PEN NORWAY

Legal Report on Indictment

Ekrem İmamoğlu

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PEN Norway Turkey Indictment Project

PEN Norway's Turkey Indictment Project has been running since January 2020.

During that time, with an international team of judges, lawyers and academics we studied 25 indictments in cases involving freedom of expression. These include the prominent Cumhuriyet newspaper trial, the Büyükada human rights defenders' trial and the five-year Gezi Park trial.

Each report takes a single indictment and compares it to Turkey's domestic law and to international law. The deepening crisis in the rule of law in Turkey since 2016 has meant that not one indictment has yet met domestic procedural standards or the tenets set out in Article 6 of the European Convention on Human Rights, concerning the right to a fair trial.

With this in mind, we continue to work with leading human rights lawyers globally to study indictments in the cases of journalists, civil society actors and lawyers and will continue to make recommendations for training of judges and prosecutors and for the continuing improvement of the indictment writing process in Turkey.

The importance of this work was demonstrated in 2022 when the defendants in the Gezi Park trial were all convicted and jailed for long sentences based upon facts in an alarmingly inadequate and flawed indictment. The project continues in 2023.

All reports can be accessed via our website: www.norskpen.no
And the two final reports of 2020 and 2021 are available at:

2020: https://norskpen.no/wp-content/uploads/2021/06/PEN-Norway_Turkey-Indictment-Project-Report-2020.pdf

2021: https://norskpen.no/wp-content/uploads/2022/03/PEN-Norway-Turkey-Indictment-Project-Report-2021_Eng.pdf

The project is conceived and led by PEN Norway's Turkey Adviser, Caroline Stockford and the indictment reports are supervised by PEN Norway's Legal Adviser on Turkey, human rights lawyer Şerife Ceren Uysal.

Legal Report on Indictment

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1. Introduction

This legal report is drafted by Tony Fisher as part of the PEN Norway Turkey Indictment Project, established by PEN Norway, and represents an analysis of the indictment in the case of defendant Ekrem İmamoğlu.

Ekrem İmamoğlu was born in 1970. He graduated from Istanbul University with a Bachelor's degree in Business Administration. Following his undergraduate studies, he completed a Master of Science degree in Human Resources Management in the same university.

Mr İmamoğlu started working for the family business. He then assumed the CEO role in the group's companies to lead housing and urban planning projects. According to his official biography, while leading these projects, he encountered numerous problems stemming from local affairs, which led him to his decision to enter politics.

Mr İmamoğlu joined the main opposition Republican People's Party (CHP) in 2009, and became a member of the Beylikdüzü District Organization. In the same year he ran as a candidate for nomination to Beylikdüzü District Mayor and actively participated in the party's election campaign. Following the local election, he was elected the District Head of the CHP.

> "Following objections made by the ruling party, the Supreme Board of Elections (YSK) annulled Mr. İmamoğlu's mandate on his 18th day as Mayor, relying on a decision that went against its own legal precedents. The YSK ruled for an election re-run to be held on June 23, 2019."

After 5 years as a District Head he was nominated in 2013 as a candidate for Beylikdüzü District Mayor in the preliminary election within his party. In the March 30 local elections in 2014, he was elected Mayor of Beylikdüzü.

Subsequently, the CHP nominated Mr. İmamoğlu for Mayor of Istanbul (İBB) in the local elections of March 31, 2019. He gained 48.82% of the total votes and was elected Mayor of Istanbul. This was the highest percentage of votes that any Mayor of Istanbul had received in over 30 years.

Nevertheless, following objections made by the ruling party, the Supreme Board of Elections (YSK) annulled Mr. İmamoğlu's mandate on his 18th day as Mayor, relying on a decision that went against its own legal precedents. The YSK ruled for an election re-run to be held on June 23, 2019.

On June 23, 2019, he achieved a more substantial victory than he had achieved on March 31, and was elected Mayor with the support of 54.2% of the voters.

2. Summary of Case Background Information

Ekrem İmamoğlu was elected as IBB Mayor with a majority of approximately 13,000 votes in the local elections held on 31 March 2019.

On 6 May 2019, the YSK announced that it annulled the election by 7 votes to 4. In its 250-page reasoned decision, including the dissenting opinions of 4 members of the Board, the Board defined "non-compliance with the requirement that the chairmen and members of the ballot box committees must be public officials" as "an event and situation affecting the election results" and justified the annullment of the election.

YSK President Sadi Güven and members Cengiz Topaktaş, Kürşat Hamurcu and Yunus Aykın all dissented from the views of the majority.

Mr İmamoğlu won the election re-run on 23 June 2019, this time with a majority of approximately 800,000 votes.

Ekrem İmamoğlu attended the Congress of Local and Regional Authorities of the Council of Europe held in Strasbourg, France on 30 October 2019 as IBB Mayor.

In his speech at the congress, Imamoğlu said that unlimited public resources were used in favour of the government during the election process, along with language that divided and polarised society. He also stated that the President and cabinet members displayed actions and practices that ignored the election rules, and the state news agency Anadolu Agency wanted to manipulate the election results. He added that the government wanted to win the election it lost on 31 March by having it annulled by a YSK decision.

Interior Minister Süleyman Soylu said on 4 November 2019, "I am telling the ***idiot*** *[ahmak – in original language*] who went to the European Parliament and complained about Turkey; this nation will make you pay for it. This job is not so free".

On the same day, Imamoğlu made a statement to journalists upon being reminded of Soylu's remarks and said, " Those who annulled the elections of March 31, considering the image they conveyed of us to Europe and what has happened since then, the ***idiots*** are those who annulled the elections of March 31..."

The Istanbul Anatolian Chief Public Prosecutor's Office initiated an investigation upon the notification made by the Presidency of the Supreme Board of Elections on 15 November 2019. After the investigation, a lawsuit was filed.

IBB Mayor Ekrem İmamoğlu attended the interim hearing in January in the case held at the Anatolian 7th Criminal Court of First Instance. He defended himself with the following words:

> *"First of all, the statement given here is a statement given on a question. The basis of the question is that the Minister of Interior used the word idiot' in his statements against me. My answer in question*

was based on this question. Therefore, it is a word used in response to this word idiot used against me and the addressee is the Minister of Interior. Therefore, I never made such a statement addressing the YSK or any of its members.

All political actors, political identities representing the government and everyone made statements about the annulment of the election. What the YSK does or what decisions it makes is not the addressee of my statement. My will is defined by my own statement. I meant those who cancelled the elections, not the members of the YSK"

In December 2022, he was sentenced to two years seven months fifteen days in prison on charges of insulting members of the Supreme Electoral Council.

2.1. Timeline of the Judicial Process

31 Mar 2019: Local election in İstanbul. İmamoğlu was elected as IBB Mayor with a difference of approximately 13,000 votes.

6 May 2019: YSK canceled the election.

23 Jun 2019: Election was repeated and İmamoğlu was elected again with a difference of approximately 800,000 votes.

30 Oct 2019: He attended the Congress of Local and Regional Authorities of the Council of Europe held in Strasbourg, France and criticized the government.

4 Nov 2019: Minister of Interior Süleyman Soylu made a statement and called İmamoğlu an ***idiot***.

4 Nov 2019: İmamoğlu made a statement to journalists upon being reminded of Soylu's remarks and said, " Those who annulled the elections of March 31, considering the image they conveyed of us to Europe and what has happened since then, the **idiots** are those who annulled the elections of March 31..."

15 Nov 2019: The YSK made a complaint against İmamoğlu concerning his statement of November 4, 2019.

27 May 2021: The indictment was issued.

9 Nov 2021: The first hearing: İmamoğlu was not present due to his working schedule as the Mayor of İstanbul. His lawyers demanded that İmamoğlu's defence be taken when he is available to attend.

10 Jan 2022: İmamoğlu went to the courthouse and made his defence. The case was sent to the prosecutor to prepare his final opinion about the case.

1 Jun 2022: The second hearing: Before the hearing, Imamoğlu's lawyers requested the recusal of the judges. An additional report containing the expert opinion that Imamoğlu did not have any discourse against the members of the YSK was presented at the hearing. The defence team also asked the court to hear their witnesses. The court rejected the demand for recusal of the judges

> "İmamoğlu was sentenced to two years seven months fifteen days in prison on charges of insulting members of the Supreme Electoral Council. The court also banned him from elected political office and other activities for the duration of the prison sentence he may serve if the conviction is upheld at appeal. The case is still pending before the Istanbul Regional Court of Appeal."

and instead made a ruling that the file should be sent to the prosecutor's office for examination of the report and adjourned the hearing.

21 Sep 2022: The third hearing: Before the hearing, the defence team submitted a DVD containing Süleyman Soylu's and İmamoğlu's speech and asked for it to be analysed. The court accepted the demand of the defence team and postponed the hearing.

11 Nov 2022: The court heard the witnesses. Then the court gave the prosecutor the floor to present his final opinion. Imamoğlu's lawyers objected stating that not all the evidence was collected and requested that the judges recuse themselves. The court ruled that the request was aimed at prolonging the trial and rejected it. In the final opinion on the case, the prosecutor asked for a sentence of imprisonment of up to 4 years and 1 month be imposed on İmamoğlu for "publicly insulting public officials working in a committee due to their duties".

14 Dec 2022: Final hearing: The court asked for the prosecutor's opinion again because the witnesses were heard after he announced his opinion. The prosecutor repeated his former opinion. İmamoğlu was sentenced to two years seven months fifteen days in prison on charges of insulting members of the Supreme Electoral Council. The court also banned him from elected political office and other activities for the duration of the prison sentence he may serve if the conviction is upheld at appeal. The case is still pending before the Istanbul Regional Court of Appeal.

3. Analysis of the Indictment

3.1. Summary of the Indictment and general overview

The indictment in this case is unusually brief, reciting the facts in the following terms:

> *"IT IS UNDERSTOOD THAT the suspect Ekrem İmamoğlu, who was the Istanbul Metropolitan Municipality Mayor as of the date of the crime which was Monday, November 4, 2019, during his statements to the members of the press in the Üsküdar Fethipaşa Park, stated that "Those who annulled the elections of March 31, considering the image they conveyed of us to Europe and what has happened since then, the idiots are those who annulled the elections of March 31..." and thus publicly insulted the members of the Supreme Election Council, because the word "idiot" contained in the statement means, according to the Dictionary of the Turkish Language Institution, "a person who is unable to use his/her intellect properly, imbecile, fool, dumb" (a copy of the related dictionary entry from www.sozluk.gov.tr is added to the file) and as such it was used in a manner that may impugn that person's honour, dignity or prestige, AND THAT, considering the Istanbul Metropolitan Municipality Mayoral Elections were annulled on May 6, 2019 by the Supreme Election Council, there is no doubt the phrase was aimed at the victims who were public officials working as a committee, AND THEREFORE THAT the suspect committed the alleged crime, AND THAT although it is noted that the suspect was fulfilling the role of Mayor of İstanbul on the date of the offense, it is necessary to interpret the action subject to the investigation as the suspect's personal offence, an opinion which was supported by the case-law of the higher courts, THAT the 4th Penal Chamber of the Court of Cassation, in its ruling with Merits No. 2008/19328 and Ruling No. 2008/20739, ruled on a case similar to this investigation that the act of another metropolitan municipality mayor who insulted a third party in a press release was not about the role he/she was fulfilling, that the provisions of the Law No. 4483 could not be enforced, and that the investigation had to be conducted in line with the general provisions without a need to obtain an investigation permit. Therefore, in line with the collected evidence and the scope of the file explained above, IT IS UNDERSTOOD THAT the suspect committed the alleged crime and that there is reasonable level of doubt to file a criminal case against the suspect."*

The indictment refers to the commission of a crime under Article 125 of the Turkish Penal Code. Article 125 (1) sets out the boundaries of the offence in the following terms:

> *"Any person who attributes an act, or fact, to a person in a manner that may impugn that person's honour, dignity or prestige, or attacks someone's honour, dignity or prestige by swearing shall be sentenced to a penalty of imprisonment for a term of three months to two years or a judicial fine. To*

be culpable for an insult made in the absence of the victim, the act should be committed in the presence of at least three further people."

In addition to Article 125 (1) the indictment refers to the following articles in the Turkish Penal Code Article 125/2-1, Article 125/3-a,4,5, Article 43/2-1 and Article 53. The additional provisions of Article 125 are relevant to sentencing and make the commission of the offence against a member of a committee the commission of the offence against all members of the relevant committee. Article 43 was included to secure that the commission of a single offence would be regarded as the commission of a succession of offences (presumably against each member of the board) and Article 53 has been included since a conviction under Article 125 would preclude Mr İmamoğlu from serving as a "*a member of the Turkish Grand National Assembly or undertaking employment as, or in the service of, an appointed or elected public officer permanently, temporarily or for a fixed period of time within the administration of the state, a province, municipality or village, or institution or entity under their control or supervision*." There are other prohibitions under Article 53, but these are the most relevant in Mr İmamoğlu's case and it should be noted that these prohibitions only apply to immediate custodial sentences and not to suspended sentences.

> "The word idiot is a noun which, whilst certainly pejorative, is not usually regarded as a swear word (certainly in the English language). It is critical but not normally regarded as insulting in a way which should merit criminal sanction."

The indictment is short and the only evidence which appears to have been secured by the prosecutor is a recording of the exchange of comments mentioned above and a statement provided by Mr İmamoğlu himself in which he denies that the statement was addressed to the members of the Election Board but was intended only to be addressed to the minister who had called him an "idiot" in the first instance.

3.2. The Relevant Domestic Law

The formal requirements in relation to the filing of a prosecution are set out in Article 170 of the Turkish Criminal Procedure Code. These include such things as identifying the suspect, defence counsel, the victim and the complainant. The complainants in this case are "Presidency of the Supreme Election Council". In most respects the indictment would seem to be compliant with Article 170. However, under Article 170 (5) there is a requirement that "*the conclusion section of the indictment shall include not only the issues that are unfavourable to the suspect, but also issues in his favour*." There is no mention of any favourable aspect of the case, or even that his denial that the comment was addressed to the members of the Election Council was the only witness evidence that was available. It is understood that during the course of the trial the court also heard testimony from Mr İmamoğlu 's press officer, Murat Ongun, and another aide who confirmed that his words were in response to the comments made by Mr Soylu.

Paragraph 2 of Article 170 requires that the evidence collected at the end of an investigation should constitute sufficient suspicion that a crime has been committed before an indictment is prepared. Article 125 requires that there is evidence that the defendant "*attacks someone's honour, dignity or prestige by swearing".* Even if the prosecutor did not feel that he could accept the Defendant's

statement that the phrase used was not addressed to the members of the Election Council, (and if the court subsequently did not accept the testimony of Mr Ongun and the other aide who gave evidence) there should have been some analysis at an early stage as to whether the use of the term "idiot" constituted "swearing" for the purposes of Article 125. The word idiot is a noun which, whilst certainly pejorative, is not usually regarded as a swear word (certainly in the English language). It is critical but not normally regarded as insulting in a way which should merit criminal sanction.

3.3. Relevant International Standards

3.3.1. Freedom of Expression

The case clearly raises fundamental issues regarding the right to freedoms protected under Article 10 of the European Convention of Human Rights ("ECHR").

As a matter of general principle, the "necessity" of any restriction on the exercise of freedom of expression must be convincingly established (Sürek and Özdemir v. Turkey [GC], para. 57[1]; Dilipak v. Turkey, para. 63[2]). The Court must determine whether the reasons adduced by the national authorities to justify the restriction are "relevant and sufficient" (Barthold v. Germany, para. 55[3]; Lingens v. Austria, para. 40[4]).

The Court has consistently held that there is little scope under Article 10 para. 2 of the Convention for restrictions on political speech or debate (Brasilier v. France, para. 41[5]) or on debate on matters of public interest (Sürek v. Turkey (no. 1) [GC], para. 61; Lindon, Otchakovsky-Laurens and July v. France [GC], para. 46[6]; Wingrove v. the United Kingdom, para. 58[7]).

Applying the courts approach to the facts of the present case it seems clear that a criminal sanction to preclude illegitimate attacks against public servants pursues the legitimate aim of protecting public servants carrying out duties in connection with the maintenance of the rule of law. Whether or not the offence created by Article 125 is a proportionate way of pursuing such an aim however is another matter. It provides for long prison sentences for single instances of behaviour which does not constitute an "attack" as such but is part of a political dialogue between two politicians debating a matter of public interest. The European Court of Human Rights (ECtHR) has on a number of occasions had cause to assess domestic rules which have the effect of stifling public debate between politicians and journalists. In the case of Oberschlick v. Austria (no. 2)[8] judgment of 1 July 1997 Mr Oberschlick was convicted for having insulted a Mr Haider by describing him as a Trottel (Austrian for "idiot") in the title and in the main body of an article he published in in a publication called Forum. The Regional Court considered that the word itself was insulting and that its mere use was enough to justify the conviction. The Vienna Court of Appeal took the view that the mere fact that the word in question also appeared in the title of the article made it insulting since readers who had read neither the article nor Mr Haider's speech and the comments on it would link the word not with what Mr Haider had said but with his own person. The ECtHR disagreed and pointed out in this connection that the judicial decisions challenged before it must be considered in the light of the case as a whole, including the applicant's article and the circumstances in which it was written. The article had been deliberately provocative (as were the comments of Interior Minister Suleyman Soylu when describing Mr İmamoğlu 's remarks at the Council of Europe). It was true that "that calling a politician a Trottel [idiot] in public may offend him" but "In the instant case, however, the word does not seem disproportionate to the indignation knowingly aroused by Mr Haider." The Court considered that the necessity of the interference with exercise of Mr Oberschlick's freedom of expression had not been shown and that his conviction was a violation of Article 10 (para 35 of the judgement).

In Bodrozic v Serbia 32550/05[9] the Court was faced with a similar situation where the applicant's conviction was based on expressions he used to describe polemical statements made by one "JP" on public television concerning the existence and history of national minorities in Vojvodina, a muti-ethnic region, 35% of whose population was non-Serbian. He claimed that they were all "colonists" and that "there were no Croats in that region". The applicant described JP as "an idiot", "a fascist" and "a member of the fascist movement." The Court confirmed that "*there is little scope under Article 10 § 2 of the Convention for restrictions on debate on questions of public interest (see Nilsen and Johnsen v. Norway [GC], no. 23118/93, § 46, ECHR 1999VIII). In this connection, the Court observes that the discussion in the present case was clearly one of great public interest and the object of an ongoing political debate.*" (§ 55

of the Judgement). Although the applicant had used harsh words which, particularly when pronounced in public, may often be considered offensive, his "*statements were given as a reaction to a provocative interview and in the context of a free debate on an issue of general interest for the democratic development of his region and the country as a whole*". Article 10 protects not only information and ideas that are favourably received or regarded as inoffensive but also those that offend shock or disturb. The Court went on to reiterate that "*When assessing the proportionality of the interference the nature and severity of the penalties imposed are also factors to be taken into account*." (ibid. § 58). In that case a fine had been imposed on the applicant which could, if there was default, be replaced with 75 days' imprisonment. In the present case a period of imprisonment of over two years was imposed. The Court found a violation of the applicant's rights under Article 10 in the Bodrozic case. On any realistic analysis the violation of his rights under Article 10 in the case of Mr Imamoğlu was far greater.

3.3.2. Right to a Fair Trial

The right to a fair trial is protected by both Articles 5 and 6 of the ECHR and articles 9 and 14 of the International Covenant of Political Rights ("ICCPR"). Turkey is a signatory to both instruments.

A fundamental component of the right to a fair trial is the right of any defendant to a defence. The ability of a defendant to present an effective defence depends on the ability to both effectively challenge prosecution evidence and present positive evidence in their defence. International human rights bodies will generally defer to national courts' assessments of facts and evidence, but there are exceptions when such an assessment constitutes a denial of their right to prepare a defence. Mr İmamoğlu's statement that he had addressed his comments to the Interior Minister and the corroboration of that statement by two witnesses who gave oral evidence appears to have been completely ignored by the judges who passed judgement on his comments. The only prosecution evidence appears to have been a recording of the comments made. The assessment of the intentions of Mr İmamoğlu with regard to the statement he made could only therefore realistically flow from the evidence he gave himself and any conflicting or corroboratory evidence adduced by the Prosecutor or Mr İmamoğlu. It appears that the Prosecutor adduced no evidence on this point. In the case of Mammadov v. Azerbaijan (No.2) (App.no. 919/15[10]) the ECtHr found a violation of the right to a fair trial on the basis that the conviction of an Azerbaijani opposition figure "*was based on flawed or misrepresented evidence"*, that "*his objections in this respect were inadequately addressed*" and *"[t]he evidence favourable to [him] was systematically dismissed in an inadequately reasoned or manifestly unreasonable manner*". The Court ruled that there had been serious shortcomings in the way that the evidence used to convict the defendant had been admitted, examined and/or assessed, leading to a finding that the trial was unfair. In view of the similar treatment which Mr İmamoğlu received in the present case there is a strong likelihood that the trial would be adjudged as unfair if put before the ECtHR.

This report is not an appropriate place to provide a full analysis of the deficiencies of the criminal justice system in Turkey both in relation to institutional requirements under Article 6 of ECHR and the procedural requirements under Article 6. Criticisms with regard to both have been made by academics, bar associations, NGOs and international institutions for a number of years.

3.3.3. The Impartiality and Fairness of the Prosecutor in the Proceedings: UN Guidelines on the Role of Prosecutors

When discussing the question of whether or not the indictment and the conduct of the trial respects fair trial principles and procedures reference needs to be made to the UN Guidelines on the Role of Prosecutors ("UN Guidelines") which outline the role of prosecutors in upholding therule of law.

Principle 2 (b) requires that prosecutors "have appropriate education and training and should be made aware of the ideals and ethical duties of their office, of the constitutional and statutory protections for the rights of the suspect and the victim, and of human rights and fundamental freedoms recognized by national and international law".

Principle 12 goes on to require prosecutors to perform their duties "fairly, consistently and expeditiously" in a way that upholds human rights and protects human dignity. Principle 13(a) requires prosecutors to carry out their functions impartially and without discrimination, and 13(b) requires prosecutors to "protect the public interest, act with objectivity, take proper account of the position of the suspect and the victim, and pay attention to all relevant circumstances irrespective of whether they are to the advantage or disadvantage of the suspect".

In view of the apparently unbalanced way in which the prosecutor approached their task in this case as highlighted above it seems doubtful that they have discharged their duties under the UN Guidelines.

4. Conclusions and Recommendations

4.1. Conclusion

The shortcomings and defects in the indictment in this case which have been highlighted in this report reflect defects and shortcomings which have been present in many, many cases in Turkey over the last ten years.

The level of apparent incompetence and lack of compliance with both domestic and international rules and principles governing the drafting of indictments on the part of the prosecutor in this and other cases is clearly concerning.

The facts disclosed by the indictment do not appear to justify either the prosecution itself nor the conviction of the defendant for the offences with which he was charged.

The penalty imposed was severe and, if upheld, will have the effect of preventing Mr İmamoğlu from continuing in his position as mayor, or from running for other political offices. It is disproportionate to the wrong alleged.

4.2. Recommendations

First and foremost it is clear that the convictions of Mr İmamoğlu should be quashed. It is manifestly unsafe and unsatisfactory and resulted from a prosecution and trial which failed to comply with both domestic and international rules and obligations concerning the role of the prosecutor and the delivery of a fair trial to the defendant. The prosecutions were also clearly in breach of Turkey's obligations under Article 10 of ECHR.

On 14th June 2021 the first International Fair Trial Day took place drawing together lawyers, bar associations and human rights organisations from across the world to focus on the increasingly challenged situation concerning fair trial rights in Turkey (and in other countries where the rule of law and fair trial rights are challenged). On the occasion of the International Fair Trial Day a joint statement was made by over 90 bar associations, associations of judges, NGO's and other human rights organisations calling on Turkey to implement a range of measures to address failings in the judicial system. These included calls to guarantee and respect the principle of presumption of innocence in all criminal investigations and prosecutions, and a demand to ensure that the rights to fair trial embodied in Article 6 of the ECHR and Article 14 of the ICCPR are respected in all criminal prosecutions in Turkey's criminal courts at all levels. Turkey should take up this challenge and start the process of complying with these demands to move the country to a situation where the rule of law and fundamental rights and freedoms, including fair trial rights, are fully respected. ■

About the author

Tony Fisher is CEO of the law firm Fisher Jones Greenwood LLP in Essex, England. Tony has undertaken a wide range of international and domestic human rights work and has appeared as an advocate in the European Court of Human Rights on many occasions. He is a Fellow of the Human Rights Centre at the University of Essex and is a member and former chair of the Human Rights Committee of the Law Society of England and Wales. He sits on the Council of the Law Society of England and Wales as the representative for the Essex constituency and on the International Committee, which oversees the international work of the Law Society.

Endnotes

1 https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-58278%22]}

2 https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-157399%22]}

3 https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22\%22CASE%20OF%20BARTHOLD%20v.%20GERMANY\%22%22],%22documentcollectionid2%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-57431%22]}

4 https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22\%22CASE%20OF%20LINGENS%20v.%20AUSTRIA\%22%22],%22documentcollectionid2%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-57523%22]}

5 http://hudoc.echr.coe.int/eng?i=001-73200 (available only in French)

6 http://hudoc.echr.coe.int/eng?i=001-82846

7 http://hudoc.echr.coe.int/eng?i=001-58080

8 https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22oberschlick%20v%20tria%22],%22documentcollectionid2%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-58044%22]}

9 https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%2232550/05%22],%22documentcollectionid2%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-93159%22]}

10 https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22919/15%22],%22documentcollectionid2%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-178631%22]}