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Date: 22/03/2018

DH-DD(2018)300

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

Item reference: Action report (31/01/2018)

Communication from Turkey concerning the case of Ozcayir and Cicek v. Turkey (Application No. 1962/07)

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

Référence du point : Bilan d'action

Communication de la Turquie concernant l'affaire Ozcayir et Cicek c. Turquie (requête n° 1962/07)
(anglais uniquement)

DGI

31 JAN. 2018

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

Ankara, January 2018

ACTION REPORT

Özçayır and Çiçek v. TURKEY (1962/07)

The Judgment of 12 December 2017, final on 12 December 2017

I. CASE DESCRIPTION

1. The case concerns a violation of the right to liberty and security on account of lack of appearance before a judge to challenge the lawfulness of their pre-trial detention (Article 5§4).

II. INDIVIDUAL MEASURES

2. The Government has taken measures to ensure that the violation at issue has been ceased and that the applicant has been redressed for its negative consequences.

a) Applicant's proceeding

3. At the outset, it is noted that applicants were acquitted on 4 November 2008. In the absence of an appeal, this judgment became final on 12 November 2008. (§12 of the judgment). Therefore, the applicants aren't under detention on remand at the moment. The violation in this regard has therefore been brought to an end.

b) Compensation Claims as Domestic Remedy

4. The domestic legislation, notably Article 141 of the Turkish Criminal Procedure Law provided a possibility for the applicant to lodge a claim in respect of pecuniary damage. Applicant can avail himself of this possibility. The applicant, *Abdulkadir Çiçek*, has availed himself of this opportunity and the domestic court awarded compensation in respect of unlawful detention on 18 September 2013. The other applicant, *Medine Özçayır*, has not availed herself of this opportunity.

c) Just Satisfaction

5. The applicants did not submit a claim for just satisfaction. The European Court considered that there was no need to award the applicants any sum for damages.

6. The Government therefore considers that the applicants have been redressed for the negative consequences of the violations and no other individual measures are required.

III. GENERAL MEASURES

7. The Government would like to recall that the measures aimed at preventing violation similar this case has been taken within the framework of *the Demirel (39324/98)* case. The Committee of Ministers decided to close this case (see Resolution CM/ResDH(2016)332).

8. The Government furthermore notes that the impugned facts in the case took place before the measures have been taken within the framework of the *Demirel (39324/98)* case. The Government therefore considers that no further general measures are necessary.

Publication and Dissemination of the Judgment:

9. The judgment has been circulated to the Constitutional Court, the Court of Cassation the Turkish Institution of Human Rights and Equality, the Ombudsman Institution and the court which rendered the impugned decision.

10. The Government therefore considers that the above-mentioned measures are capable of preventing similar violations.

IV. CONCLUSION

11. The Government is of the opinion that the individual measures taken ensured that the violations at hand have ceased and that the applicant is provided redress for its negative consequences.

12. The Government furthermore recalls that the general measures have been taken within the context of *Demirel (39324/98)* case (see Resolution CM/ResDH(2016)332).

13. The Government therefore considers that Turkey has thus complied with its obligations under Article 46 paragraph 1 of the Convention and proposes to the Committee of Ministers to adopt a final resolution and close the examination of this case.