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***Pişkin v. Turkey*: Joint Rule 9.2 Submission by the Turkey Human Rights Litigation Support Project, Amnesty International and the International Commission of Jurists**

I. Introduction

1. In line with Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments, the Turkey Human Rights Litigation Support Project, Amnesty International and the International Commission of Jurists ('the NGOs') hereby present this communication regarding the execution of the European Court of Human Rights ('the Court' or 'ECtHR') judgment in the case of *Pişkin v. Turkey* (Application no. 33399/18). This complements an earlier submission by the NGOs dated 29 October 2021 ('the initial submission')[1] on general measures Türkiye has an obligation to take to implement the Court's judgment in *Pişkin v. Turkey* and responds to the Government's Action Report submitted to the Committee of Ministers on 31 January 2022 requesting the closure of the case.

2. The NGOs oppose the Government's request in the Action Report that the Committee close its supervision of the judgment in the strongest terms. Closure of the case would plainly be premature. As explained below, closure is in no way supported by the Government's submissions which, on the contrary, point to a failure to implement the judgment to date. Moreover, so far as the Action Report indicates steps that have been taken, it fails to provide the relevant information upon which an assessment of those measures depends.

3. The *Pişkin v. Turkey* judgment is the first in which the Court has ruled on the incompatibility with the ECHR of the widespread dismissals of public sector workers under the state of emergency. The findings of the Court are relevant to the tens of thousands who have been affected by this drastic practice, and whose right to an effective remedy continues to be violated. The NGOs urge the Committee of Ministers to exercise robust oversight of this important case, and to adopt a holistic approach to implementation and reparation in the case. While this includes addressing the situation of Mr. Pişkin (on which, as noted below, the government has failed to provide adequate information), the Committee's attention should not be limited to the narrow circumstances of his particular case, as his case represents widespread and systematic violations of similar nature which have in no way been addressed or remedied.

II. Background

4. The Committee is aware of the background of this case, and the NGOs have underlined in more detail certain particular consequential aspects in the 29 October 2021 submission. In brief, following the coup attempt of 15 July 2016, the Turkish Government declared of a nationwide state of emergency and issued 32 executive decrees during the ensuing two-year formal state of emergency period. Most emergency measures adopted during this time were later incorporated

[1] Submission by Amnesty International, the International Commission of Jurists and the Turkey Human Rights Litigation Support Project pursuant to Rule 9.2 of the Committee of Ministers' Rules for the Supervision of the Execution of Judgments, Initial Observations on the Implementation of *Pişkin v. Turkey (Application no. 33399/18)* final judgment, 29 October 2021: https://hudoc.exec.coe.int/eng?i=004-57513. Please also see Annex for the initial submission.

into the country's ordinary legal framework, including its anti-terrorism legislation,[2] resulting in their effective permanent continuation beyond the official duration of the emergency.[3] One emergency measure at the heart of the *Piskin v. Turkey* case was the mass summary dismissal of public sector workers, which directly affected approximately 130,000 public sector workers who were collectively purged from their positions.[4] The putative grounds for the dismissals of the public sector workers consistently included their alleged "membership, affiliation, connection or contact with terrorist organisations or bodies, entities or groups which are decided by the National Security Council to have acted against the national security of the State."[5] The dismissals had no temporal limit, and executive decrees made clear that public sector workers dismissed under the decrees would never be able to work in the public sector again.[6]

5. The emergency decrees brought about dismissals in two different ways during this period, corresponding to two different processes by which affected persons could seek annulment of the dismissal procedures in order to challenge the dismissals. First, those dismissed by executive decree, which directly listed civil servants to be dismissed, had to apply to the State of Emergency Measures Inquiry Commission ("the Inquiry Commission") established under Emergency Decree Law No. 685.[7] Others were dismissed by administrative decisions delivered under new extraordinary powers conferred by the emergency decrees, and such affected persons could apply directly to the courts. Both of these dismissal processes suffered from similar defects as public sector workers dismissed under either procedure were subjected to systematic arbitrariness, suffered profound human rights impact, and failed to receive access to an effective remedy. As noted further below, the vast majority of the thousands of challenges brought by dismissed workers have been rejected by the Inquiry Commission or remain pending before administrative bodies and domestic court.

6. Pursuant to Article 46(1) of the ECHR, and broader international law (for instance, Article 2 ICCPR), Türkiye is obliged to take various steps to implement this important judgment. These include (1) acting to bring ongoing violations to an immediate end, for the applicant and the many others in the same situation, (2) providing an adequate remedy and reparation, among other things, restitution, and compensation, and (3) taking measures to ensure non-repetition of similar violations in the future.[8] As noted below, the Government has provided insufficient information to suggest that any of these dimensions of implementation has been adequately carried out to date.

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[2] Law No.7145, "On the Amendment of Some Laws and Emergency Decrees", published in the Official Gazette on 25 July 2018.

[3] Amnesty International, "The State of Emergency has ended but urgent measures are now needed to reverse the roll back of human rights", 18 July 2018. https://www.amnesty.org/en/latest/campaigns/2018/07/turkey-state-of-emergency-lifted/ and Human Rights Watch, "Turkey: Normalizing the State of Emergency," 20 July 2018 https://www.hrw.org/news/2018/07/20/turkey-normalizing-state-emergency.

[4] "Public sector work" applies to a wide variety of sectors in Türkiye and includes people who would not be considered "civil servant" elsewhere.

[5] This basis was first listed in the Executive Decree no. 667 issued on 23 July 2016. It was then repeated in subsequent executive decrees that resulted in dismissals from public sector.

[6] According to the Provisional Article 35 of the Decree No. 375, those who have been dismissed cannot be employed in the public sector again and they cannot be appointed to any position directly or indirectly.

[7] Turkey Human Rights Litigation Support Project (TLSP), Access to Justice in Turkey: A Review of the State of Emergency Inquiry Commission, October 2019. https://static1.squarespace.com/static/5b8bbe8c89c172835f9455fe/t/5e13373ddbd43712f438077a/1578317708753/State+of+Emergency+Commission+Report+Edited+Version+final.pdf.

[8] See Recommendation *Rec(2004)6* of the Committee of Ministers to member states on the improvement of domestic remedies. https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805dd18e.

III. The Action Report provides misleading and incomplete information regarding individual measures and indicates a failure to provide appropriate reparation

7. In its January 2022 Action Report, the Government argues that it has taken the necessary measures to ensure that the violations established by the ECtHR have ceased and redress has been afforded to the applicant. In support, the government refers to the 'just satisfaction' (the sum of 4000 Euros in respect of non-pecuniary damage) awarded by the Court having been disbursed to the applicant. The Government also reports that the impugned civil proceedings were reopened, leading to the Turkish Labour Court finding that the termination of the applicant's labour contract was invalid, and the applicant should be reinstated to his former position. The NGOs submit that this information is incomplete and, in some respects, misleading.

Reinstatement/Restoration of Employment:

8. The Government does not indicate whether the applicant – or others in comparable situations - have in fact *been*, or indeed *will* be, reinstated or reemployed. Despite referring in its Action Report to a labour court decision in Mr. Piskin's case, and to judicial decisions on reinstatement in other cases, in support of its progress in implementing this judgment, it fails to clarify whether the court decisions to which it refers actually provide any guarantee of reinstatement. The NGOs are concerned that the Action Report fails to reflect Turkish law and practice, under which the decisions to which the government refers afford no such guarantee of reinstatement.

9. In fact, under Article 21 of the Turkish Labour Code (Law No.4857), employers are not obliged to reinstate a worker even where labour courts hold that the termination of a labour contract was invalid. Rather, the employer has broad discretion under labour law to refuse reinstatement, with the only implication being that the worker is to be paid compensation corresponding to their gross wage for a number of months specified by the same labour court.[9]

10. Restitution *(restitutio in integrum*) is a core dimension of reparation, as is broadly recognised across general international law, including under Article 2(3) the International Covenant on Civil and Political Rights,[10] to which Türkiye is Party, UN Basic Principles on the Right to Remedy for Victims of Gross violations of Human Rights Law and Serious Violations of Human Rights and Humanitarian Law.[11] The UN Basic Principles explicitly describe reinstatement to

[9]Article 21 of the Turkish Labour Code provides under the title "Consequences of termination [of a labour contract] without a valid reason": "If the court or the arbitrator concludes that the termination is unjustified because no valid reason has been given or the alleged reason is invalid, the employer must re-engage the employee in work within one month. If, upon the application of the employee, the employer does not re-engage him in work, compensation to be not less than the employee's four months' wages and not more than his eight months' wages shall be paid to him by the employer. In its verdict ruling the termination invalid, the court shall also designate the amount of compensation to be paid to the employee in case he is not re-engaged in work. The employee shall be paid up to four months' total of his wages and other entitlements for the time he is not reengaged in work until the finalization of the court's verdict. If advance notice pay or severance pay has already been paid to the reinstated employee, it shall be deducted from the compensation computed in accordance with the above stated subsections. If term of notice has not been given nor advance notice pay paid, the wages corresponding to term of notice shall also be paid to the employee not re-engaged in work. For re-engagement in work, the employee must make an application to the employer within ten working days of the date on which the finalized court verdict was communicated to him. If the employee does not apply within the said period of time, termination shall be deemed valid, in which case the employer shall be held liable only for the legal consequences of that termination. The provisions of subsections 1, 2 and 3 of this Article shall not be altered by any agreement whatsoever; any agreement provisions to the contrary shall be deemed null and void". Translation from: https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/64083/77276/%20F75317864/TUR64083%20English.pdf.

[10] See UN Human Rights Committee, General Comment 31 on the Nature of the General Legal Obligation Imposed on Parties to the Covenant, UN Doc CCPR/C/21/Rev.1/Add. 13 (26 May 2004), para. 16.

[11] UNGA UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law 2005, para. 18- 19. For state responsibility in general, Article 35 of the International Law Commission's Articles on State Responsibility

employment as one form of restitution.[12] A similar principle is reinforced by the UN Human Rights Committee, including the Guidelines on Reparation under the ICCPR which make explicit reference to reinstatement.[13] The ECtHR has affirmed in its case law that the nature of a violation may leave no real choice as to the measures required to remedy it,[14] and specifically that an applicant's reinstatement to a former post may be required to put an end to violations.[15] The Inter-American system has similarly recognised that reinstatement and restoration of salaries and benefits, may be an essential element of remedy and reparation.[16]

11. The apparent broad discretion in the Turkish Labour Code not to reinstate is out of step with these standards. It is noteworthy that in the present context, there is no assertion by the Government that this discretion is limited to exceptional, defined, and constrained circumstances, such as where reinstatement of a former employee might be impossible or impose an excessive burden on the state. (Such a condition would apply to these public sector workers in any event).[17]

12. The Government must therefore provide information not only on the existence of decision, but of its legal implications and impact in practice.

Compensation & Recognition of Profound Impact:

13. Second, the compensation provided for in law, and awarded by the Labour Court in Mr. Piskin's case, does not reflect the gravity of the wrong or its serious material and other implications for those affected. The Government's submission indicates that if Mr. Piskin is not reinstated despite the Labour Court's decision, five months of gross wages would be paid in lieu of reinstatement. The law provides that the amount paid could not be more than eight-months of gross wages. [18]

14. The definitive loss of earning potential and public sector career development embodied in this case can hardly be compensated by five months – or even the maximum award of up to eight months - of wages.[19] In this respect, it is essential to take into account the profound impact of the massive dismissals on public officials. They not only lost their jobs and income, but also their career prospects. They were stigmatised, harassed, socially ostracized and prevented from pursuing work in the public or the private sectors.[20] The implications therefore go far beyond those that would arise in a regular employment dispute over unfair dismissal. The NGOs note

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recognise that a State responsible for an internationally wrongful act is under an obligation to make restitution to other states, where it is possible and does not involve a 'burden out of all proportion to the benefit deriving from restitution instead of compensation.'

[12] Ibid.

[13] UN HRC Guidelines on Reparation under ICCPR, 30 Nov. 2016, UN Doc CCPR/C/158, par. 6. See also *Garzon v Spain*, UNHRC (2001) including specifically the separate opinions of Zyberi and Quezada Cabrera noting reinstatement of a judge unlawfully dismissed is an essential dimension of implementation. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/158&Lang=sp.

[14] ECtHR, *Assanidze v. Georgia* [GC], no. 71503/01, paras 202-03, 8 April 2004; see also *Ilaşcu and Others v. Moldova and Russia* [GC], no. 48787/99, 8 July 2004, para. 490.

[15] See ECtHR, *Oleksandr Volkov v. Ukraine*, no. 21722/11, 9 January 2013; ECtHR, *Maestri v. Italy*, no 39748/98, 17 February 2004.

[16] Inter-American Court of Human Rights, *Loayza-Tamayo* v. Peru (Judgment of 27 November 1998), the IACtHR held that the State should make every effort within its power to have the victim reinstated in the teaching positions she held in public institutions at the time of her detention with her salaries and other benefits to be equal to the full amount she was receiving for teaching in the public and private sectors at the time of her detention. Se also CIDH, *Apitz Barbera y otros c. Venezuela*, 5 de agosto de 2008, Párrafo 246. https://www.corteidh.or.cr/docs/casos/articulos/seriec_182_esp.pdf.

[17] See eg UN Basic Principles, UNHRC Guidelines, and for inter-state reparation the ILC Articles on State Responsibility.

[18] Article 21 of the Turkish Labour Code. See Supra note 9.

[19] See eg *Maestri v. Italy* supra, on the need to redress the career effects if disciplinary sanctions, which compensation of five months fails to do.

[20] FIDH and OMCT, "A perpetual Emergency: Attacks on Freedom of Assembly and Repercussions for Civil Society". https://www.omct.org/files/2020/07/25998/rapport_obs_turkey_july_2020_final.pdf

the ongoing lack of recognition of these profound implications for Mr. Piskin and others as a result of wrongdoing by the Turkish state, and the woeful inadequacy of the compensation in the present case.

Financial and Social Benefits:

15. Thirdly, the applicant's termination of employment (like the others who were dismissed from their positions through an administrative decision based on the emergency decrees) is governed by the Turkish Labour Code, under which he is not entitled to financial and social benefits due from the period between dismissal and any reinstatement. According to Article 21(3) of the Labour Code, the employee shall be paid up to four months in total of their wages and other entitlements for the time they do not regain employment until the finalization of the court's verdict.[21] (By contrast, dismissed public servants who had been working under Law No.657 on Civil Servants, *can* claim their financial and social benefits from the date of dismissal until the date of reinstatement.)

16. Therefore, while the Government submits that a final court decision has found the termination of the applicant's labour contract invalid, the NGOs note that this does not have the effect that the Government implies. There is no indication of restitution even in Mr. Pişkin's own case, the compensation and benefits provided under Turkish law are plainly inadequate, and there has not been real and effective reparation.

IV. The Action Report lacks a plan for <u>general measures</u> to address the violations in *Pişkin v. Turkey*

17. Another component of reparation is the necessity to establish and provide for guarantees of non-repetition of violations. This means non-repetition not only to the specific victims, but to other similarly situated persons. General measures, therefore, are required to address the violations in respect of Mr. Piskin.

18. The Government states in the Action Report that the state of emergency declared after the coup attempt of 15 July 2016 was lifted on 18 July 2018. The Government goes on to argue that the violation found in relation to Article 6 of the Convention does not stem from a structural problem, but rather from the failure of the domestic courts to conduct a thorough or in-depth examination of the particular applicant's claims, which it now considers to have been resolved. The Government also claims that domestic legislation is in conformity with the Convention. Based on these arguments the Government requests closure of the case by the Committee. The NGOs oppose the Government's request for the following reasons.

19. First, thousands of cases are still pending before the State of Emergency Inquiry Commission and domestic courts regarding the dismissed public sector workers, which should be considered as falling within the scope of the ECtHR's *Pişkin v. Turkey* judgment.

20. Second, the Government submission fails to even provide meaningful information, or any statistical data, on the current situation of the massive number of dismissed public sector workers purged from their positions since the coup attempt.

a. It still has not shared the exact number of people dismissed within the context of the state of emergency in Türkiye.
b. No information has been provided as to the number of people reinstated to their previous positions, those whose challenges were rejected and those whose cases are still pending before the administrative courts, labour courts, administrative appeal courts and the Constitutional Court. Specifically, it has not provided information on the acceptance and rejection rates of these courts in relation to the cases of the

[21] See Supra note 9.

dismissed public sector workers, and their detailed legal and factual basis, or their implementation.

c. It provides no official statistical data on, for example, the unemployment rate among affected people, and how many have been unable to secure employment and make a living following their dismissals.

d. It does not recognise, address, or provide information on the blacklisting of public sector workers dismissed under emergency decrees in databases of the Employment and the Social Security Agencies with code "36/OHAL/KHK," which is visible to employers in the private sector to deter them from employing the dismissed public sector workers.[22]

e. It does not address at all other implications, such as the annulment of passports, access to housing or continuing stigma.[23]

21. Significantly, while the Government's submission relies on the role of domestic processes, it ignores the serious and well-established problems with those processes, which impede effective remedies for the public sector workers, whether they were dismissed through the termination of their employment contract (and therefore subject to appeal to courts) or through the lists annexed to emergency decrees (and therefore subject to the Inquiry Commission procedure).

22. As discussed in the NGOs' previous submission and reflected in stern criticism by international monitoring mechanisms and the Court, profound concerns arise with State of Emergency Measures Inquiry Commission.[24] These concerns, which have been set out in detail elsewhere, include the Inquiry Commission's lack of independence (being composed of a majority of Government appointees),[25] the excessive length of proceedings, inadequate procedural safeguards and the lack of evidence cited in decisions upholding dismissals.[26] The rejection rate at the end of Inquiry Commission process remains strikingly high, at 83% according to the figures from the Commission's 2021 report. This is particularly noteworthy given the gravity and scale of the mass purging at issue in this case.[27]

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[22] Arrested Lawyers, "Turkey: No Country for the Purge Victims", https://arrestedlawyers.files.wordpress.com/2020/01/no-country-for-the-purge-victims-1.pdf

[23] See Commissioner for Human Rights of the Council Europe (2020), Report Following Her Visit to Turkey From 1 to 15 July 2019: https://rm.coe.int/report-on-the-visit-to-turkey-by-dunja-mijatovic-council-of-europe-com/168099823e, paragraph 87; and ibid.

[24] European Commission, "Turkey 2021 Report" https://www.ab.gov.tr/siteimages/birimler/kpb/turkey-report-2021-v2.pdf. See also Turkey Human Rights Litigation Support Project (TLSP), Access to Justice in Turkey: A Review of the State of Emergency Inquiry Commission, October 2019. Dunja Mijatović, Commissioner for Human Rights of the Council Europe, stated that despite the fact that she did not have a comprehensive overview about the appeals against the Inquiry Commission's decisions before the competent administrative courts in Ankara, but she was informed that in the vast majority of cases the administrative courts followed the approach and reasoning of the Inquiry Commission. See Commissioner for Human Rights of the Council Europe (2020), Report Following Her Visit to Turkey From 1 to 15 July 2019: paragraph 85.

[25] The Commission is comprised of seven members, five of whom are appointed by the President (before the 25 July 2018 amendment in Law No. 7075, the Prime Minister), the Minister of Justice and the Minister of the Interior. The remaining two members are appointed by the Council of Judges and Prosecutors.
(Hakim ve Savcılar *Kurulu*,_"the HSK"). See supra note 7.

[26] Turkey Human Rights Litigation Support Project (TLSP), Access to Justice in Turkey: A Review of the State of Emergency Inquiry Commission, October 2019.

[27] 104,000 of 126,783 applications have been rejected since its inception, see Activity of the Inquiry Commission for 2021, p. I, https://ohalkomisyonu.tccb.gov.tr/docs/OHAL;/;]_FaaliyetRaporu_2021.pdf; ibid.

23. With regard to *Turkish judicial processes*, it is now well documented that the coup attempt and state of emergency that followed it, exacerbated the systemic and structural problems with the judiciary.[28]

a. While precise data remains elusive in relation to the work of the *administrative courts*, research suggests that the courts follow a similar pattern to the Inquiry Commission by summarily rejecting appeals against the Commission's decisions, without carrying out a proper and detailed examination of evidence submitted by the applicants.[29]

b. It is the duty of the Turkish judicial authorities to clarify the broad concept of connection/link with an illegal structure, which purports to justify the draconian measures imposed on the applicant and thousands of others, and to conduct a careful individualized and thorough assessment of factual evidence to ensure that the extreme measures individuals have been subjected to are justified. As the Court made clear, consistent and clear construction and interpretation of law, in accordance with the principle of legality, are essential to ensure foreseeability and avoid arbitrary interference.[30] However, the Action Report has no information concerning the practice of judicial authorities and their approach to interpretation of these terms. The Government should be invited to provide information on domestic courts' consistent interpretational practice to comply with the concept of foreseeability and carry out proper scrutiny to avoid arbitrary interference in these cases. This information must particularly include the jurisprudence of the Council of State in relation to the concept of connection/link with an illegal structure as assumed by the Court in *Piskin v. Turkey*.

c. With regard to the *Constitutional Court*, the Action Report mentions several cases similar to that of Mr. Pişkin's where the Court found a violation and requested a retrial by the lower courts. However, as noted, the Government failed to provide crucial further information regarding the outcome of these same cases before lower courts, or the current situation of these or other applicants. In these circumstances, the Constitutional Court (like the labour court decisions) referenced by the Turkish Government cannot be taken as evidence of real and effective restitution, or as supporting the Government's claim that "the problem arising from practice has been resolved for the time being."

d. Moreover, the Government's Action Report fails to acknowledge the Constitutional Court's contradictory and unpredictable jurisprudence in the cases of purged public sector workers to date. More than five years since these cases began, the Constitutional Court still has not established clear standards in conformity with ECHR standards concerning foreseeability and arbitrary interference, which is a serious contributing factor to the vulnerability of the rights of purged public sector workers in Türkiye.[31]

24. As regards *legislative measures*, even though the Government states in the Action Report that the state of emergency ended on 18 July 2018, both the new anti-terror law that confers on authorities broad exceptional counter-terrorism powers, and the decree laws, have been

[28] See International Commission of Jurists, "Justice Suspended: Access to Justice and the State of emergency in Turkey" 2018. https://www.icj.org/wp-content/uploads/2018/12/Turkey-Access-to-justice-Publications-Reports-2018-ENG.pdf.

[29] See Commissioner for Human Rights of the Council Europe (2020), Report Following Her Visit to Turkey From 1 to 15 July 2019: see 168099823e (coe.int), paragraph 85. Furthermore, the TLSP is currently carrying out further research examining the effectiveness of judicial review by the Administrative Courts against the Inquiry Commission's decisions concerning dismissal of public sector workers, to be published in late 2022. It entails a detailed analysis of 21 decisions of Ankara Administrative Courts.

[30] Paragraphs 208 and 209 of ECtHR, *Pişkin v. Turkey (Application no. 33399/18)*

[31] TLSP, Access to Justice in Turkey: A Review of the State of Emergency Inquiry Commission, October 2019.

enshrined into ordinary law; as such, state of emergency measures effectively remain in force, [32] until at least 1 August 2022, as provisional article 35 of Decree No. 375 extending the state of emergency measures for 4 years expired on that date. There is need for a substantial review of legislation relevant to the situation of the dismissal of public sector workers in light of the Court's findings about them, yet the Action Report does not address the need for legal reform. As such, the Government has failed to address this critical dimension of implementation.

25. The Action Report of the Turkish Government therefore fails to adequately reflect or address the multiple dimensions of implementation required in this case, beyond the payment of just satisfaction. It does not identify necessary legislative, administrative and judicial changes required to give effect to this judgment, or even steps having been taken towards such reform. It provides no indications of measures being taken to ensure that domestic courts and administrative mechanisms in Türkiye, including the labour and administrative courts, offer the dismissed workers an adequate, effective and genuine judicial review of the impugned measures that have been found lacking. Türkiye continues to fail to ensure that the domestic mechanisms available to the dismissed public sector workers examine relevant evidence and provide reasoned determinations.[33]

26. Finally, as noted above in respect of restitution and compensation (individual measures), there has been a complete failure to recognise responsibility or provide redress for the widespread and devastating impact of the dismissals. In addition to the truncation of careers, impossibility to work in public and private sectors, and stigmatisation, the European Commissioner for Human Rights of the Council of Europe among others has drawn attention to additional sanctions and implications and their profound impact (likened to 'civil death'[34]) for the lives of those dismissed public sectors and their families.[35]

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[32] During the state of emergency Türkiye's Council of Ministers, chaired by the President, enacted thirty-two emergency legislative decrees pursuant to Article 121 of the Constitution, which were subsequently incorporated in ordinary legislation adopted by the Turkish Parliament. In its opinion on the emergency laws the Venice Commission (the Venice Commission Opinion on Emergency Decree Laws Nos. 667-676 Adopted Following the Failed Coup of 15 July 2016, CDL-AD(2016)037, para 226) commented that "the Government interpreted its extraordinary powers too extensively and took measures that went beyond what is permitted by the Turkish Constitution and by international law". See also Amnesty International, Turkey: Weaponizing Counterterrorism: Turkey Exploits Terrorism Financing Assessment to Target Civil Society, 2021, p. 21: https://www.amnesty.org/en/wp-content/uploads/2021/07/EUR4442692021ENGLISH.pdf . The report states as follows: "The use of emergency powers in the name of the fight against terrorism during the two-year state of emergency adversely affected the enjoyment of human rights and the functioning of the criminal justice system including through the imposition of restrictions on the rights to defence and to a fair trial via adopting abusive legal, administrative and security measures. (…) these measures remained in force after the end of the state of emergency following the introduction of Law No. 7145, which integrated them into the ordinary law. As a result, the Turkish authorities have "normalized" the use of exceptional measures granting to themselves a vastly expanded array of powers routinely used to target civil society actors and others, including judges and workers whom they consider opponents."

[33] See TLSP, Access to Justice in Turkey: A Review of the State of Emergency Inquiry Commission, October 2019; and Commissioner for Human Rights of the Council Europe (2020), Report Following Her Visit to Turkey From 1 to 15 July 2019: see 168099823e (coe.int), paragraph 83.

[34] See Commissioner for Human Rights of the Council Europe (2020), Report Following Her Visit to Turkey From 1 to 15 July 2019, paragraph 87.

[35] Commissioner for Human Rights of the Council of Europe, Nils Muižnieks, highlighted a number of additional sanctions which automatically apply to physical persons dismissed by decree or through the procedures established in decrees. Including a life-long ban from working in the public sector (which includes the practice of law) and private security companies, annulment of passports, eviction from staff housing and the annulment of rental agreements between these persons and public or semi-public bodies. The Commissioner also drew attention to the stigma imposed on the dismissed public servants and their families of having been assessed as having links with a terrorist organisation by the Turkish Government itself, heavily compromising their potential of finding employment elsewhere. See Commissioner for Human Rights of the Council Europe, Memorandum on the human rights implications of the measures taken under

27. For the reasons noted above, the NGOs submit that there is no indication of the Government having taken any meaningful steps to effectively implement the *Pişkin v. Turkey* judgment. It would therefore undoubtedly be premature for the Committee of Ministers to end supervision of this important case, before it has even begun. This is particularly crucial where full implementation of this judgment would be relevant to thousands of current and future applicants to the Court. Instead of accepting the Government's request, the NGOs urge the Committee to increase the pressure on the Turkish Government to secure full implementation by examining the matter closely in the next 6 months.

IV. Recommendations to the Committee of Ministers

Regarding procedural matters, the NGOs urge the Committee of Ministers to:

i. Review the implementation of the judgment as a priority under enhanced procedure at an upcoming human rights meeting in the next 6 months, given the serious, widespread and urgent nature of the issues raised in the judgment that have been left unaddressed for more than five years.

Regarding general measures to properly address and implement the ECtHR's findings of violations in relation to Articles 6 and 8 of the Convention, the NGOs urge the Committee of Ministers to:

i. Request Türkiye to provide the missing factual information referred to above, including the detailed facts and figures about the summary dismissal of public sector workers under the state of emergency and its implications;
ii. Urge Türkiye to provide information on the consistent and interpretational practice of administrative courts and labour courts ensure that they comply with the concepts of legality, foreseeability and arbitrary interference in dismissal cases as required by the ECtHR's judgment;
iii. Urge Türkiye to revise its Action Report and formulate clearly the necessary steps to ensure that the State of Emergency Measures Inquiry Commission, labour courts, administrative courts and other domestic administrative and judicial avenues in Türkiye are independent and impartial and they offer an effective review of the cases of dismissed public sector workers;
iv. Ensure that the domestic authorities, including the Constitutional Court, provide for effective remedies for the breaches of the rights that the ECtHR has identified, namely the right to a fair trial and respect for private and family life, of those dismissed under the state of emergency;
v. Invite Türkiye to take into account in its revised Action Report the issues raised by the Council of Europe Commissioner for Human Rights in her February 2020 report[36] and by the NGOs in this submission and their previous submission of October 2021;[37]
vi. Urge Türkiye to adopt a definitive time-limit within which the domestic authorities should conclude a full, fair and effective determination of challenges to the dismissal decisions, taking into account the lapse of some five years since the first dismissals took place; and
vii. Ensure that Mr. Pişkin and other the dismissed public sector workers who obtained a decision of violation and/or reinstatement are provided with full reparation, including restitution and appropriate compensation and guarantees of non-repetition.

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the state of emergency in Turkey, see CommDH(2016)35, paragraph 33 and Commissioner for Human Rights of the Council Europe (2020), Report Following Her Visit to Turkey From 1 to 15 July 2019: see 168099823e (coe.int), paragraph 87.

[36] See Supra note 23.

[37] See Supra note 1.