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Date: 03/10/2024

DH-DD(2024)1108

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Meeting: 1514th meeting (December 2024) (DH)

Item reference: Action Report (01/10/2024)

Communication from Türkiye concerning the case of Sedat Bayram v. Türkiye (Application No. 54611/11)

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Réunion : 1514^e réunion (décembre 2024) (DH)

Référence du point : Bilan d'action (01/10/2024)

Communication de la Türkiye concernant l'affaire Sedat Bayram c. Türkiye (requête n° 54611/11) (**anglais uniquement**)

ACTION REPORT

***Sedat Bayram v. Türkiye* (no. 54611/11)**

Judgment of and final on 17 January 2023

Repetitive to

Oya Ataman v. Türkiye (no. 74552/01, final on 5 March 2007)

DGI

01 OCT. 2024

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

I. CASE DESCRIPTION

1. The case concerns a violation of the applicant's right to freedom of assembly on account of his pre-trial detention and criminal conviction for his alleged unlawful acts during a demonstration he had participated (Article 11).

2. On 18 November 2003 the applicant took part in a demonstration. A criminal investigation was initiated against him for having carried out unlawful acts during the demonstration. On 19 November 2003 the applicant's pre-trial detention was ordered. On 21 November 2003 the public prosecutor filed a bill of indictment against him. On 2 August 2004 the İstanbul Assize Court ("the trial court") ordered the applicant's release pending trial. In the subsequent proceedings, on 30 June 2010 the İstanbul Assize Court convicted the applicant under Article 113 § 1 of the Criminal Code (Law no. 5237) of the offence of "interrupting public services through coercion, distortion or other unlawful acts" and sentenced him to imprisonment which was eventually converted to a sum of judicial fine in the same judgment. The trial court also convicted the applicant of the offence of aiding and abetting a terrorist organisation under Article 169 of the former Criminal Code (Law no. 765) and sentenced him to a term of imprisonment. On 2 April 2012 the Court of Cassation upheld the first-instance judgment in so far as the applicant's conviction under Article 113 of the Criminal Code. On the other hand, the Court of Cassation dropped the charges against the applicant under Article 169 of the former Criminal Code on account of the expiry of the statutory limitation period. The proceedings thereby became final (§§ 3-11 of the judgment).

3. The Court acknowledged that the interference had been prescribed by law and pursued a legitimate aim. However, according to the Court, the applicant's pre-trial detention and conviction had not been 'necessary in a democratic society' within the meaning of Article 11 of the Convention (§§ 18-21 of the judgment).

II. INDIVIDUAL MEASURES

Just Satisfaction

4. The Court awarded the applicant EUR 7,500 in respect of non-pecuniary damage and EUR 1,000 for costs and expenses (§§ 24 and 25 of the judgment).
5. These amounts were paid to the applicant within the deadlines set forth by the Court. Payment information was published on HUDOC-EXEC.

Other Measures

6. The authorities would first like to recall that, as also noted by the Court in its judgment, the applicant was released pending trial on 2 August 2004 (§ 7 of the judgment).
7. The authorities would further note that the charges against the applicant under Article 169 of the former Criminal Code were dropped by the Court of Cassation on account of the expiry of the statutory limitation period on 2 April 2012 (§ 11 of the judgment).
8. Concerning the applicant's conviction under Article 113 § 1 of the Criminal Code, the authorities indicate that Article 311 of the Code of Criminal Procedure (Law no. 5271) provides applicants with the opportunity to request the reopening of criminal proceedings within one year of a final judgment by the Court finding a violation. However, the applicant did not avail himself of this remedy within the prescribed time-limit set forth in the law.

Conclusion on Individual Measures

9. In the light of the information submitted above, the authorities take the view that no further individual measures are required.

III. GENERAL MEASURES

10. The authorities recall that the issue of violations of the right to freedom of peaceful assembly, including the pre-trial detention, prosecution/conviction of participants to demonstrations, continues to be examined under the *Oya Ataman* group of cases.
11. The authorities will keep, within the context of the supervision of the *Oya Ataman* group, the Committee of Ministers informed on the general measures taken/envisaged.

Publication and Dissemination Measures

12. The judgment was translated into Turkish and published on the Court's official website.

13. In addition, the Turkish authorities ensured that the translated text of the judgment, with an explanatory note, was circulated to the relevant first-instance courts, the regional courts of appeal, the Court of Cassation, the Constitutional Court, the Human Rights and Equality Institution of Türkiye and the Ombudsman Institution.

IV. CONCLUSION

14. The Turkish authorities consider that no further individual measures are required in the present case. They therefore would like to invite the Committee of Ministers to close the supervision of this case in respect of individual measures.

15. Concerning general measures, the Turkish authorities will maintain submitting further information under the *Oya Ataman* group.