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Meeting: 1514<sup>th</sup> meeting (December 2024) (DH)

Item reference: Action Report (02/10/2024)

Communication from Türkiye concerning the cases of PERISAN AND OTHERS v. Turkey (Application No. 12336/03) and YERME v. Turkey (Application No. 3434/05)

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Réunion : 1514<sup>e</sup> réunion (décembre 2024) (DH)

Référence du point : Bilan d'action (02/10/2024)

Communication de la Türkiye concernant les affaires PERISAN ET AUTRES c. Turquie (requête n° 12336/03) et YERME c. Turquie (requête n° 3434/05) (**anglais uniquement**)

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## ACTION REPORT

*Perişan and Others v. Türkiye* (no.12336/03, final on 20 August 2010)  
*Yerme v. Türkiye* (no. 3434/05, final on 24 October 2012)  
Repetitive cases to  
*Gömi and Others v. Türkiye* (no. 35962/97, final on 21 March 2007)

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SERVICE DE L'EXECUTION  
DES ARRÊTS DE LA CEDH

### I. CASE DESCRIPTION

1. The cases concern violations of the right to life and/or prohibition of ill-treatment under substantive and procedural aspects on account of the death of the certain applicants' next-of-kin and the other applicants' injury during the intervention of the security forces into a prison riot in 1996 (Substantive and procedural violations of Articles 2 and 3 of the Convention).

2. At the relevant time, certain applicants and the other applicants' next-of-kin were under detention. On 24 September 1996 a riot broke out in Diyarbakır Prison, security forces intervened and relatives of the certain applicants lost their lives and the other applicants were injured. A criminal investigation was initiated against the security forces for their alleged use of excessive force. The Diyarbakır Public Prosecutor filed a bill of indictment against the security forces. The Diyarbakır 3<sup>rd</sup> Assize Court ("the trial court") decided on the case on 27 February 2006. However, by a decision of 15 May 2007, the Court of Cassation quashed the first instance judgment. The criminal proceedings were pending before the trial court when the European Court rendered its judgments (§§ 5-17 and 29-48 of *Yerme*; §§ 6-12 and §§ 22-53 of *Perişan and Others*).

3. The Court concluded that it had not been established that the operation had been planned and carried out in a way to minimise the potential risks. It was not established that the applicants or the applicants' next-of-kin had actively taken part in the incident, either. Under these circumstances, the force used could not have been considered to have been strictly necessary in the circumstances of the case. Accordingly, there had been violations of Articles 2 and 3 of the Convention under their substantive aspect (§§ 71 and 72 of *Yerme*; §§ 75-99 of *Perişan and Others*). The Court also considered that the criminal proceedings against the security forces had been ineffective given, in particular, the fact that the proceedings were still pending before the trial court when the Court rendered its judgments. There had therefore been violations of Articles 2 and 3 of the Convention under their procedural aspects (§§ 76 and 78 of *Yerme*; §§ 100-104 of *Perişan and Others*).

## II. INDIVIDUAL MEASURES

### *Just Satisfaction*

4. In the case of *Yerme*; the Court awarded the applicant EUR 19,500 in respect of non-pecuniary damage and EUR 1,500 for costs and expenses (§ 99 of the judgment).
5. In the case of *Perişan and Others*; the Court awarded the applicants, whose relatives had lost their lives, EUR 60,000 (in total EUR 480,000); each of the applicants Sever, Alevcan, Aflatun, İzra, Batuge and Nazlier EUR 36,000; each of the applicants Bozkuş and Yelboğa EUR 21,000 and each of the applicants Doğan, Uyanık, Eken and Altun EUR 12,000 in respect of non-pecuniary damage. The Court also awarded the applicants -jointly- EUR 12,000 for costs and expenses (§§ 112-121 of the judgment).
6. These amounts were paid to the applicants within the deadlines set forth by the Court. Payment information was published on HUDOC-EXEC.

### *Other Measures*

7. As explained in the case description part and as also noted by the Court in its judgments (§ 48 of *Yerme*; § 53 of *Perişan and Others*), the criminal proceedings against the security forces who allegedly involved in the intervention were pending before the Diyarbakır Assize Court when the Court rendered its judgments.
8. Following the judgments of the Court, by a decision of 9 June 2014, the trial court ruled on the case. However, the Court of Cassation quashed this decision by a judgment dated 11 May 2016. On 23 May 2019 the trial court dropped the charges against the accused persons on account of the expiry of the statutory limitation period. On 17 November 2022 the Court of Cassation upheld the first instance court's judgment in respect of all the accused persons, save for one of them who had lost his life before the first instance court's judgment. On 7 April 2023 the trial court dropped the charges against this accused as well, who had died in 2005. The proceedings thereby became final.

### *Conclusion on Individual Measures*

9. In the light of the information submitted above, the authorities regrettably indicate that no further individual measures are possible in the present cases.

### **III. GENERAL MEASURES**

10. The authorities recall that the issues of use of unjustified/excessive force by members of the security forces during their interventions in prison riots and ineffectiveness of subsequent investigations continue to be examined under the *Gömi and Others* and *Batı and Others* (no. 33097/96) groups respectively in a broader context.

11. The authorities will keep, within the context of the supervision of the *Gömi and Others* and *Batı and Others* groups, the Committee of Ministers informed on the general measures taken/envisaged.

#### ***Publication and Dissemination Measures***

12. The judgments were translated into Turkish and published on the Court's official website.

13. In addition, the Turkish authorities ensured that the translated texts of the judgments, with an explanatory note, were circulated to the relevant judicial, prison and administrative authorities, the Court of Cassation and the Constitutional Court.

### **IV. CONCLUSION**

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

15. As regards the general measures, the Turkish authorities will maintain submitting further information under the *Gömi and Others* and *Batı and Others* groups.