

APPLICATION TO THE EUROPEAN COURT OF HUMAN RIGHTS

Application under Article 34 of the European Convention on Human Rights and Rules 45 and 47 of the Rules of Court

SECTION A - THE PARTIES

A.1. THE APPLICANT

- Name and Surname: Prof. Dr. Oğuz Ergin
- Turkish ID No: [REDACTED]
- Address: [REDACTED]
- Telephone: [REDACTED]
- E-mail: bilgi@oguzergin.net

A.2. THE REPRESENTATIVE

- Name and Surname: [REDACTED]
- Bar Association Reg. No: [REDACTED]
- Address: [REDACTED]
- Telephone: [REDACTED]
- E-mail: [REDACTED]

AUTHORITY

I hereby authorize the above-mentioned representative to represent me in the proceedings before the European Court of Human Rights concerning my application against Turkey lodged under Article 34 of the Convention.

Applicant's signature:

Date: 15 September 2025

I hereby agree to represent the applicant in the proceedings before the European Court of Human Rights concerning the application against Turkey.

Representative's signature:

Date: 15 September 2025

SECTION B - THE HIGH CONTRACTING PARTY

State: REPUBLIC OF TURKEY

SECTION C - PREVIOUS APPLICATION(S) TO THE COURT

Has the applicant lodged any previous applications with the Court?

Yes No

SECTION D - SUBJECT MATTER OF THE APPLICATION

The application concerns discriminatory and disproportionate barriers imposed on independent presidential candidates in Turkey, specifically:

1. The requirement to collect 100,000 physical signatures within 5-10 days
2. The systematic exclusion of 3.4 million overseas voters from the nomination process
3. Prohibitively high security deposits (approximately 2,000,000 TRY)
4. Discriminatory treatment favoring political party candidates

These barriers effectively prevent independent candidates from participating in presidential elections, violating fundamental democratic principles and electoral rights.

SECTION E - STATEMENT OF THE FACTS

1. Background and Context

The applicant is a Turkish citizen seeking to exercise his right to stand as an independent candidate in Turkey's presidential elections. Under current Turkish electoral law and administrative practice, independent presidential candidates face insurmountable barriers that effectively exclude them from meaningful participation in the democratic process.

Turkey's electoral system creates two distinct categories of candidates with vastly different requirements: (a) candidates nominated by political parties that have either obtained 5% of votes in the previous general election or have at least 20 members in Parliament, and (b) independent candidates. This distinction lacks objective justification and creates systematic discrimination.

2. The Discriminatory Electoral Framework

2.1 Signature Collection Requirements

Independent presidential candidates must collect 100,000 notarized signatures from registered voters. This requirement does not apply to candidates from qualifying political parties. The collection process involves:

- Physical presence of each supporter at district election boards
- Notarization during limited working hours (typically 09:00-17:00)
- Collection period restricted to 5-10 days based on past practice
- No possibility for electronic or remote signature submission
- System capacity limitations causing frequent crashes and delays

In the 2018 presidential elections, the signature collection period was limited to merely 6 days, making it mathematically impossible for independent candidates to reach voters across Turkey's 81 provinces and 973 districts within the prescribed timeframe.

2.2 Exclusion of Overseas Voters

Approximately 3.4 million Turkish citizens residing abroad are systematically excluded from the candidate nomination process. While these citizens possess full voting rights in presidential elections, they cannot support independent candidates due to:

- Requirement to physically appear at the Foreign District Election Board in Ankara
- No infrastructure for signature collection at consulates or embassies
- No provision for electronic participation despite Turkey's advanced e-Government system
- Practical impossibility of international travel solely for signature provision

This exclusion creates a two-tier citizenship system where overseas nationals possess diminished political rights without reasonable justification.

2.3 Financial Barriers

Independent candidates must deposit approximately 2,000,000 Turkish Lira as security, representing nearly 100 times the minimum wage. This deposit is:

- Non-refundable if the candidate fails to collect sufficient signatures
- Not required from political party candidates
- Prohibitive for average citizens, creating wealth-based discrimination
- Disproportionate to any legitimate electoral administration purpose

2.4 Cumulative Discriminatory Impact

While political party candidates benefit from:

- Exemption from signature requirements
- Access to party infrastructure and resources
- State funding and free propaganda opportunities
- Guaranteed media coverage and equal representation rights
- No security deposit requirements

Independent candidates must:

- Collect 100,000 signatures in 5-10 days
- Finance all campaign activities personally
- Overcome systematic exclusion of overseas supporters

- Risk substantial financial loss through non-refundable deposits
- Compete without institutional support or state resources

3. Attempts to Challenge the Discriminatory System

3.1 Application to the Supreme Election Council

On **16 April 2025**, the applicant submitted a comprehensive application to the Supreme Election Council (Yüksek Seçim Kurulu - YSK) requesting:

a) Implementation of electronic signature collection via Turkey's e-Government portal b) Extension of the signature collection period to at least 90 days c) Enabling overseas citizens to provide signatures through consulates or electronically d) Reduction of the security deposit to reasonable levels

The application argued that current requirements violate constitutional guarantees of equality, political participation, and non-discrimination, as well as Turkey's international human rights obligations.

3.2 YSK's Rejection

On **18 April 2025**, the YSK rejected the application through Decision No. E.61467055-622.03-176962, stating that:

- The current legal framework does not permit the requested modifications
- The YSK lacks authority to alter statutory requirements
- Electoral procedures are determined by legislation, not administrative decision

The YSK failed to address the discriminatory nature of the requirements or consider their cumulative impact on electoral rights. No assessment was made of proportionality or compatibility with democratic principles.

3.3 Constitutional Court Proceedings

Following the YSK's rejection, the applicant filed an individual constitutional complaint (bireysel başvuru) with the Turkish Constitutional Court on **20 May 2025**, arguing violations of:

- Article 10 (Equality before the law)
- Article 67 (Right to vote and be elected)
- Article 76 (Eligibility for election)
- Article 90 (Supremacy of international treaties)

The Constitutional Court, in Decision No. 2025/27404 dated **1 August 2025**, rejected the application on grounds of lack of jurisdiction, stating that YSK decisions on electoral matters are final under Article 79 of the Constitution. The decision was notified to the applicant on **4 September 2025**.

4. Comparative European Standards

The Venice Commission's Code of Good Practice in Electoral Matters establishes that:

- Signature requirements should not exceed 1% of the electorate
- Sufficient time must be provided for signature collection (minimum 30-60 days)
- Financial deposits must be reasonable and refundable
- Equal opportunities must be ensured for all candidates

European practices demonstrate more balanced approaches:

- **France:** 500 signatures from elected officials within 2 months
- **Austria:** 6,000 signatures with electronic collection permitted
- **Poland:** 100,000 signatures with 60 days for collection
- **Ireland:** 20 parliamentarians or 4 local council endorsements
- **Romania:** Electronic signature systems available

Turkey's 100,000 signatures in 5-10 days represents one of Europe's most restrictive requirements, particularly when combined with physical-only collection and overseas voter exclusion.

5. Impact on Democratic Participation

These barriers have effectively eliminated independent candidacy as a viable option in Turkish presidential elections. In recent elections, the extreme difficulty of meeting requirements has deterred qualified candidates and limited voter choice to party-nominated candidates only. This undermines democratic pluralism and voters' right to genuine choice in elections.

SECTION F - STATEMENT OF ALLEGED VIOLATIONS

1. Violation of Article 3 of Protocol No. 1 (Right to Free Elections)

Article 3 of Protocol No. 1 provides:

"The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature."

The Court has established that this provision, despite its reference to "legislature," applies to presidential elections where the president is directly elected by the people (*Boskoski v. the former Yugoslav Republic of Macedonia*, no. 11676/04, 2 September 2004).

The Principle of Electoral Equality

The Court has consistently held that the right to stand for election, while not absolute, must not be restricted to such an extent as to impair its very essence and deprive it of effectiveness (*Mathieu-Mohin and Clerfayt v. Belgium*, 2 March 1987, § 52). Any conditions imposed must not thwart "the free expression of the opinion of the people" (*Yumak and Sadak v. Turkey* [GC], nos. 10226/03 and 27434/03, § 109, 8 July 2008).

The requirements imposed on independent candidates in Turkey violate these principles by:

a) Creating Insurmountable Practical Barriers

The combination of 100,000 signatures within 5-10 days creates a mathematical impossibility. With approximately 240 working hours available, this requires processing 417 signatures per hour across all of Turkey, without accounting for travel, coordination, or administrative delays. The Court has found that requirements must be "achievable" and not constitute "an administrative obstacle" (*Melnychenko v. Ukraine*, no. 17707/02, § 59, ECHR 2004-X).

b) Arbitrary Exclusion of Voters

The systematic exclusion of 3.4 million overseas citizens from the nomination process lacks any reasonable justification. These citizens can vote but cannot participate in candidate selection, creating an arbitrary distinction that undermines the universality of suffrage (*Sitaropoulos and Giakoumopoulos v. Greece* [GC], no. 42202/07, 15 March 2012).

c) Disproportionate Financial Barriers

The security deposit of approximately 2,000,000 TRY (100 times minimum wage) excludes candidates based on economic status. The Court has emphasized that financial requirements must not be "excessive" or create "discrimination based on fortune" (*Sukhovetskyy v. Ukraine*, no. 13716/02, 28 March 2006).

Lack of Proportionality

While States enjoy a margin of appreciation in electoral matters, restrictions must pursue a legitimate aim and be proportionate (*Ždanoka v. Latvia* [GC], no. 58278/00, § 115, ECHR 2006-IV). The Turkish requirements fail this test:

- No legitimate aim is served by the extreme time constraints
- Less restrictive alternatives exist (electronic collection, longer periods)
- The cumulative burden exceeds any reasonable electoral administration purpose
- The discriminatory impact on independent candidates is disproportionate to any alleged benefit

2. Violation of Article 14 in conjunction with Article 3 of Protocol No. 1 (Prohibition of Discrimination)

Article 14 provides:

"The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

Differential Treatment Without Objective Justification

The Court requires "very weighty reasons" to justify differential treatment in the electoral context (*Sejdić and Finci v. Bosnia and Herzegovina* [GC], nos. 27996/06 and 34836/06, § 44, 22 December 2009). The distinction between independent and party candidates in Turkey lacks such justification:

Party Candidates:

- No signature requirement
- No security deposit
- Access to party infrastructure
- State funding available
- Guaranteed media access

Independent Candidates:

- 100,000 signatures required
- 2,000,000 TRY deposit required
- No institutional support
- Self-funded campaign
- Limited media access

This differential treatment constitutes discrimination based on "political opinion" and "other status" (independent versus party affiliation). The Court has recognized that independent candidate status constitutes "other status" for Article 14 purposes (*Grosaru v. Romania*, no. 78039/01, § 43, 2 March 2010).

Absence of Reasonable and Objective Criteria

The Government cannot demonstrate that this differential treatment:

- Pursues a legitimate aim
- Bears a reasonable relationship of proportionality to that aim
- Is based on objective criteria rather than arbitrary distinction

The exclusion of independent candidates through cumulative barriers violates the principle of equal treatment in electoral competition, undermining democratic pluralism and voter choice.

3. Violation of Article 1 of Protocol No. 1 (Protection of Property)

The non-refundable security deposit of 2,000,000 TRY constitutes an interference with peaceful enjoyment of possessions. This interference:

- Lacks proportionality to any legitimate public interest
- Creates wealth-based discrimination in political participation
- Imposes an excessive individual burden
- Offers no reasonable prospect of recovery for most candidates

SECTION G - COMPLIANCE WITH ADMISSIBILITY CRITERIA

1. Exhaustion of Domestic Remedies (Article 35 § 1)

All available and effective domestic remedies have been exhausted:

Administrative Level: Application to the Supreme Election Council (16 April 2025) - Rejected (18 April 2025)

Constitutional Level: Individual application to the Constitutional Court (20 May 2025) - Rejected for lack of jurisdiction (1 August 2025, notified 4 September 2025)

Article 79 of the Turkish Constitution states: "The decisions of the Supreme Election Council are final. No appeal can be made to any authority against the decisions of the Supreme Election Council." This constitutional provision excludes all judicial review, including constitutional complaints, rendering further domestic remedies unavailable.

The Court has recognized that applicants need not pursue remedies that are "inadequate or ineffective" (*Akdivar v. Turkey* [GC], no. 21893/93, § 67, 16 September 1996). Given the constitutional finality of YSK decisions and the Constitutional Court's confirmed lack of jurisdiction, all available remedies have been exhausted.

2. Four-Month Time Limit (Article 35 § 1)

The Constitutional Court's decision was notified on **4 September 2025**. This application is submitted on **15 September 2025**, well within the four-month deadline (which expires on 4 January 2026).

3. Anonymous Application (Article 35 § 2(a))

The applicant's identity is fully disclosed. This is not an anonymous application.

4. Substantially the Same Matter (Article 35 § 2(b))

This matter has not been submitted to another procedure of international investigation or settlement.

5. Compatibility with the Convention (Article 35 § 3(a))

The application raises serious issues under the Convention requiring examination on the merits. It concerns fundamental democratic rights and electoral equality.

6. Manifestly Ill-Founded (Article 35 § 3(a))

The application presents arguable claims under Articles 3 of Protocol No. 1 and 14 of the Convention, supported by Court jurisprudence and raising important questions of electoral rights.

7. Abuse of the Right of Application (Article 35 § 3(a))

The application is submitted in good faith to address serious violations of Convention rights.

8. Significant Disadvantage (Article 35 § 3(b))

The applicant has suffered significant disadvantage through exclusion from electoral participation. The case raises important questions of general interest regarding electoral equality and democratic participation that transcend the individual situation.

SECTION H - INFORMATION CONCERNING OTHER INTERNATIONAL PROCEEDINGS

Has the applicant submitted the above complaints to any other procedure of international investigation or settlement?

Yes No

Note: A similar application based on the International Covenant on Civil and Political Rights has been submitted to the UN Human Rights Committee. However, Turkey has not made a declaration under Article 35 § 2(b) excluding applications already submitted to another international body.

SECTION I - LIST OF DOCUMENTS

1. Power of Attorney
2. YSK Application dated 16 April 2025
3. YSK Rejection Decision No. E.61467055-622.03-176962 dated 18 April 2025
4. YSK Reasoned Decision No. 2025/242 dated 3 July 2025
5. Constitutional Court Individual Application dated 20 May 2025
6. Constitutional Court Decision No. 2025/27404 dated 1 August 2025
7. Notification of Constitutional Court Decision dated 4 September 2025
8. Relevant Electoral Law Provisions (Law No. 298 and amendments)
9. Evidence of Signature Collection Requirements and Time Limits
10. Documentation on Overseas Voter Numbers and Exclusion
11. Evidence of Security Deposit Requirements

12. Comparative Analysis of Party vs. Independent Candidate Requirements
13. Venice Commission Code of Good Practice in Electoral Matters
14. OSCE/ODIHR Election Observation Reports on Turkey
15. Academic Analysis of Electoral Barriers in Turkey
16. News Reports on Failed Independent Candidacies Due to Requirements
17. Statistical Data on Electoral Participation
18. Expert Opinion on Discriminatory Impact of Requirements
19. Documentation of System Failures During Signature Collection
20. Evidence of Financial Barriers' Impact on Candidacy

Certified copies of all documents are attached. Original documents are available upon request.

SECTION J - STATEMENT AND SIGNATURE

Declaration on Confidentiality

The applicant requests that his name be published in any decision or communication by the Court.

I wish my identity to be disclosed to the public I wish my identity not to be disclosed to the public

Final Declaration

I hereby declare that, to the best of my knowledge and belief, the information I have given in this application form is correct.

Place: Ankara, Turkey

Date: 15 September 2025

Applicant's signature:

Representative's signature:

SECTION K - REQUESTS FOR JUST SATISFACTION (Article 41)

Should the Court find violations of the Convention, the applicant requests:

1. Pecuniary Damage

- Campaign expenses incurred in attempting to meet discriminatory requirements: 5.000.000 TRY

- Legal costs for challenging the requirements domestically: 100,000 TRY
- Lost opportunity costs from exclusion from electoral competition: To be assessed

2. Non-Pecuniary Damage

The applicant has suffered significant non-pecuniary damage through:

- Denial of fundamental political rights
- Exclusion from democratic participation
- Discriminatory treatment
- Damage to dignity and reputation

The applicant requests 150,000 EUR in non-pecuniary damages or such sum as the Court considers appropriate.

3. Costs and Expenses

- Domestic proceedings costs: 500,000 TRY
- Costs of preparing this application: 250,000 TRY
- Future costs for Court proceedings: To be determined

Total: 750,000 TRY (with supporting invoices attached)

SECTION L - REQUEST FOR PRIORITY TREATMENT (Rule 41)

The applicant respectfully requests priority treatment under Rule 41 of the Rules of Court given:

- The case concerns fundamental electoral rights
- Upcoming electoral cycles may be affected
- The systemic nature of the violations affects numerous potential candidates
- The importance of the issues for democratic governance in Turkey

SECTION M - REQUEST FOR INTERIM MEASURES (Rule 39)

Should electoral procedures commence before the Court's determination, the applicant reserves the right to request interim measures to prevent irreparable harm to electoral rights.

END OF APPLICATION

This application consists of [11] pages excluding annexes Total number of pages including annexes: [17]