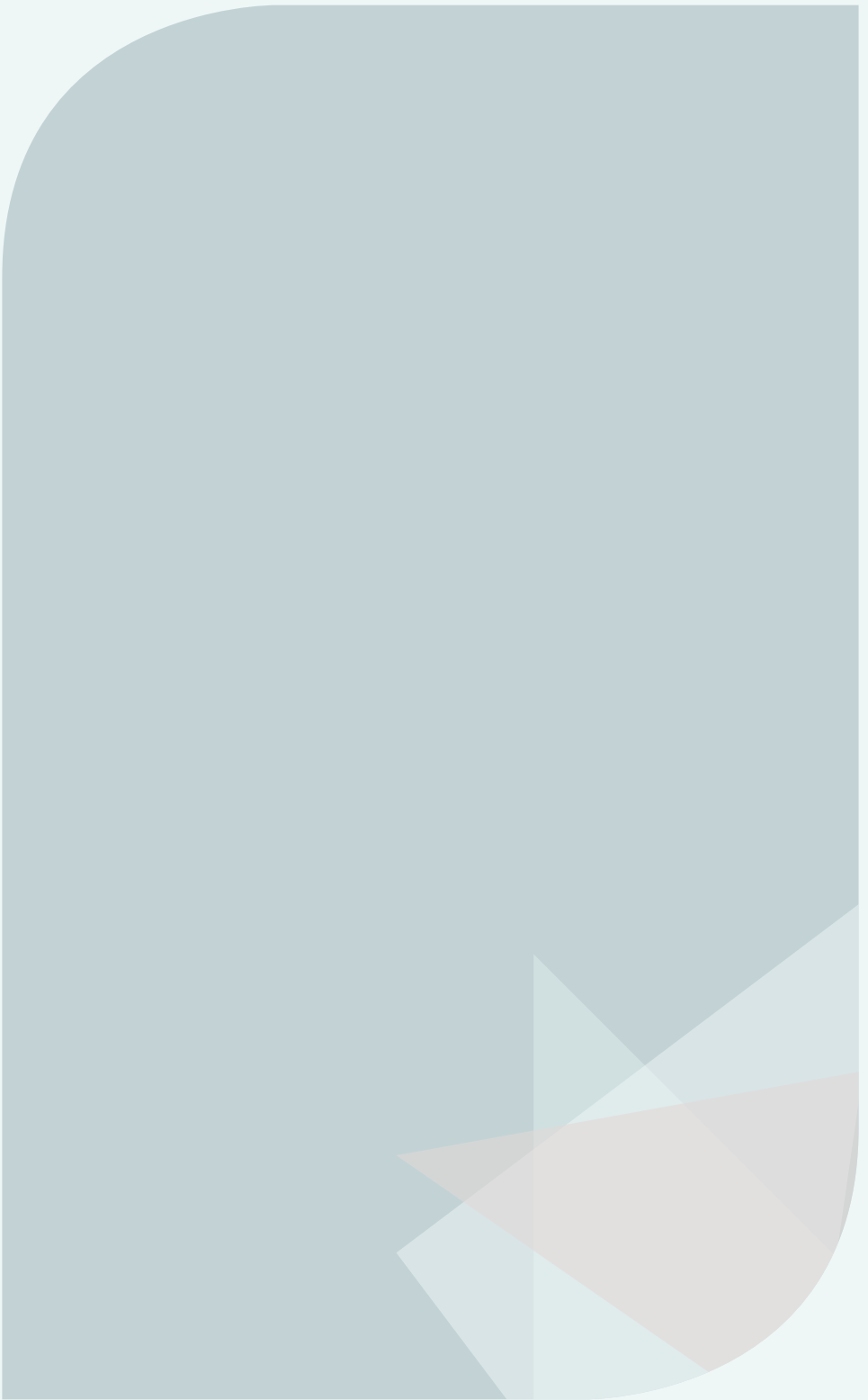




TURKEY AND HUMAN RIGHTS



Ankara - 2016





Turkey, one of the founding members of the Council of Europe, has made substantial reforms in the human rights field. This short study particularly tells the progress made in the last years.

The Human Rights Investigation Commission of the Grand National Assembly of Turkey

The Human Rights Investigation Commission (“the Commission”) of the Grand National Assembly of Turkey was established with a view to performing studies in the field of human rights at Parliamentary level following the application for full membership to the European Union in 1987. The Commission is the first national human rights protection mechanism established for the purpose of protection of human rights at national level.

The Commissions of Compensation for Losses Resulting from Terrorism and the Fight Against Terrorism

The Damage Assessment Commissions were established with a view to prompt, effective, fair and peaceful redressing of losses of the individuals resulting from terrorism and the activities performed within the scope of the fight against terrorism without the need for applying to the national and international judicial authorities.

31 The Commissions within the country are performing their activities. 369,255 applications have been made since the date on which the Commissions started to perform their activities, namely 27 July 2004. 345,260 of these applications were concluded, and compensation was awarded in respect of 184,327 applications. As of 31 December 2015, a total of 3,438,785 Turkish liras were paid to relevant persons.

Individual Applications before the Constitutional Court

With the constitutional amendment made in 2010, the individuals have been granted the right of individual application to the Constitutional Court, which is a turning point as regards protection and improvement of human rights in Turkey. As from 24 September 2012, the Constitutional Court has started to receive individual applications on human rights violation allegations after the exhaustion of domestic remedies and to give decisions on these applications.

As of 20 April 2016, the Constitutional Court rendered 1181 judgments on the merits of the cases. It rendered 36,234 judgments on procedural aspects, 17,296 of which are inadmissible. 22,159 applications are still pending before it.

The Turkish Institution of Human Rights and Equality

The Turkish Institution of Human Rights and Equality, which is a national and independent institution, was established and started to operate in 2012 in line with the system and structure of the United Nations. This institution was determined as the national prevention mechanism by the Decree of the Council of Ministers dated 28 October 2014. The Institution was named after “the Turkish Institution of Human Rights and Equality” by the Law of 20 April 2016, and legal framework and institutional structure concerning the prohibition of discrimination and equal treatment have been rearranged in accordance with the main goal of activating human rights protection mechanisms.

In 2015, 715 applications were lodged with the Institution. 2717 applications with the allegations of human rights violations were lodged with the Provincial and District Human Rights Boards.

The Ombudsman

The Ombudsman, which was established as an independent human rights institution, has been receiving complaints and applications from individuals since 29 March 2013. The Institution examines the administrative procedures and acts on the basis of the principles of human rights.

19,332 applications have been lodged before the institution as from the end of 2015. 6097 applications in 2013, 6348 applications in 2014 and 5897 applications in 2015 were examined and 90 applications were concluded by friendly settlement. 6638 applications in total were concluded in favor of the applicants.

The Law Enforcement Monitoring Commission

The Law Enforcement Monitoring Commission was established with a view to ensuring more effective and speedy functioning of the law enforcement complaint system and improving its transparency and reliability, recording and monitoring the actions taken or to be taken by administrative authorities allegedly performed by law enforcement officers under a central system and improving the investigation procedures to the standards of the European Union.

The Human Rights Department of the Ministry of Justice

On 26 August 2011, the Human Rights Department was established within the Directorate General for International Law and Foreign Relations for the purpose of preparing the Government's observations on the applications against Turkey lodged before the ECtHR and following up the process of execution of the ECtHR's judgments.

The Department also submits observations concerning individual applications examined by the Constitutional Court, on behalf of the Ministry of Justice when considered necessary. Furthermore, the implementation process of the "Action Plan on Prevention of Convention Violations" is followed-up by this Department.

The Human Rights Compensation Commission

The Commission which was established within the Ministry of Justice is responsible for settling disputes by the payment of compensation upon finding of a violation following the examination of some of the applications made to the ECtHR before 23 September 2012.

As from 20 April 2016, the Commission has received 7613 applications and issued decisions on 7160 of them. 3142 applications were accepted and 2208 applications were dismissed. As of April 2016, within the scope of the applications that were accepted, the Commission awarded compensation in a total of 29,623,000 Turkish liras.

The Department of Victims' Rights of the Ministry of Justice

The Department of Victims' Rights was established in 2013 within the Directorate General for Criminal Affairs with a view to supporting victims during the period following the offence, providing counseling services, preventing their suffering, coordinating activities concerning victims performed by the public institutions and NGOs, and contributing to the development of alternative settlement means.

The Action Plan on Prevention of the ECHR Violations

On 24 February 2014, the Action Plan was adopted by the Council of Ministers with a view to materializing the activities to be carried out and the measures to be taken, including the legislative amendments on the basis of the judgments rendered by the ECtHR.

The Action Plan is based on 14 main aims. 46 goals were determined with a view to materializing those aims. The institutions responsible for realizing these goals were determined. Furthermore, different terms were envisaged concerning each aim and goal.

The progress made and the steps taken are recorded by the Ministry of Justice and an Implementation Report is prepared every year.

The Protocols No. 7 and 15 to the Convention have been adopted

The Protocols No. 7 and 15 to the Convention have been considered appropriate by the Parliament with a law and ratified by the Council of Ministers.

The Statute of Limitation in the Offence of Torture was Abolished

As is the case with the genocide and the crimes against humanity, by the legal amendment dated 30 April 2013, the statute of limitation concerning the offences of torture was abolished.

The Notion of Hate Crimes has been Introduced in the Criminal Law

On 2 March 2014, an amendment made to Article 122 of the Criminal Code regulated the prohibition of discrimination and the notion of “hate” has been added along with the statement of discrimination. Accordingly, emphasis has been placed on the fact that the crime in question is discrimination on the basis of hatred, and the amount of the fine has been increased.

Freedom of Press and Media has been strengthened

Investigation of the offence of Defamation of Turkish Society, State of Republic of Turkey, the State's Institutions and its Bodies indicated in the Criminal Code has been subject to the consent of the Minister of Justice.

By the Third Judicial Reform Package of 2012, some amendments have been introduced in the field of freedom of press and expression in accordance with the principles of the ECtHR. In this regard, the cases and execution of penalties concerning the offences committed via press and media have been suspended, the practice of imposition of prospective broadcast suspension penalty has been abolished and a number of orders for seizure in different dates have been rendered nugatory.

By the Fourth Judicial Reform Package of 2013, the elements of the offences of *"printing and publishing the announcements and releases of the terrorist organizations"* and *"making propaganda in favor of the terrorist organization"* in the Anti-Terror Law and the Turkish Criminal Code were reorganized. Legitimizing the methods involving compulsion, violence or threat has been considered as the main element of the offence.

All kinds of propaganda in both the local and general elections were ensured to be made in different languages and dialects apart from Turkish.

International Standards concerning Detention have been adopted

By the “*Third Judicial Reform Package*”, it was noted as regards the decisions on detention that the fact that the strong suspicion and the detention measure are proportionate must be justified with concrete facts and must clearly be indicated.

By the “*Fourth Judicial Reform Package*”, it has been ensured that the principles of equality of arms and adversarial proceedings as well as the compensation system for detention measures are improved.

By the *Fifth Judicial Reform Package* of 2014, the courts with special powers were abolished and the period of detention on remand has been restricted to five (5) years for the offences which fall into the jurisdiction of Assize Courts and to two (2) years for other offences. The criterion of existence of “concrete evidence” has been introduced as a requirement to issue custody and detention orders. The Magistrate Judge’s Offices were established with a view to ensuring standardization in detentions.

Thanks to these reform studies carried out and reform packages introduced, the ratio of detainees in the prisons has been reduced up to 14%. Turkey has been placed in a much more favourable position than those of many member states of the European Union and the Council of Europe in respect of the ratio of detainees to total number of detainees and convicts.

The scope of the Right to Submit Defence in another Language has been extended

By the *“Fourth Judicial Package”*, the opportunity to submit defence in another language which the accused stated that he could express himself better has been introduced.

Audio-Visual Communication Systems have been started to be used

By the *Fifth Judicial Reform Package*, with a view to preventing the arrested individual from being detained on remand for not being able to be promptly brought before the competent judge or the court, it has been ensured that statements be taken by means of using audio-visual communication methods. Furthermore, the principle of *“existence of strong suspicion based on concrete evidence”* has been introduced for carrying out searches, wiretapping and technical surveillance.

Arrangements have been made for the Execution of the ECtHR’s Judgments and in the Field of the Military Justice

The Fourth Judicial Reform Package has enabled the facilitation of the execution of the ECtHR’s judgments by means of re-trial in the military administrative justice and re-opening of the investigation in the civil and criminal jurisdictions, the re-opening of the proceedings in respect of certain numbers of decisions that are non-enforceable due to lack of the opportunity for re-opening of the proceedings and the prevention of the violations of the right to property which have taken place due to expropriation practices.

Moreover, it has been ensured that disciplinary punishments imposed upon military personnel by their disciplinary superiors be subject to judicial review. Accordingly, the practice of room confinement by the order of a superior without any judicial decision was abolished.

The Right to Hold Meetings and Demonstrations has been strengthened

By “the Democratization Package” of 2014, new practices have been adopted. The views of the relevant mayors, political parties, trade bodies and trade unions have been started to be received in the determination of places and routes where the right to meeting and demonstration will be enjoyed. Moreover, it has been ensured that meetings and demonstrations in open areas disperse before the sunset and that those in closed areas are held until 00.00 a.m. at night.

Prevention of the Right to Education and Freedom of Conscience and Religion has been qualified as an offence

By the “*Democratization Package*”, the prevention of the right to education, , has been penalized, and the sentence determined for that offence has been increased., Preventing the persons’ performing the requirements of their religious faiths as well as individual and collective worships and interference with a person’s choices and life style arising from his/her religion, thought or opinions have been considered as an offence.

Improvements have been made concerning protection of personal data and execution system

Pursuant to the “*Fifth Judicial Reform Package*”, the sentences envisaged for the offences of recording personal data by means of technical surveillance, seizure of these data and non-destruction of such data which have been obtained by legal means in spite of existence of a court decision have been aggravated.

In 2016, by the adoption of The Law on Protection of Personal Data, which was prepared with a view to recording and protecting personal data in line with contemporary standards, was adopted by the Turkish Grand National Assembly and it entered into force on 7 April 2016.

By the amendment made to the Execution Law in 2013, the detainees and convicts have been granted the opportunity to use causal leaves in case of the severe illness or death of their relatives. Furthermore, the rewards such as private meeting with the husband/wife and family have been put into practice.,.

The “*Sixth Judicial Reform Package*” of 2014 has introduced the opportunity to suspend the execution of the imprisonment sentences imposed on the convicts who are unable to maintain their lives on their own.

The Investigations Conducted Into Protection of Family and Alleged Ill-treatment have been ensured to become more effective

The Law on the Protection of the Family and the Prevention of Violence against Women was adopted with a view to maintaining equality between man and woman, preventing the violence and protecting women, children, and victims of stalking.

The Ministry of Justice issued a Circular on the “Investigations into Human Rights Violations and the Allegations of Torture and Ill-treatment” with a view to not allowing for human rights violations resulting from investigations.

The main political paper, the basis of the studies performed with the understanding of strategic administration, is the Judicial Reform Strategy Paper. Following 2011, the Paper has been updated with an innovative and broad perspective and by receiving opinions from all institutions and organizations and upon public consultation. It was adopted by the Council of Ministers on 8 April 2015 and announced to the public.

The Judicial Reform Strategy Paper, which is binding for all relevant institutions, particularly emphasized the prevention of human rights violations arising from judicial practices and enhancing human rights standards.

4. RAISING THE EFFECTIVENESS AND EFFICIENCY OF THE JUDICIARY AND STRENGTHENING INSTITUTIONAL CAPACITY

While the number of the judges and prosecutors was 9,349 in 2002, as of 15 April 2016, it is 14,675 with an increase at the rate of 57%.

The increase in the number of the courts within the last thirteen years is 68% in the civil and criminal justice and 41% in the administrative justice. The Family Courts which were not present in our system were established, and specialized courts such as consumer courts, trade courts, courts for intellectual and industrial property rights and juvenile courts have been made widespread.

In July 2016 the Appeal Courts will start to operate both in the civil and criminal justice and in the administrative justice. Accordingly the presidents, members and prosecutors of the appeal courts have been assigned.

While the number of the personnel taking office in the Ministry of Justice was 26,274 in 2002, as of 15 April 2016, this number has become 58,300 with an increase at the rate of 121%. While the number of the personnel working at the Penal Institutions was 25,407 in 2002, it became 50,907 as of 1 April 2016 with a parallel increase rate.

Significant projects which have aimed at increasing the awareness of our judges and prosecutors on the ECtHR's case-law and the international human rights standards in order to improve and establish the human rights standards in judicial practices and have been conducted in close cooperation with the European Union and the Council of Europe are being carried out. In this regard, approximately 1000 judges and public prosecutors performed study visits to the European Court and approximately 200 judges and public prosecutors performed study visits to the Representative on the Freedom of Media of the Organization for Security and Cooperation in Europe since 2012, within the scope of the "Project on Increasing the Awareness of Judges and Public Prosecutors on the ECtHR's Judgments", which is still on-going.

6. IMPROVEMENTS IN THE FIELD OF SENTENCE AND EXECUTION FACILITIES

Between 2003 and 2016, 260 penitentiary institutions which were not in conformity with the contemporary execution regime were closed, and it has been also foreseen that 131 penitentiary institutions will have been closed until the end of 2020. Within this scope, 73 penitentiary institutions have been reorganized as individual room systems.. In all penitentiary institutions which have been recently established, entry and exit of the disabled prisoners and visitors have been facilitated.

Turkey has become one of the Grand Payeur Countries which contributes mostly to the Budget of the Council of Europe

As of 2016, Turkey has become one of the six Grand Payeur countries which contributes mostly to the budget of the Council of Europe and in this regard, it has increased the institutional capacity of the Council of Europe in the amount of 20,045,000 Euros annually

The Turkish Version of the ECtHR's Database, HUDOC, was formed

The Turkish version of HUDOC prepared in cooperation with the Ministry of Justice and the ECtHR Secretariat was put into service for the users. As well as the ECtHR's decisions and judgments, factsheets and Information Notes on Case-Law of the ECtHR are also available on HUDOC. The ECtHR's decisions and judgments which are above 3,000 and were translated into Turkish by the Human Rights Department are available on the website,

["www.hudoc.echr.int/tur"](http://www.hudoc.echr.int/tur).

The Judgments of the ECtHR have been started to be taken as a basis in the Promotion of Judges and Prosecutors

Since 2011, the High Council of Judges and Prosecutors has taken as a basis the ECtHR's judgments for the promotion of judges and prosecutors who performed the acts that are subject matters of the mentioned judgments. Accordingly, the decisions and judgments of the ECtHR are delivered to the HCJP.

Judges have been started to be assigned in the Council of Europe and the ECtHR

By the method of secondment, seven (7) judges are still taking office in the ECtHR. Seven (7) judges previously took office in the same position. Moreover, one judge takes office in the Department for Execution of the ECtHR's Judgments and another one takes office in MONEYVAL. Two Legal Counsellors take office in the Permanent Representative of Turkey to the Council of Europe. Within the scope of the different projects conducted in cooperation with the Council of Europe, the judges and prosecutors perform internship in various committees of the ECtHR and the Council.

Informal Working Group was formed

An “Informal Working Group” at the level of experts was formed with the participation of the officials of the Council of Europe, the ECtHR and the Ministry of Justice for determination of the steps to be taken within the scope of the “Action Plan on Prevention of the ECHR Violations” and for performance of necessary studies in this regard.

The Number of Pending Applications before the ECtHR and the Committee of Ministers has been Reduced

The number of pending applications which have been lodged against Turkey before the ECtHR has significantly decreased in the last three (3) years. In this respect, when compared with the figures of 31 December 2012, the number of pending applications decreased by 50% as of 30 April 2016. This decrease has been undoubtedly ensured thanks to reforms which have been recently conducted such as the establishment of the Human Rights Department and the Human Rights Compensation Commission, the introduction of the individual application procedure, the judicial packages compatible with the ECHR, the increase in the number of courts and judicial members, the projects conducted and acceleration of the awareness-raising activities. It is expected that the number of pending cases will show further decrease in the medium term.

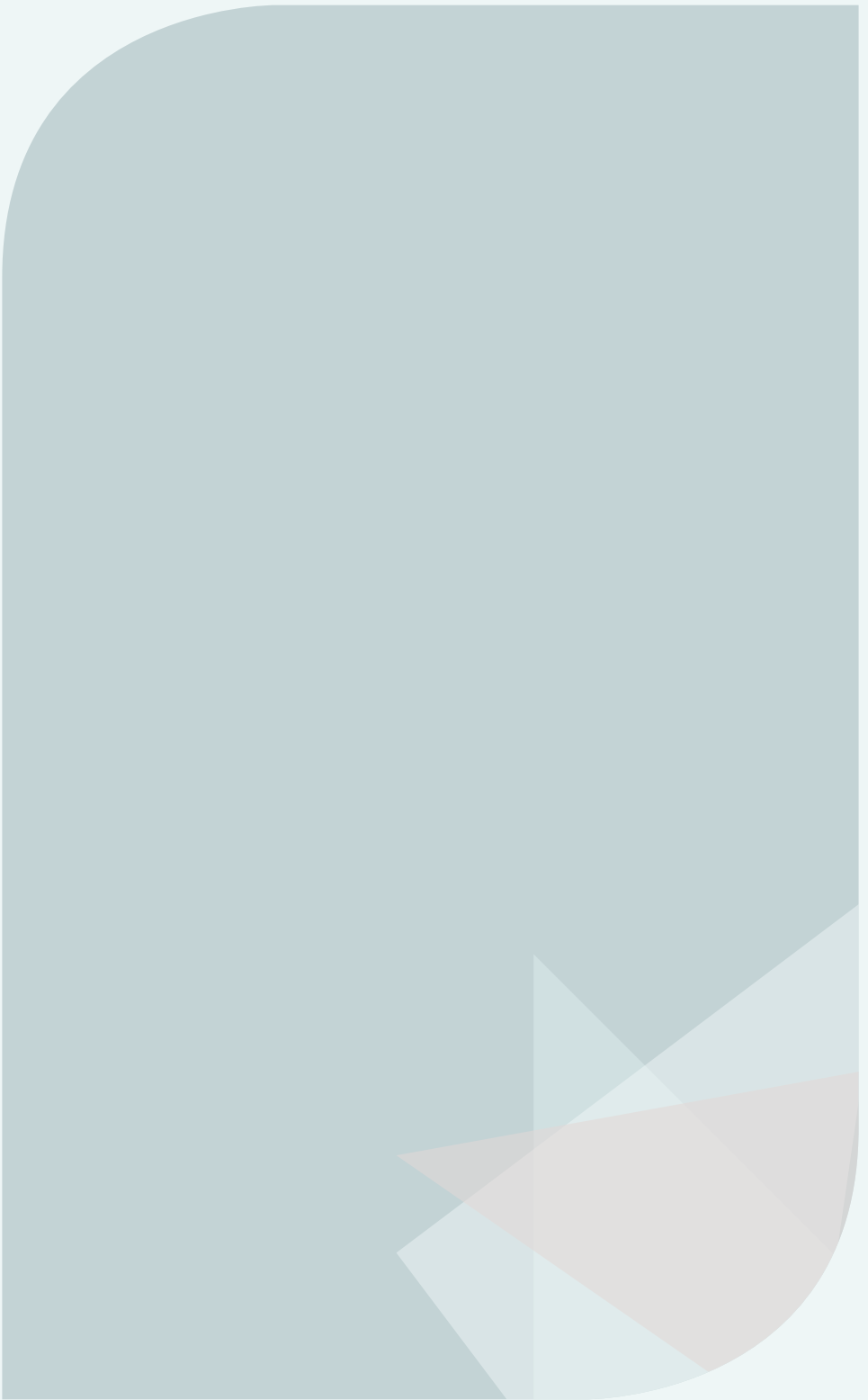
Furthermore, these measures have also had a favourable impact on the execution of the ECtHR’s judgments. There has been a decrease in the number of judgments against Turkey which are pending for execution before the Committee of Ministers at the rate of approximately 20%.

Number of pending applications before the ECtHR

Years	Number of Pending Applications
31.12.2012	128.100
31.12.2013	99.891
31.12.2014	69.900
31.12.2015	64.850

Number of Applications against Turkey

Years	Number of Pending Applications
31.12.2012	16.876
31.12.2013	10.931
31.12.2014	9.448
31.12.2015	8.450



REPUBLIC OF TURKEY
MINISTRY OF JUSTICE
GENERAL DIRECTORATE OF INTERNATIONAL
LAW AND FOREIGN RELATIONS
HUMAN RIGHTS DEPARTMENT

Milli Mdafa Cad. No:22
Adalet Bakanlıđı Ek Bina
Bakanlıklar Kızılay/Ankara
0312 414 88 86
inhak@adalet.gov.tr
www.inhak.adalet.gov.tr