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Communication from an NGO (İfade Özgürlüğü Derneği (İFÖD)) (16/01/2026) in the case of Kavala v. Türkiye (Application No. 28749/18) (appendices in Turkish are available at the Secretariat upon request).

Information made available under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1553e réunion (mars 2026) (DH)

Communication d'une ONG (İfade Özgürlüğü Derneği (İFÖD)) (16/01/2026) dans l'affaire Kavala c. Türkiye (requête n° 28749/18) (des annexes en turc sont disponibles auprès du Secrétariat sur demande) ***[anglais uniquement]***

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

RULE 9.2 COMMUNICATION
in the Case of Kavala v. Türkiye (no. 28749/18)

by

İFADE ÖZGÜRLÜĞÜ DERNEĞİ (İFÖD)

16 January, 2026

İFADE ÖZGÜRLÜĞÜ DERNEĞİ

DGI Directorate General of Human Rights and Rule of Law

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13.11.2025

Rule 9.2 Communication from Freedom of Expression Association ("İFÖD") in the Case of Kavala v. Türkiye (Application No. 28749/18)

I. Introduction

1. This communication is submitted by **İfade Özgürlüğü Derneği (İFÖD – Freedom of Expression Association)**, an independent non-governmental organisation dedicated to the protection and promotion of freedom of opinion and expression in Türkiye. Its purpose is to update the **Committee of Ministers** on the Turkish authorities' persistent failure to fully and effectively implement the general measures required by the *Osman Kavala v. Türkiye* judgment. As the Committee is aware, this case concerns violations of Article 5 § 1 (right to liberty and security), Article 5 § 4, and Article 18 of the European Convention on Human Rights ("the Convention") taken in conjunction with Article 5 § 1.

2. In its action plans, the Government has asserted that the Council of Judges and Prosecutors (CJP) has taken significant steps to align judicial practice with the Convention. The Government highlights the amendment to Article 6 of the "Principle Decision on the Grade Promotion of Judges and Prosecutors", published in the Official Gazette on 15 January 2020, as a critical development in this area.[1] Theoretically, under this amendment entitled "Principles of Promotion", the promotion process must now account for whether a judge or prosecutor has caused a violation of rights established by the European Court of Human Rights or the Constitutional Court. The CJP is purportedly required to consider the nature and gravity of any such violation, alongside the individual's efforts to safeguard rights enshrined in the Convention and the Constitution.

3. **İFÖD** has previously submitted **four Rule 9/2 communications** regarding *Kavala v. Türkiye*, **(18.06.2020, 08.02.2021, 15.11.2021 and 12.02.2025)**. These submissions challenged the lack of evidence supporting the applicant's conviction, exposed structural deficiencies in judicial independence, and critiqued the overly broad interpretation of Articles 309 and 312 of the Turkish Criminal Code. Furthermore, they examined the legal framework of the applicant's pre-trial detention, the influence of political rhetoric on the judiciary, observations from the most recent hearings in the Gezi Trial and and the systemic non-implementation of European Court judgments. In this current submission, İFÖD **turns its focus to the chronic lack of transparency within the Council of Judges and Prosecutors.** Specifically, we address the **failure to implement the Principle Decision effectively and the CJP's refusal to provide the data requested by İFÖD to verify compliance.** This refusal is explicitly documented in

[1] See most recently 1531st meeting (June 2025) (DH) - Action Plan (28/03/2025) - Türkiye concerning the case of *Kavala v. Türkiye* (Application No. 28749/18), para. 16.

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the decisions of the CJP, the Right to Information Review Board (BEDK), and the Administrative Court, which are submitted herewith as **Annex I**.[2]

II. Background of the Information Request and Legal Proceedings

4. Acting on the information provided in paragraph 34 of the Action Plan (16 April 2024), İFÖD requested data demonstrating the practical implementation of Article 6 ("Principles of Promotion") of the *Principle Decision on the Grade Promotion of Judges and Prosecutors* (amended 15 January 2020). In its right to information application, İFÖD explicitly recalled the ongoing supervision by the Committee of Ministers and emphasised its own role in monitoring the implementation of ECtHR judgments. Specifically, the Association sought statistics on the number of judges and prosecutors whose promotions were suspended because their rulings had caused violations found by the European Court of Human Rights or the Constitutional Court. We also requested anonymised examples of relevant decisions to verify the effective and consistent application of the Principle Decision.

5. The CJP rejected this request by letter on 16 September 2024 (Ref: E.86618733-050.01.04-26261 – see Annex I). It claimed the request was "repetitive" of earlier applications made on 16 August 2023 and 11 October 2023, citing Article 18 of the Regulation on the Right to Information Law. Article 18 states that **applications which are repetitive**, submitted by the same individuals despite having been answered, or are abstract and general in nature, **will not be processed**.

6. The CJP's assertion that the request is repetitive is **unfounded**; the earlier applications were materially different. The request of 17 August 2023 concerned the *Deryan v. Turkey* group and the Government's action plan of 3 March 2022 (DH-DD(2022)383). In that instance, İFÖD asked how many judges faced suspension for failing to issue reasoned decisions, a distinct procedural failure unrelated to the substantive violation of Convention rights raised in the current request.

7. The CJP denied that initial request on 18 October 2023, arguing that compiling the data required "separate research". Consequently, İFÖD narrowed its scope. On 11 October 2023, we identified 37 specific Constitutional Court judgments where freedom of expression was violated due to a lack of "relevant and sufficient" reasoning. On 10 November 2023, we requested statistics on sanctions against the specific judicial officials involved in those 37 cases, intending to use the data for Rule 9.2 submissions in the *Asan* and *Deryan* groups. The CJP rejected this too, again claiming it required "separate work" subject to article 7/2 of the Right to Information Law No. 4982.

8. Evidently, the previous requests differ qualitatively from the current one. The former concerned the procedural failure to provide reasoning; the latter concerns judges who actively caused violations of ECtHR and Constitutional Court judgments. Crucially, the **CJP refuses to share data with civil society on the very rules the Government presents to the Committee of Ministers as guarantees of judicial independence**. It remains unclear whether

[2] **Annex I** includes the copies of the decisions regarding the refusal of the information request: i. Decision of the Council of Judges and Prosecutors (HSK) dated 16.09.2024 (no. E.86618733-050.01.04-26261); ii. Decision of the Right to Information Review Board (BEDK) dated 14.10.2024 (no. 2024/1810); iii. Decision of the Ankara 20th Administrative Court dated 11.09.2025 (no. E.2025/4, K.2025/1313).

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these rules are implemented at all, or if a single judge has ever been sanctioned for such violations.

9. İFÖD contested the CJP's decision before the Review Board for the Right to Information ("BEDK"), arguing that the September 2024 request was distinct. The BEDK dismissed this appeal on 14 October 2024 (Decision 2024/1810) without engaging with the Association's arguments. The refusal relied on two grounds:

    i. **Privacy:** Citing Article 21 of the Law, the Board deemed the information an unjustified interference with private/professional life. Essentially, the BEDK argued that preventing a judge's promotion for non-compliance with ECHR rulings is a private matter protected from public scrutiny.

    ii. **Separate Work:** Citing Article 7/2, the Board held that the request would require the creation of new documents through specific research or analysis.

10. İFÖD subsequently filed suit at the Ankara 20th Administrative Court. In its judgment of 11 September 2025 (E.2025/4, K.2025/1313), the court dismissed the case on two main grounds:

    i. The requested information would require separate research, study, or analysis, as the CJP does not maintain specific statistics on suspended promotions.

    ii. The request was deemed repetitive of previously rejected applications.

11. Regarding the first ground, the Court acknowledged that promotion decisions and legal review forms are records the CJP is duty-bound to keep. However, it argued that given the high volume of judges subject to review and the numerous criteria involved, isolating those suspended specifically for causing violations would necessitate a separate study. Therefore, the Court concluded that the CJP could not be compelled to conduct such an investigation.

12. On the second ground, the Court merely echoed the CJP's assessment regarding the repetitive nature of the request. Consequently, the Court ruled the administrative rejection lawful.

13. İFÖD has appealed this decision; the case is currently pending before the Regional Administrative Court

III. Conclusion and Recommendations

14. The Action Plans submitted by the Government purport to address both the individual and general measures required for the execution of the *Kavala* judgment. Crucially, Paragraph 34 of the Action Plan (16 April 2024) and all subsequent plans, cites the "Principle Decision on the Grade Promotion of Judges and Prosecutors" (amended 15 January 2020) as a **key remedy**. The Government claims this regulation obliges the CJP to assess whether judges and prosecutors act in conformity with the case law of the Constitutional Court and the European Court of Human Rights during promotion reviews.

15. The Committee of Ministers has consistently emphasised that normative measures are insufficient on their own; their impact must be demonstrable in practice. Consequently, verifying whether the Principle Decision is genuinely implemented, specifically, whether violation judgments actually impede promotions, is decisive for assessing the adequacy of these general measures.

16. Compiling and reporting this data requires neither extensive nor onerous work. The specific judges involved in violation judgments, along with the nature and severity of those violations,

can be identified rapidly. Indeed, the CJP's refusal to provide this information on the grounds that it requires "separate research" creates a fundamental paradox: if the CJP were systematically reviewing these violations during promotion processes as claimed, the data would already exist. **The admission that "separate work" is needed suggests that, in reality, no such systematic review is taking place**.

17. While Türkiye relies heavily on the Principle Decision in its submissions to the Committee, it has failed to demonstrate that the regulation exists anywhere other than on paper. **The measures remain purely symbolic declarations**. The CJP's systematic refusal to answer information requests, without valid legal justification, exposes a profound discrepancy between the Government's stated intentions in Strasbourg and its actual conduct at home. This conduct indicates that Türkiye treats its obligations under the Action Plans as merely declaratory, lacking the genuine political will to ensure transparency, accountability, and compliance with international standards.

İFÖD kindly urges the Committee of Ministers

1. **Demand Proof of Implementation:** Call upon Türkiye to provide concrete, verifiable data on how the "Principle Decision on the Grade Promotion of Judges and Prosecutors" is applied in practice. This must include statistics on how many judges have been denied promotion specifically due to ECtHR and Constitutional Court violation judgments.
2. **Enforce Transparency:** Require Türkiye to establish effective mechanisms that ensure civil society organisations receive timely, detailed, and comprehensive responses to information requests regarding judicial practices and promotion protocols.
3. **Expose the "Paper Tiger" Reforms:** Urge Türkiye to move beyond declaratory commitments and provide tangible evidence that the measures in its Action Plans operate effectively in practice, rather than serving as bureaucratic window dressing.
4. **Address Structural Independence:** Encourage Türkiye to implement comprehensive reforms to secure the independence of the judiciary, specifically by restructuring the Council of Judges and Prosecutors to eliminate executive influence and ensure promotion decisions are free from political interference.

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İfade Özgürlüğü Derneği (İFÖD) has been set up formally in August 2017 to protect and foster the right to freedom of opinion and expression. The Association envisions a society in which everyone enjoys the freedom of opinion and expression and the right to access and disseminate information and knowledge.