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

Item reference: Action report (16/04/2018)

Communication from Turkey concerning the case of SINAN ISIK v. Turkey (Application No. 21924/05)

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

Référence du point : Bilan d'action

Communication de la Turquie concernant l'affaire SINAN ISIK c. Turquie (requête n° 21924/05)
(anglais uniquement)

ACTION REPORT

Case of Sinan Isik v. Turkey

(App. no. 21924/05)

Judgment of 2 February 2010, final on 2 May 2010

I. CASE DESCRIPTION

1. The case concerns a violation of the applicant's right to freedom of thought, conscience and religion in that he has been obliged to disclose his belief due to the fact that it is mandatory to indicate his religion on his identity card (violation of Article 9).

2. The Court underlined that the identity cards contain a religion box, whether or not it is left blank (see §§ 48-49 of the judgment), that the breach in question arises from the problem of the indication of religion on the identity card (see § 52 of the judgment), which is incompatible with the freedom not to disclose one's religion, and that there has been a violation of Article 9 of the European Convention on Human Rights ("the Court" or "ECHR") (see § 53 of the judgment).

II. INDIVIDUAL MEASURES

3. The Turkish authorities have taken measures to ensure that the violation at issue has ceased and that the applicant has been redressed for its negative consequences.

A. *Just Satisfaction*

4. The applicant did not submit a claim for just satisfaction within the deadline set. The Court therefore considered that there was no need to award him any amount under that head (see § 59 of the judgment).

B. *Removal of the Religion Box on the Identity Cards*

5. The Court emphasized that the removal of the religion box could constitute an appropriate form of redress to put an end to the breach it had found (see § 60 of the judgment). The Turkish authorities have taken necessary steps to execute the judgment in question by taking into consideration the Court's findings in its judgment.

6. As the details of new identity cards have been mentioned under the heading of the General Measures below, the applicant can be able to request for a new identity card, which does not contain any religion box on it, since it has started to be distributed throughout the country at the beginning of the 2017. However, the applicant did not request for the new identity card yet.

7. Hereby, the Government considers that no other individual measures are required in respect of the violation at hand.

III. GENERAL MEASURES

8. The Turkish authorities have taken a number of measures aiming at preventing similar violations. These measures include, in particular, legislative amendments, the Action Plan on the Prevention of Human Rights Violations, individual application procedure and measures on the publication and dissemination of the European Court's judgment.

A. Legislative Amendments

9. The Turkish authorities would like to point out that the violation at hand resulted from the citizens' obligation to indicate information of religion on their identity cards. The authorities have therefore taken legislative measures in order to prevent similar violations.

10. Following the refusal of the applicant's request to have the word "Islam" replaced on his identity card in accordance with his belief, the applicant lodged an application with the Court, alleging that there had been a violation of his right to freedom of religion protected by the Convention (see § 22 of the judgment). In this regard, it appears that the applicant's complaint only concerns the religion box on the identity card.

11. The Court noted that citizens' identity card, which is a public document, must be shown at the request of any public authority or private enterprise or in the context of any formality whatsoever requiring identification of the holder (see § 40 of the judgment), and that given the frequent use of the identity card (school registration, identity checks, military service and so on), the indication of religious beliefs in identity cards exposes the bearers to the risk of discriminatory situations in their relations with the administrative authorities (see §§ 22 and 43 of the judgment).

12. On the other hand, having regard to the fact that the applicant's complaint is merely related to the religion box on the identity cards and he has not raised any concerns about the

civil registers, the Court's findings concerning the civil registers do not have a binding effect upon the Government (*obiter dictum*).

13. Coming back to the measures taken with regard to removal of the religion box on the identity cards with a view to preventing similar violations to the Law no. 5490 on Civil Registry was amended on 14 January 2016. Pursuant to the amended legislation, the religion box was removed from the identity cards and hence the new identity cards do not contain religious information in line with the Court's findings in the present judgment (see Annex 1 – copy of the new identity card). This amendment is sufficient to prevent persons from facing the risk of discriminatory situations in their relations with the authorities.

14. The distribution of new identity cards has started in Kırıkkale as a pilot practice at 14 March 2016 and throughout the country at the beginning of the 2017.

15. New identity cards contain an electronic chip (contact chip), and the chip includes personal information such as person's identity number, name, surname, previous surname, date and place of birth, gender, parent names, photograph, marital status, blood group as well as information concerning the religion, if requested.

16. As a rule, the electronic chip in the new identity card does not contain any information regarding the religion. However, if an individual, who requests a new identity card, checks the box "I want the identity card to contain information of religion" in the request form (see Annex 2, Request Form), the electronic chip contains information concerning religion upon request.

17. In addition to these, Article 6 of the Law no. 6698 on the Protection of Personal Data defines "Special Personal Data", and it is prohibited to process special personal data, except for the circumstances provided for in the Law, without obtaining the explicit consent of the relevant individuals. Information concerning the religion falls within the scope of "special personal data" under this Article; and in order for religion information to be shared, the explicit consent of the relevant individual must be obtained.

18. Pursuant to Article 6 of the Law on the Protection of Personal Data, since the religion-related data is of a sensitive nature, there is no institution having authorization for direct access to the field of religion. The protection measures on this subject are taken by the Ministry of Interior.

19. Having regard to the applicant's complaints in his application form lodged with the Court and the Court's findings with regard to frequent exposure of the bearers who have identity card indicating religious information to the risk of discriminatory situations in their relations with the private and administrative authorities, the Government of Turkey is of the opinion that the legislative amendments and the practice concerning the new identity cards are sufficient to execute the judgment in question.

B. Individual Application Procedure

20. In addition to the measures above, another measure has been established to cease the violation at domestic level if any occurs.

21. The Turkish authorities would also like to indicate in that scope that, in 2012, legislative amendments were adopted to introduce a possibility of an individual application before the Constitutional Court in respect of violation of human rights. Although this is not a major response to the shortcomings identified by the European Court in this case, the Turkish authorities would like to point out that an individual in the applicant's situation can today seek the remedy of lodging an individual application to uphold his or her Convention rights, as in the present case. In this respect, the Turkish authorities would like to recall that the European Court indicated in the Hasan Uzun case (10755/13) that the individual application to the Constitutional Court should be considered an effective remedy as of 23 September 2012.

C. The Action Plan on the Prevention of Human Rights Violations

22. The Action Plan which was set out after very long and comprehensive studies was prepared and submitted to the Board of Ministers for its adoption as an Action Plan and a reference document for all the public institutions with a view to prevent human rights violations. The preparation of Action Plan on Prevention of ECHR Violations which entered into force on 1 March 2014, The Action Plan consists of 14 main aims, and 46 goals have been set in order to materialize the aims in question. Short, medium and long terms have been envisaged for the activities that shall be carried out with a view to reaching these goals. In this context, the Action Plan also includes goals and activities under the aim of enabling freedom of thought, conscience and religion.

D. Translation, Publication and Dissemination of the Judgment

23. The Turkish authorities translated this judgment into Turkish and ensured its publication on the HUDOC database. It is available on <http://hudoc.echr.coe.int/eng?i=001-120268>.

24. Moreover, the translated judgment has been circulated to the relevant authorities, such as the Court of Cassation, the Supreme Administrative Court and the General Directorate of Civil Registration and Nationality.

25. The Government therefore considers that the aforementioned measures taken are capable of preventing similar violations as well as an appropriate form of redress for the negative consequences of the violation at hand in respect of the applicant. It is considered that no further general measures are required to execute the judgment at hand.

IV. CONCLUSION

26. In light of what the Government has submitted in terms of the individual and general measures about how applicant is redressed for the negative consequences of the violation and how the probable future violations are to be prevented, the Government considers that all necessary general and individual measures which Turkey is obliged to take under Article 46 § 1 of the Convention have been properly taken. Taking those all into account, the Committee of Ministers is respectfully invited to close its examination thereof.

ANNEXES

- 1- Copy of New Identity Card
- 2- Turkish and English Copies of Request Forms for New Identity Card

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16 AVR. 2018

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REPUBLIC OF TURKEY

MINISTRY OF INTERIOR

General Directorate of Civil Registration and Citizenship

COUNTY CODE	
YEAR OF APPLICATION	
PRIVATE FILE NO	

REQUEST CERTIFICATE OF IDENTITY CARD									
IDENTITY INFORMATION OF THE PERSON FOR WHOM IDENTITY CARD WILL BE ISSUED									
T. R. Identity Number									
Name									
Surname									
Father's Name									
Mother's Name									
Date of Birth									
Gender									
Information on Religion will be included in card			YES		NO				
Blood Type									
INFORMATION OF APPLICANT									
Closeness									
T. R. Identity Number/Foreigner's Identity Number									
Name									
Surname									
Name of Notary issuing Power of Attorney									
Notary Number			DATE	.../.../...	DOCUMENT NO				
CONTACT DETAILS AND OTHER INFORMATION									
Home Phone									
Mobile Phone									
Business Phone									
E-mail									
Contact Preference			SMS		E-MAIL		NEITHER		
Phone number will be written on the envelope			YES		NO				
Card Delivery Address									
Registry Office to which card will be returned									
Reason for Application									
Date of Application									
Right Hand Biometric Data			Fingerprint		Finger Vein		Palm Vein		
Reason for not taking Right Hand Biometric Data									
Left Hand Biometric Data			Fingerprint		Finger Vein		Palm Vein		
Reason for not taking Left Hand Biometric Data									
Will it be used as a travel document?			YES		NO				
Identity Card Fee									
Delivered Documents									
INFORMATION OF RECIPIENT									
		RECIPIENT 1				RECIPIENT 2			
T. R. Identity Number/Foreigner's Identity Number									
Name									
Surname									
SIGNATURE OF ARRANGER					SIGNATURE OF APPLICANT				

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