June 2012, 2010/123 E.	3
18	Istanbul Chief Public Prosecutor's Office, requisition for a file copy from the Bakırköy 3rd Assize Court, 25 November 2014, investigation 2014/133596	1
19	Istanbul 3rd Magistrate's Court, restriction order, 13 December 2014, 2014/3044 D.İş	1
20	Istanbul Chief Public Prosecutor's Office, request for restriction order, 13 December 2014, investigation 2014/133596	1
21	Tahşiye narrative in contemporary media, 23 March–16 December 2014, open-source news references and short quotations	2
22	Istanbul 14th Assize Court, 3 November 2017, 2015/281 E., 2017/172 K., reasoned judgment	2920

No	Document	Pages
23	Istanbul Regional Court of Appeal, 3rd Criminal Division, 21 September 2018, 2018/707 E., 2018/1102 K., appellate decision	7
24	Court of Cassation, 16th Criminal Division, 31 December 2020, 2019/4737 E., 2020/6918 K., decision	14
25	Istanbul Chief Public Prosecutor's Office, 12 May 2010, investigation 2009/1016, indictment 2010/323	114
26	Bakırköy 3rd Assize Court, 15 December 2015, 2015/264 E., 2015/417 K., reasoned judgment	56
27	Istanbul 14th Assize Court, 10 June 2022, 2021/123 E., 2022/172 K., reasoned judgment	703
28	Istanbul 14th Assize Court, 3 March 2021, 2020/90 E., expert examination and delivery record	1
29	Istanbul Police Directorate, 25 January 2010, investigation 2009/1016, police investigation report	50
30	Istanbul Chief Public Prosecutor's Office, 6 June 2012, 2010/123 E., final submissions on the merits	7
31	Istanbul Chief Public Prosecutor's Office, indictment 2015/2872, investigation 2014/133596	352
32	Istanbul Chief Public Prosecutor's Office, indictment 2020/6495, investigation 2015/90707	146
33	Judicial independence: subsequent outcomes for judges, prosecutors and public officials, and hearing analyses	9
34	Court of Cassation, 3rd Criminal Division, 21 April 2025, 2025/2143 E., 2025/11659 K.	9
35	2017 Constitutional Court individual application form and annexes; not the Constitutional Court's decision	34
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41	Court attendance letter of 6 January 2021 and minutes-correction application of 4 March 2021	3
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10 International sources and case-law

Judgments of the European Court of Human Rights

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