



Inter-Parliamentary Union

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Turkey

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 167th session (virtual session, 30 January to 11 February 2022)



Mr. Gergerlioğlu (centre) reacts as he is surrounded by fellow members of parliament applauding and brandishing placards after he was dismissed following a vote in the Turkish Parliament on 17 March 2021. | Adem ALTAN / AFP

TUR-139 - Ömer Faruk Gergerlioğlu

Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Lack of fair trial proceedings
- ✓ Violation of freedom of opinion and expression
- ✓ Arbitrary arrest and detention
- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Failure to respect parliamentary immunity

A. Summary of the case

According to the complainant, Mr. Ömer Faruk Gergerlioğlu, a member of the Turkish Parliament belonging to the Peoples' Democratic Party (HDP), has been a staunch critic of the Turkish Government and its policies and has faced reprisals due to his criticism.

Mr. Gergerlioğlu was subjected to a criminal investigation based on his Facebook and Twitter posts in 2016. One of his social media posts was reportedly regarded as terrorist propaganda. It related to a news report from a national media organization containing a statement by the Kurdistan Workers' Party (*Partiya Karkerên Kurdistanê* – PKK), declared by the Turkish Government and others as a terrorist organization, indicating that if the Government was in favour of taking steps, a resolution to the conflict could be found within a month. Mr. Gergerlioğlu shared the news report with a message stating that “this call should be evaluated properly, there is no end to this!”

On 21 February 2018, the Kocaeli 2nd Assizes Court, acting as the court of first instance, sentenced Mr. Gergerlioğlu to two years and six months' imprisonment on the grounds of spreading PKK/KCK (*Koma Civakên Kurdistan* – KCK) terrorist organization propaganda by including photographs of

Case TUR-139

Turkey: Parliament affiliated to the IPU

Victim: An opposition member of parliament

Qualified complainant(s): Section I.(1)(d) of the Committee Procedure (Annex I)

Submission of complaint: March 2021

Recent IPU decision: May 2021

IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities: Letter from the President of the Turkish IPU Group (January 2022)
- Communication from the complainant: August 2021
- Communication to the authorities: Letter to the President of the Turkish IPU Group (December 2021)
- Communication to the complainant: August 2021

armed members of the terrorist organization in a way that praised and encouraged methods involving violence and force, and thus committing the crime of spreading propaganda about the illegal, armed PKK terrorist organization.

The complainant claims that the appeal proceedings against Mr. Gergerlioğlu, who was elected a member of parliament in June 2018, continued despite him having parliamentary immunity. On 7 December 2018, Mr. Gergerlioğlu's conviction and sentence were upheld on appeal by the 3rd Criminal Chamber of the Istanbul Regional Court of Justice. On 28 January 2021, the 16th Criminal Chamber of the Court of Cassation rejected Mr. Gergerlioğlu's final appeal for the conviction to be set aside. According to the complainant, Mr. Gergerlioğlu's prosecution and conviction were politically motivated and violated his right to freedom of expression.

On 2 April 2021, Mr. Gergerlioğlu was detained to serve his sentence. On 1 July 2021, the constitutional court set aside Mr. Gergerlioğlu's conviction, finding violations of the right to stand for elections and engage in political activities, as well as freedom of expression, respectively safeguarded by Articles 67 and 26 of the Constitution. On 6 July 2021, Mr. Gergerlioğlu was released and on 16 July 2021 he regained his status as a member of parliament.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the parliamentary authorities for the information they have provided and for their spirit of cooperation;
2. *Welcomes* Mr. Gergerlioğlu's release and his reinstatement to parliament following the ruling of the constitutional court, which echoes its own conclusion that he was convicted and sentenced as a result of the legitimate use of his right to freedom of expression;
3. *Reaffirms* its long-standing view that it is crucial for the Turkish authorities to strike the right balance between their legitimate fight against terrorism and respect for the human rights of opposition members of parliament, in particular their freedom of expression; *sincerely hopes*, therefore, that the constitutional court's decision in Mr. Gergerlioğlu's case will encourage the Turkish authorities to take more decisive action, in line with the recommendations made in the 2019 IPU mission report, to ensure that current national legislation and its application are in line with international and regional standards on freedom of opinion and expression, assembly and association, and on the independence of the judiciary;
4. *Decides* to close the case of Mr. Gergerlioğlu in accordance with section IX, paragraph 25, of its Procedure for the examination and treatment of complaints;
5. *Requests* the Secretary General to convey this decision to the relevant authorities and to the complainant.