

SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRETARIAT DU COMITE DES MINISTRES



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Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1318th meeting (June 2018) (DH)

Communication from the authorities (21/03/2018) concerning the SALDUZ group of cases v. Turkey (Application No. 36391/02) (appendices in Turkish are available at the Secretariat).

Information made available under Rule 8.2a 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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Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

Réunion : 1318^e réunion (juin 2018) (DH)

Communication des autorités (21/03/2018) concernant le groupe d'affaires SALDUZ c. Turquie (requête n° 36391/02) (des annexes en Turc sont disponibles au Secrétariat) (**anglais uniquement**)

Informations mises à disposition en vertu de la Règle 8.2a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

Ankara, March 2018

Additional Information

on the Execution of the ECtHR Judgments under *Salduz v. Turkey* (no. 36391/02) Group of Cases

1. The Turkish Government would like to submit the following information in addition to the action report communicated to the Committee of Ministers on April 2017 as regards the execution of the judgments in the group of *Salduz* (36391/02).

2. The authorities would also like to reiterate its former action report mentioned above.

3. *Salduz* group of cases concern the violation of the applicants' right to a fair trial on account of the absence of legal assistance during their police custody (violations of Article 6 § 3 c) in conjunction with Article 6 § 1).

4. By the Decree-Law no. 668 dated 27 July 2016, it was prescribed that the suspect's right to see his lawyer could be restricted for 5 days by the decision of the public prosecutor during the state of emergency period. The regulation in question was repealed by the Decree-Law no. 684 dated 23 January 2017. Accordingly, the Government would like to state that the general principles of the Code of Criminal Procedure governing legal assistance shall continue to be applied during also the state of emergency period.

5. In the meantime, pursuant to the amendment made to Article 154 § 2 of the Code of Criminal Procedure by the Decree-Law no. 676 dated 29 October 2016, the right of the suspect, who is taken into custody for offences against the security of the State, terrorism offences and offences of drug production and trafficking committed within the scope of an organisation's activities, to see his lawyer may be restricted for 24 hours by the decision of a judge upon the public prosecutor's request, and in the course of this period, the suspect's statement shall not be taken. The Government would like to state that except for the above-mentioned offences, no restriction is imposed in this regard by the Code of Criminal Procedure.

6. Furthermore the Government would like to draw the Committee's attention that Law No. 7070 was adopted by the Parliament and published in Official Gazette on 8 March 2018, which legalized the Emergency Decree Law no. 676. From that date onwards general

principles of CCP are in force concerning the applicants' right to access to a lawyer within the context of *Salduz* group of cases.

7. The above-mentioned amendment is in line with Convention standards and the European Court's case-law (see *İbrahim and others/UK* (50541/08); *Simeonovi/Bulgaria* (21980/04)). This restriction therefore does not affect the fairness of whole criminal proceedings.

Conclusion:

8. In light of the information submitted above the Turkish authorities consider that all necessary measures have been taken to prevent similar violations and the Committee of Ministers is respectfully invited to close the supervision of execution of *Salduz* group of cases.