



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

CASE OF EROL AKSOY v. TÜRKİYE

(Application no. 58919/18)

JUDGMENT

Art 6 (civil) • Non-enforcement of Supreme Administrative Court judgments annulling decisions related to the valuation, tender invitation and subsequent sale of a television channel and radio station (Viva TV-Radio Viva) owned by joint-stock companies in which the applicant held shares • Failure to enforce judgments directly and personally affected the applicant's right to the procedural safeguards guaranteed in the determination of his civil rights and obligations • Art 6 applicable • Victim status • Inaction of the Saving Deposit Insurance Fund, which managed and controlled Viva TV-Radio Viva for debt recovery purposes, to enforce relevant judgments, effectively deprived the applicant of his right of access to a court

Art 1 P1 • Art 34 • Art 35 § 3 a) • *Ratione personae* • Lack of victim status • Non-enforcement of Supreme Administrative Court judgments did not directly affect the applicant's shareholder rights • Application lodged by applicant in a personal capacity and not on behalf of the joint stock companies concerned by the acts complained of • Applicant's direct shareholding in the companies either minimal or not disclosed

Prepared by the Registry. Does not bind the Court.

STRASBOURG

10 February 2026

FINAL

15/06/2026

*This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.*

In the case of Erol Aksoy v. Türkiye,

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Arnfinn Bårdsen, *President*,

Saadet Yüksel,

Jovan Ilievski,

Oddný Mjöll Arnardóttir,

Gediminas Sagatys,

Juha Lavapuro,

Hugh Mercer, *judges*,

and Dorothee von Arnim, *Deputy Section Registrar*,

Having regard to:

the application (no. 58919/18) against the Republic of Türkiye lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Turkish national, Mr Erol Aksoy (“the applicant”), on 5 December 2018;

the decision to give notice to the Turkish Government (“the Government”) of the complaints concerning Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention;

the parties’ observations;

Having deliberated in private on 20 January 2026,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case concerns the non-enforcement of judgments delivered by the Supreme Administrative Court following proceedings initiated by the applicant to annul decisions related to the valuation, tender invitation and subsequent sale of a television channel and radio station owned by joint-stock companies in which the applicant held shares. Relying on Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention, he complained that the national authorities had failed to comply with the Supreme Administrative Court’s judgments rendered in his favour in those proceedings.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

2. The applicant was born in 1946 and lives in Istanbul. He was represented by Ms N. Holliger, a lawyer practising in Paris.

3. The Government were represented by their Agent at the time, Mr Hacı Ali Açıkgül, former Head of the Department of Human Rights of the Ministry of Justice of the Republic of Türkiye.

4. The facts of the case, as submitted by the parties, may be summarised as follows.

A. Background to the case

5. On 19 February 2001, the Turkish government declared a state of economic crisis.

6. By a decision dated 15 March 2001, the Banking Regulation and Supervision Board (*Bankalar Düzenleme ve Denetleme Kurulu*, hereinafter “the Board”) resolved to transfer the management and control of İktisat Bankası T.A.Ş. (hereinafter “İktisat Bank” or “the Bank”) to the Savings Deposit Insurance Fund (*Tasarruf Mevduat Sigorta Fonu*, hereinafter “the Fund”), pursuant to section 14(3) of the Banking Activities Act (Law no. 4389). The Board, in its decision, observed that the Bank’s assets were insufficient to meet its liabilities and that its continued operation posed a threat to the rights of its creditors as well as to the security and stability of the financial system. It further noted that the Bank’s managers had failed to implement the necessary remedial measures and had instead transferred the Bank’s assets to companies under their control. Consequently, the Bank’s management and control, as well as the privileges of its shareholders, except for the entitlement to dividends, were transferred to the Fund.

7. Prior to the transfer, the applicant owned 61.8% of the shares in Avrupa ve Amerika Holding A.Ş., which in turn held 95.19% of the shares in the Bank. Additionally, the applicant personally held 1.01% of the Bank’s shares. The applicant also served as the managing director of the Bank’s board of directors. A total of 37.76% of the shares in Avrupa ve Amerika Holding A.Ş. were held by other members of the Aksoy family. Accordingly, 99.6% of the shares in Avrupa ve Amerika Holding A. Ş. were owned by the applicant and his family.

8. Following the transfer of İktisat Bank to the Fund, the auditors of the Board determined that its former shareholders, including Avrupa ve Amerika Holding A.Ş., Erol Aksoy and other members of the Aksoy family, had misappropriated the Bank’s resources for personal benefit. As a result, on 14 September 2001, the Fund resolved to recover 726,122,000 Turkish liras from the former shareholders by taking all necessary measures, including relying on the provisions of Law no. 6183 on the Collection of Debts Due to the State and imposing injunctions.

9. On 9 May 2006, a debt liquidation protocol (*Borç Tasfiye Protokolü*, hereinafter referred to as “the Liquidation Protocol”) was signed between the Fund (as creditor) and the Erol Aksoy Group (as debtor). The applicant personally signed the Liquidation Protocol as one of the debtors.

10. The debtors under the Erol Aksoy Group, as set out in the Liquidation Protocol, included, among others, Erol Aksoy personally, Avrupa ve Amerika Holding A.Ş., members of the Aksoy family who were shareholders in the

latter, Cinebeş Filmcilik ve Yapımcılık A.Ş., Cine Dijital İletişim Hizmetleri Ticaret A.Ş., Kutay Özel Radyo Televizyon Yayıncılık A.Ş., Spor ve Çocuk Televizyon Reklamcılık ve Yapımcılık A.Ş., Erdem Radyo Televizyon Yayıncılığı ve Reklamcılık A.Ş., Multikanal Dağıtım ve Ticaret A.Ş., Aks Radyo ve Yayıncılık Sanayi ve Ticaret A.Ş., Medya İletişim Hizmetleri Sanayi A.Ş., and Anadolu Radyo ve Görüntü Hizmetleri A. Ş.

11. According to Section 2 of the Liquidation Protocol, its subject and purpose are defined as the establishment of the principles and procedures for the repayment – by debtors and jointly and severally liable co-debtors – of debts that have been or will be transferred to the Fund. These debts arise from loans obtained from banks taken over by the Fund, as well as from other liabilities specified in the Liquidation Protocol and incurred by the individuals and legal entities identified as debtors.

12. Under the terms of the Liquidation Protocol, the debtors undertook joint and several liability for all present and future debts and their ancillary obligations. Section 9 of the Liquidation Protocol set out the conditions for default, specifying that in the event of a default by any of the joint debtors, all other debtors would be deemed to have defaulted as well.

13. On 3 April 2008, the Fund concluded that the Erol Aksoy Group had failed to fulfil several commitments and obligations set out in the Liquidation Protocol, rendering the Protocol no longer effective for the recovery of public receivables. Consequently, the Fund decided to rely on its provisions concerning default. It resolved to initiate legal proceedings against all natural and legal person debtors within the Erol Aksoy Group and to proceed with the sale of assets, including those consolidated as an economic and commercial unit.

14. On 18 September 2008, the Fund further resolved to transfer the management and control of all companies within the Erol Aksoy Group to itself, along with the rights of their shareholders, except for the entitlement to dividends.

B. Sale of Viva TV and Radio Viva Economic and Commercial Unit

15. Certain companies within the Erol Aksoy Group, identified as debtors under the Liquidation Protocol, owned Viva TV, a television channel, and Radio Viva, a radio station. In their submissions the Government presented the shareholder information of four out of the nine companies owning Viva TV and Radio Viva, namely: Kutay Özel Radyo Televizyon Yayıncılık A.Ş., Erdem Radyo Televizyon Yayıncılığı ve Reklamcılık A.Ş., Medya İletişim Hizmetleri Sanayi A.Ş., and Anadolu Radyo ve Görüntü Hizmetleri A.Ş.

The shareholding structures, as presented in the tables provided by the Government, are as follows:

1- Kutay Özel Radyo Televizyon ve Yayıncılık A.Ş.

Name (Company or Individual)	Paid-up Capital (TRY)	Shareholding Ratio (%)
Multikanal Dağıtım ve Ticaret A.Ş.	140,000.00	58.33%
MSM Mali Sistemleri Müşavirlik A.Ş.	39,666.66	16.53%
C.S.	1,000.00	0.42%
Avrupa ve Amerika Holding A.Ş.	59,333.34	24.72%
Total	240,000.00	100.00%

2- Erdem Radyo Televizyon Yayıncılığı ve Reklamcılık A.Ş.

Name (Company or Individual)	Paid-up Capital (TRY)	Shareholding Ratio (%)
Erol Aksoy	1,300.00	0.62%
Anadolu Radyo ve Görsel Hizmetler A.Ş.	154,100.00	73.38%
Cine Müzik TV Radyo Yayın Yapım A.Ş.	7,150.00	3.40%
Avrupa ve Amerika Holding A.Ş.	47,450.00	22.60%
Total	210,000.00	100.00%

3- Medya İletişim Hizmetleri San. ve Tic. AŞ

Name (Company or Individual)	Paid-up Capital (TRY)	Shareholding Ratio (%)
A. K.	838,387.50	95.82%
C. S.	2,750.00	0.31%
Cine Müzik TV Radyo Yayın Yapım A.Ş.	5,500.00	0.63%
Avrupa ve Amerika Holding A.Ş.	28,362.50	3.24%
Total	875,000.00	100.00%

4- Anadolu Radyo ve Görüntü Hizmetleri A.Ş.

Name (Company or Individual)	Declared Capital (TRY)	Unpaid Capital (TRY)	Paid-up Capital (TRY)	Shareholding Ratio (%)
Medya İletişim Hizmetleri Sanayi ve Ticaret A.Ş.	2,022,500.00	1,575,000.00	447,500.00	82.55%
Cine Müzik TV Radyo Yayın Yapım A.Ş.	11,000.00		11,000.00	0.45%
C. S.	16,500.00		16,500.00	0.67%
Avrupa ve Amerika Holding A.Ş.	400,000.00		400,000.00	16.33%
Total	2,450,000.00	1,575,000.00	875,000.00	100.00%

16. On 19 July 2007, the Fund decided to establish two economic and commercial units: one for Viva TV and the other for Radio Viva.

17. With respect to Viva TV, the Fund resolved to consolidate all seized assets, rights, properties and associated components, such as contracts and the rights arising therefrom, belonging to debtor companies within the Erol Aksoy Group and effectively used by Viva TV into a single economic and commercial unit. This consolidation encompassed the following companies: Cinebeş Filmcilik ve Yapımcılık A.Ş., Cine Dijital İletişim Hizmetleri Ticaret A.Ş., Kutay Özel Radyo Televizyon Yayıncılık A.Ş., Spor ve Çocuk Televizyon Reklamcılık ve Yapımcılık A.Ş., Erdem Radyo Televizyon Yayıncılığı ve Reklamcılık A.Ş., and Multikanal Dağıtım ve Ticaret A.Ş.

18. A similar resolution was adopted regarding Radio Viva. The Fund decided that the seized assets, rights, properties and associated components utilised by Radio Viva, including contracts and the rights arising therefrom, would also be consolidated into a single economic and commercial unit. This consolidation included the following companies: Aks Radyo ve Yayıncılık Sanayi ve Ticaret A.Ş., Medya İletişim Hizmetleri Sanayi A.Ş., Anadolu Radyo ve Görüntü Hizmetleri A.Ş., and Erdem Radyo Televizyon Yayıncılığı ve Reklamcılık A.Ş.

19. On 1 August 2007, the Industrial Development Bank of Türkiye (*Türkiye Sınai Kalkınma Bankası A.Ş.*, hereinafter referred to as “TSKB”) issued a report and determined that the value of the Radio Viva Economic and Commercial Unit (hereinafter referred to as “Radio Viva”) was 4,258,000 United States dollars (USD), while the value of the Viva TV Economic and Commercial Unit (hereinafter referred to as “Viva TV”) was USD 373,400.

20. On 29 August 2007, the Fund resolved to offer both Viva TV and Radio Viva for sale together in a single tendering process, setting a reserve price of USD 8,000,000. However, as no bids were received, the tendering process could not proceed.

21. On 30 June 2009, a valuation report issued by TSKB determined that the value of Radio Viva was USD 5,782,000 and the value of Viva TV was USD 132,000.

22. On 9 July 2009, the Fund decided to merge the two economic and commercial units, thereby creating the Viva TV-Radio Viva Economic and Commercial Unit (hereinafter referred to as “Viva TV-Radio Viva”).

23. On 5 November 2009, the Fund resolved to offer Viva TV-Radio Viva for sale, establishing a reserve price of USD 6,000,000. Although a company, P. A.Ş., obtained the tender documents with the intention of submitting a bid, the tendering process was subsequently postponed.

24. On 13 January 2011, the Fund decided to offer Viva TV-Radio Viva for sale again, setting the reserve price at USD 6,000,000. Three companies acquired the tender documents. However, only company A. participated in the auction held on 8 February 2011. Company A. initially submitted a bid of USD 3,750,000, after which the tendering process proceeded to the next stage of open bidding. Company A. then increased its offer to USD 4,150,000. As this bid was below the estimated value, 10 February 2011 the Fund decided to continue the tendering process through negotiation. On 11 February 2011, during the negotiation phase, company A. raised its bid to USD 5,000,000. As a result, Viva TV-Radio Viva was awarded to company A.

25. Following the notification of the outcome of the tendering process to the Radio and Television Supreme Council and the Competition Authority, on 3 May 2012, the Fund approved the award of Viva TV-Radio Viva to company A. for the price of USD 5,000,000.

26. On 9 May 2012, company A. deposited the tender amount into the Fund’s bank account. On the same day, the parties signed the “Agreement on Takeover of Viva TV-Radio Viva” and the Fund transferred the ownership of Viva TV-Radio Viva to company A.

C. First set of proceedings: the applicant’s challenge to the Fund’s valuation decision of 13 January 2011

27. On 7 February 2011, the applicant initiated proceedings before the administrative court, contesting the actions of the Fund concerning the tendering of Viva TV-Radio Viva, in which he claimed to hold both direct and indirect shares. He alleged that the Fund had proceeded with the sale without providing him with prior notification and that he had only learned of the sale upon its publication in the Official Gazette. The applicant sought the annulment of all measures related to the sale, including the Fund’s decision of 13 January 2011, which approved the invitation to tender and the terms of

sale and set the estimated value of Viva TV-Radio Viva at USD 6,000,000. He additionally requested a stay of execution of the Fund's decision, arguing that the actual value of Viva TV-Radio Viva substantially exceeded the valuation determined by the Fund. The applicant asserted that, as a signatory to the Liquidation Protocol agreed with the Fund and as a personal guarantor of the debt underlying the contested sale, he possessed a direct and legitimate legal interest in initiating the proceedings. He further emphasised that the Fund had assumed and continued to exercise management and control over companies owned by him. To support his claim, the applicant referred to a judgment of the Supreme Administrative Court in 2006, which had recognised his standing in a case involving a property owned by his company (see paragraph 44 below).

28. On 9 December 2014, the 13th Chamber of the Supreme Administrative Court dismissed the applicant's case. The judgment was delivered by a majority, with one judge dissenting. In the dissenting opinion, the judge observed that an appraisal report prepared by experts on 30 June 2009 had valued the entity at USD 5,914,000. The judge noted that, although approximately eighteen months had passed since the report, the Fund had set the estimated value at USD 6,000,000 without obtaining an updated valuation to reflect the prevailing economic conditions. The judge considered this to be unlawful and concluded that the decision should have been annulled.

29. On 7 July 2015, following an appeal by the applicant, the General Assembly of the Administrative Proceedings Divisions of the Supreme Administrative Court (*Danıştay İdari Dava Daireleri Genel Kurulu* – hereinafter “the General Assembly”), in line with the dissenting opinion, ruled that the estimated value of USD 6,000,000 had been determined on the basis of the 2009 valuation report, without any new assessment of the market value. The General Assembly concluded that the contested decision was not in compliance with the law, and, by a majority, annulled the Fund's decision.

30. On 25 January 2016, the Supreme Administrative Court rejected the Fund's request for rectification, noting that the case had become final following the appeal and was no longer subject to rectification.

31. In a letter dated 23 March 2016, the applicant communicated with the Fund, requesting the enforcement of the annulment judgment. He asserted that, prior to the auction date, on 7 February 2011, he had published a public notice in the economy section of the national newspaper, *Hürriyet*, informing the public of his initiation of legal proceedings concerning the enforcement of the default provisions under the Liquidation Protocol signed with the Fund and the Fund's decision to assume management and control of his companies following the commencement of the default process. The applicant further stated that, in the notice issued before the finalisation of the Supreme Administrative Court's judgment, he had clearly expressed his intention to challenge the sale transactions. Moreover, the applicant indicated that, prior to the negotiation phase of the tendering process, he had sent identical

notifications to both the buyer company, company A., and its owners on 7 and 9 February 2011, respectively. The applicant attached those documents, emphasising that the buyer had been made aware of the possibility of a lawsuit to annul the sale prior to participating in the auction and negotiations. The applicant contended that, in line with well-established case-law, as affirmed by the Court of Cassation, the buyer and its representatives could not be considered bona fide third parties.

32. On 18 April 2016, the Fund notified the applicant of a decision taken on 27 October 2015 regarding the impossibility of enforcing the judgment. The Fund clarified that, at the time of the invitation to tender and subsequent process, there had been no injunction, stay of execution or any other court order preventing the process. The tendering process had proceeded with the necessary approvals from the relevant authorities. The Fund further explained that the tender amount had been collected and Viva TV-Radio Viva had been transferred to the bona fide successful bidder. The funds obtained had been used to settle outstanding debts with certain creditors, and, since then, the Fund no longer exercised control over the asset in question. In the light of these circumstances, the Fund concluded that the enforcement of the annulment decision was not practicable, as rescinding the tendering would not restore the prior legal and factual status and would infringe the acquired rights of the successful bidder. Therefore, the Fund determined that the annulment decision could not be enforced, in terms of both legality and practicality.

D. Second set of proceedings: the applicant's challenge to annul the sale of Viva TV-Radio Viva

33. On 24 February 2011, the applicant initiated proceedings before the administrative court, seeking the annulment of the sale of Viva TV-Radio Viva. He argued that, having personally taken responsibility under the Liquidation Protocol signed with the Fund, and given that the sale in question aimed at recovering the debt arising from that Protocol, he had a direct and legitimate legal interest in pursuing the action. Furthermore, the applicant emphasised that the Fund had assumed control over his companies which owned Viva TV-Radio Viva, including management and supervisory rights, reinforcing his legal standing in the matter.

34. The applicant also claimed that Viva TV-Radio Viva had been sold at a significantly undervalued price and that the sale had been conducted through negotiations with just one company. He alleged that these circumstances had caused substantial harm to both the public interest and his personal interests. Accordingly, the applicant sought the annulment of the impugned act and requested a stay of execution pending the outcome of the proceedings.

35. On 19 March 2014, the 6th Chamber of the İstanbul Administrative Court dismissed the applicant's claim, concluding that no legal irregularities had occurred in the tendering and sale procedures. On an appeal by the applicant, the 13th Chamber of the Supreme Administrative Court upheld that decision on 9 December 2014. However, two dissenting judges raised concerns in a separate opinion, highlighting deficiencies in the valuation process.

36. The dissenting judges observed that, despite the passage of nearly one and a half years since the valuation report dated 30 June 2009, the Fund had set the estimated value at USD 6,000,000 solely on the basis of that outdated report. They noted that the report had failed to take into account prevailing economic conditions at the time of the sale. They concluded that it was unlawful to determine the estimated value without conducting an updated market assessment, and to proceed with the sale based on this figure.

37. Following this decision, the applicant lodged a request for rectification. On 30 June 2017, the 13th Chamber of the Supreme Administrative Court granted the request, referring to the ruling of the General Assembly of 7 July 2015 which had annulled the Fund's decision of 13 January 2011 concerning the valuation of Viva TV-Radio Viva (see paragraph 29 above). The court held that the annulment in that judgment necessitated a fresh judicial review of the case.

38. The court further emphasised that, since the Fund's decision of 13 January 2011 had been definitively annulled, all actions based on that decision had been rendered legally invalid. As a result, the court overturned the judgment of the 6th Chamber of the Istanbul Administrative Court dated 19 March 2014 and annulled the sale in question.

39. In a letter dated 7 August 2017, the applicant requested the Fund to enforce the annulment judgment. Consistent with his previous request (see paragraph 31 above), he stated that, on 7 February 2011, prior to the auction, he had published an announcement in *Hürriyet*, notifying the public of his legal actions concerning the default provisions and the Fund's assumption of management and control over his companies, and expressing his intention to challenge the sale transactions. He also referenced the notices he had sent to the buyer company and its owners on 7 and 9 February 2011 respectively. The applicant reiterated that the buyer and its owners had been made aware, prior to the auction and negotiations, of the possibility that a lawsuit might annul the sale, asserting that they could not be considered bona fide third parties.

40. On 5 September 2017, the Fund responded, stating that a decision had already been made on 11 August 2017 regarding the enforcement of the relevant judgment. The Fund reiterated the same reasons it had previously cited in its earlier response for not enforcing the court's decision, emphasising that the annulment decision could not be enforced due to legal and practical impossibilities (see paragraph 32 above).

E. The individual application before the Constitutional Court

41. On 11 September 2017, the applicant lodged an individual application with the Constitutional Court, alleging violations of his right to property and his right to a fair trial due to the non-enforcement of the final judgment annulling the sale of Viva TV-Radio Viva.

42. In a decision of 23 May 2018, the Constitutional Court observed that the final annulment judgment of the 13th Chamber of the Supreme Administrative Court had been served on the applicant on 28 July 2017 and determined that the thirty-day time-limit for lodging an individual application had commenced on that date. Noting that the applicant's application had been submitted on 11 September 2017, after the expiry of the time-limit, the Constitutional Court declared the application inadmissible. The decision was served on the applicant on 7 June 2018.

II. RELEVANT LEGAL FRAMEWORK AND PRACTICE

A. Relevant domestic law

43. A description of the relevant domestic law may be found in *Süzer and Eksen Holding A.Ş. v. Turkey* (no. 6334/05, §§ 65-76, 23 October 2012), *Cingilli Holding A.Ş. and Cingillioglu v. Turkey* (nos. 31833/06 and 37538/06, § 19, 21 July 2015) and *Karahasanoğlu v. Turkey* (nos. 21392/08 and 2 others, §§ 85-90, 16 March 2021).

B. Relevant practice of the domestic courts

44. The applicant provided the Court with the following case-law examples with respect to domestic courts' practices in relation to the similar issues raised in the present case.

1. The Supreme Administrative Court's judgment of 20 July 2006 (the case of Erol Aksoy v. the Fund (E. 2006/1242, K.2006/3060))

45. This case concerned the applicant's standing in the context of enforcement proceedings initiated under Law no. 6183, which were related to his debts to the Fund following the latter's takeover of İktisat Bank. In particular, the case concerned the annulment of the Fund's decision regarding the sale of immovable property belonging to company D.

46. The applicant appealed against the decision of the first-instance administrative court, which had dismissed the case on the grounds of his lack of standing. He argued that the management and control of company D., along with the shareholders' privileges, had been transferred to the Fund, as the company was part of the Erol Aksoy Group. He further argued that the contested property sale had been conducted to recover his debts and that,

although he was not the company's legal representative, he had a legitimate interest in the case on account of its direct connection to the repayment of his debts.

47. On 20 July 2006, the Supreme Administrative Court, ruling unanimously, found that the applicant had a legal interest in the enforcement proceedings initiated under Law no. 6183, as he was the majority shareholder of İktisat Bank, which had been transferred to the Fund. The court held that the applicant had standing to challenge the transaction and quashed the administrative court's earlier decision.

2. The Constitutional Court's judgment of 12 December 2019 (the case of Erol Aksoy (no. 2))

48. The individual application in the above-mentioned case concerned the Fund's failure to enforce court judgments that had annulled its decisions regarding the invitation to tender, the valuation and the sale of a media group, which included, among others, Cine 5 TV, a television channel owned by the Erol Aksoy Group, consolidated as an economic and commercial unit following the takeover of İktisat Bank.

49. The Fund justified its failure to enforce the judgment on the grounds that the economic and commercial unit had already been transferred to the successful bidder, thereby severing any legal connection between the Fund and the asset in question. It argued that enforcing the annulment judgment would violate the purchaser's acquired rights and undermine legal certainty and public trust, particularly as the purchase amount had been duly paid. The Fund further asserted that implementation of the judgment was both legally and practically impossible. The applicant complained that the Fund's failure to implement the annulment judgment constituted a violation of his property rights, as guaranteed under Article 35 of the Constitution.

50. As to the admissibility of the individual application, the Constitutional Court observed that the annulled administrative decisions had rendered the sale of the economic and commercial unit retroactively invalid and emphasised that legal or practical difficulties could not exempt the administration of its duty to enforce court judgments. It held that the compensation mechanisms provided under section 28(3) and (4) of Law no. 2577 did not constitute an alternative to enforcement, nor did they exempt the administration from its constitutional obligation to implement such decisions.

51. In this regard, the Constitutional Court further noted that, while non-pecuniary damages could be awarded in such cases, claims in respect of pecuniary damage were often dismissed as speculative under the case-law of the Supreme Administrative Court. It noted that limiting enforcement solely to compensation risked excluding other viable means of restitution. The Constitutional Court held that the administration had an obligation either to enforce a court judgment to achieve *restitutio in integrum* or, if this was

objectively impossible due to insurmountable factual or legal obstacles, to propose alternative measures providing adequate redress, without placing the burden on the applicant to initiate new proceedings.

52. Accordingly, the Constitutional Court concluded that the applicant had exhausted all available remedies.

53. The Constitutional Court further noted that the applicant's claim concerned a continuing violation and, as such, considered that the application had been lodged within the time-limit.

54. The Constitutional Court observed that the administration had failed to demonstrate the existence of insurmountable obstacles to enforcement or propose any alternative solutions. Instead, it had rejected the applicant's requests.

55. The Constitutional Court held that the completion of the sale did not constitute a legal or practical barrier to enforcing the judgment. It noted that, since the tendering process and related decisions had been the subject of ongoing judicial proceedings at the time, the successful bidder should have anticipated the possibility of the sale being annulled. The Constitutional Court concluded that the administration's failure to enforce the annulment decisions amounted to a violation of the applicant's property rights under Article 35 of the Constitution.

THE LAW

I. PRELIMINARY OBJECTIONS RAISED BY THE GOVERNMENT

The Government's objections in general

56. The Government raised several preliminary objections concerning the admissibility of the application. In respect of the application as a whole, they submitted that it should be declared inadmissible as being incompatible *ratione personae* with the provisions of the Convention. They further contended that the applicant had failed to lodge an individual application before the Constitutional Court and had, subsequently, not complied with the six-month time-limit.

57. The Government also raised separate, specific objections relating to each of the applicant's complaints. These included, on various grounds, that Article 6 § 1 of the Convention was inapplicable; that domestic remedies had not been exhausted, that the applicant did not have victim status, and that the complaint under Article 1 of Protocol No. 1 was incompatible *ratione materiae*.

58. The Court will examine, under this heading, the Government's objections concerning the exhaustion of domestic remedies and the alleged failure to comply with the six-month time-limit. The remaining objections

will be addressed, as appropriate, in the context of the examination of the applicant's individual complaints.

1. Non-exhaustion of domestic remedies

59. The Government raised two objections concerning the exhaustion of domestic remedies. Firstly, they argued that the applicant had failed to lodge an individual application with the Constitutional Court following the non-enforcement of the decision of the General Assembly of 7 July 2015. Secondly, they contended that the applicant had not pursued compensation proceedings before the domestic courts, as provided for under section 28(3) and (4) of Law no. 2577 and Article 125 of the Constitution.

(a) Alleged failure to lodge an individual application

60. The Government submitted that the applicant's complaints were primarily based on the Fund's decision, which had set the value of Viva TV-Radio Viva for the sale and had formed the subject matter of the first set of proceedings (see paragraphs 27-32 above). They argued that the subsequent sale had merely been an implementation of that decision. Accordingly, the applicant should have been aware that both the annulment judgment concerning the estimated value and the court's judgment annulling the sale would remain unenforced following the notification of the Fund's decision of 27 October 2015. This decision had been sent to the applicant in response to his request for the Fund to implement the court's judgment delivered at the conclusion of the first set of proceedings (see paragraph 32 above).

61. The applicant contested the Government's submissions, asserting that at the time the Fund had given notice of its decision declaring that it would not implement the court's judgment delivered at the conclusion of the first set of proceedings, the second set of proceedings had still been ongoing. Since the sale had been the subject of the second set of proceedings, its annulment could have invalidated the entire process, including the matters addressed in the first set of proceedings, which had ultimately occurred. In response, the applicant argued that his decision to apply to the Constitutional Court only after the Fund had informed him that it could not implement the court's judgment annulling the sale at the end of the second set of proceedings should be considered sufficient to establish that he had duly exhausted all domestic remedies.

62. The Court notes that, on 24 February 2011, the applicant initiated an action against the Fund, seeking the annulment of the sale of Viva TV-Radio Viva (the second set of proceedings), while the proceedings concerning the determination of its value, which had been initiated on 7 February 2011 (the first set of proceedings), were still ongoing. It observes that the outcome of the first set of proceedings was determinative for the second. In this regard, the Court considers that the applicant's primary objective was to prevent the

sale of Viva TV-Radio Viva. The two sets of proceedings were thus interlinked, with the second set being dependent on the conclusions of the first. Notwithstanding the applicant's repeated requests, the judgments delivered at the conclusion of those proceedings remained unenforced. The Court therefore finds that the circumstances at hand indicate the existence of a continuing situation in relation to the applicant's complaints concerning the fairness of the proceedings and his right to the peaceful enjoyment of his possessions (see *Malama v. Greece*, no. 43622/98, § 35, ECHR 2001-II).

63. Furthermore, it was not unreasonable for the applicant to await the outcome of the second set of proceedings before taking further action, especially since the sale occurred on 11 February 2011, while the first set of proceedings was still pending. The Court finds that the applicant's ultimate aim shifted from preventing the sale to seeking the annulment of the sale. In that connection, it does not consider that the applicant unreasonably delayed the submission of his individual application to the Constitutional Court. The applicant's decision to request the Fund to enforce the annulment judgment before seizing the court was reasonable. Moreover, following the Fund's response, the applicant applied in a timely manner to the Constitutional Court, complaining of the non-enforcement of the judgments in question and alleging a violation of his right to property and his right to a fair trial.

64. In view of the above, the Court considers that the Government's objection in that regard must be rejected.

(b) Alleged failure to apply to administrative courts for compensation

65. The Government further argued that the application should be rejected for non-exhaustion of domestic remedies, as the applicant had failed to bring compensation proceedings before the domestic courts under section 28 (3) and (4) of Law no. 2577 and Article 125 of the Constitution.

66. The Court notes in particular that the administrative actions brought by the applicant were concluded in his favour and the *ex tunc* nullity of the disputed administrative acts was upheld by the domestic courts. The applicant also sought the enforcement of those decisions, but no action was taken by the administrative authorities, which were constitutionally bound to take all necessary measures to restore the situation that would have existed had Viva TV-Radio Viva not been unlawfully offered for sale and subsequently sold to a third party. In these circumstances, the Court considers that the applicant cannot reasonably be expected to pursue further actions against the State. The Court further notes that it has previously examined a similar objection and rejected it (see *Süzer and Eksen Holding A.Ş. v. Turkey*, no. 6334/05, § 95, 23 October 2012, and *Cingilli Holding A.Ş. and Cingillioglu v. Turkey*, nos. 31833/06 and 37538/06, §§ 29-31, 21 July 2015). It sees no reason to depart from those findings in the present application and concludes that the applicant has complied with the requirement of exhaustion of domestic remedies.

67. The Court therefore rejects the Government's objection in that regard.

2. Compliance with the six-month time-limit

68. The Government argued that the application was inadmissible for non-compliance with the six-month rule, asserting that the applicant had been explicitly informed on 18 April 2016 by the Fund that the Supreme Administrative Court judgment could not be enforced, and that he therefore should have lodged the application within six months of that date. They maintained that subsequent domestic proceedings did not reset the time-limit and invited the Court to declare the application inadmissible under Article 35 § 1 of the Convention.

69. The applicant responded that the application had been submitted within six months of the final domestic decision, namely the Constitutional Court's decision of 23 May 2018, thus complying with Article 35 § 1. The applicant argued that the Government's assertion that the six-month period had begun on 18 April 2016 had been speculative and had contradicted their earlier position on the exhaustion of domestic remedies. He further noted that another case regarding the annulment of the sale had been ongoing and had not been addressed in the Fund's letter of 18 April 2016. The applicant asserted that the Government's objection should be dismissed.

70. The Court reiterates its earlier findings that the judicial proceedings in issue were closely interconnected, and that the non-enforcement of the judgments delivered at the conclusion of those proceedings constituted a continuing situation (see paragraph 62 above). Furthermore, as previously noted, the applicant, having duly exhausted the domestic remedy of individual application to the Constitutional Court (see paragraph 63 above), lodged the present application on 5 December 2018, following the notification of the Constitutional Court's decision on 7 June 2018, and thereby complied with the six-month time-limit. The Court therefore dismisses the Government's objection regarding non-compliance with the six-month rule.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

71. The applicant complained that the domestic authorities had failed to comply with the binding judgments of the Supreme Administrative Court, which had annulled the Fund's decisions regarding the valuation of Viva TV-Radio Viva and its sale to company A. Relying on Article 6 of the Convention, he alleged that the continuing non-enforcement of the judgments had amounted to a breach of his right to a fair trial.

Article 6, as far as relevant, reads as follows:

"In the determination of his civil rights and obligations ... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."

72. The Government contested those arguments.

A. Admissibility

1. *Victim status and applicability of Article 6 § 1 of the Convention*

73. The Government argued that the applicant did not have victim status and that Article 6 § 1 of the Convention was not applicable, given that he was not directly affected by the judgments of the Supreme Administrative Court, as those judgments concerned the companies that own Viva TV–Radio Viva. While acknowledging that the applicant had been a party to the domestic proceedings, the Government contended that his standing in those proceedings was based solely on a legitimate interest, and that the annulment judgment concerning the sale of Viva TV-Radio Viva could not directly result in reducing the applicant’s debt.

74. The applicant contested the Government’s arguments.

75. Given the close link between the victim status and applicability of the relevant Convention provision, whether the applicant has victim status in the present case will be examined together with the Court’s assessment of the applicability of Article 6 § 1 of the Convention (see, for instance, *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], no. 53600/20, § 459, 9 April 2024).

76. In order to be able to lodge an application in accordance with Article 34, an individual must be able to show that he or she was “directly affected” by the measure complained of (see *Burden v. the United Kingdom* [GC], no. 13378/05, § 33, ECHR 2008, and *İlhan v. Turkey* [GC], no. 22277/93, § 52, ECHR 2000-VII). Consequently, the existence of a victim who has been personally affected by an alleged violation of a Convention right is indispensable for putting the protection mechanism of the Convention into motion, although this criterion is not to be applied in a rigid and inflexible way (see *Aksu v. Turkey* [GC], nos. 4149/04 and 41029/04, § 51, ECHR 2012, and *Bitenc v. Slovenia* (dec.), no. 32963/02, 18 March 2008).

77. In addition, the Court interprets the concept of “victim” autonomously and irrespective of domestic concepts such as those concerning an interest or capacity to act (see *The J. Paul Getty Trust and Others v. Italy*, no. 35271/19, § 225, 2 May 2024), even though it should have regard to the fact that an applicant had been a party to the domestic proceedings (see *Aksu v. Turkey* [GC], nos. 4149/04 and 41029/04, § 52, ECHR 2012, and *Micallef v. Malta* [GC], no. 17056/06, § 48, ECHR 2009).

78. For Article 6 § 1 in its “civil” limb to be applicable, there must be a dispute over a “right” which can be said, at least on arguable grounds, to be recognised under domestic law, irrespective of whether that right is protected under the Convention. The dispute must be genuine and serious; it may relate not only to the actual existence of a right but also to its scope and the manner of its exercise; and the result of the proceedings must be directly decisive for

the right in question (see *Grzęda v. Poland* [GC], no. 43572/18, § 257, 15 March 2022, with further references).

79. The Court notes that, in the present case, it is undisputed between the parties that the applicant was a co-debtor alongside the companies within the Erol Aksoy Group. The management and control of these companies were taken over by the Fund, which subsequently proceeded to sell certain assets of some of these companies, including Viva TV-Radio Viva, to recover the debt. It is likewise undisputed between the parties that the applicant held shares, either directly or indirectly, in the companies that owned Viva TV-Radio Viva.

80. The Court notes that, as acknowledged by the domestic courts, under domestic law, founded on the principles of the rule of law and constitutional provisions guaranteeing judicial review of all actions and decisions taken by public authorities (particularly Article 125 of the Turkish Constitution), the applicant was entitled to challenge the valuation and sale of the asset in question, namely Viva TV-Radio Viva, before the administrative courts to ensure that the sale complied with the legal requirements binding upon the Fund. As a shareholder in the companies whose assets were sold by the Fund which had assumed full management and control over them, the applicant was entitled to protection against any unlawful transactions carried out by the Fund in relation to those assets. The domestic courts did not dispute the applicant's right to challenge the lawfulness of the valuation and the subsequent sale of the asset (see, *mutatis mutandis*, *Kural v. Türkiye*, no. 84388/17, § 36, 19 March 2024). Indeed, at the conclusion of both sets of proceedings, the unlawfulness of those decisions was established. Accordingly, the Court finds that the proceedings before the Supreme Administrative Court concerned a "right" of the applicant within the meaning of Article 6 of the Convention. Furthermore, the dispute related to a right of a civil nature, as it concerned the lawfulness of a property transaction, in which the applicant had a financial interest, by the Fund.

81. In this regard, the applicant had assumed joint and several liability for the debt in question alongside the companies that owned Viva TV–Radio Viva, whose valuation and sale had a direct impact in the context of efforts to satisfy that debt, and in respect of which the applicant was entitled to seek compliance with the law. In these circumstances, the domestic authorities' failure to enforce the domestic court judgments declaring the valuation and sale of Viva TV–Radio Viva unlawful directly and personally affected the applicant's right to the procedural safeguards guaranteed in the determination of his civil rights and obligations, within the meaning of Article 6 § 1 of the Convention.

82. In the light of the above, the Court concludes that the civil limb of Article 6 of the Convention is applicable in the present case and that the applicant may validly claim to be a victim of the alleged violation of

Article 6 § 1 of the Convention. The Government's objection in that regard must therefore be dismissed.

2. *Conclusion as to admissibility*

83. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. *The parties' submissions*

84. The applicant complained of the Fund's failure to enforce the judgments in his favour delivered by the Supreme Administrative Court.

85. The Government argued that the enforcement of the court decisions in issue had not been delayed. Instead, they maintained that it had been *de jure* and *de facto* impossible to enforce them, given that Viva TV-Radio Viva had been sold to a bona fide third party. They further submitted that it was not possible to re-establish the situation as it had been prior to the annulment judgments.

86. In his further observations, the applicant stated that, despite the claim that enforcing the court judgments in question would be impossible, he had identified a similar precedent in which the administrative court had issued a stay of execution concerning the sale of Show TV, a television channel owned by the Erol Aksoy group's companies, and the Fund had implemented that decision. He maintained that the Fund could have fully complied with the judgments annulling the sale of Viva TV-Radio Viva.

2. *The Court's assessment*

87. The Court reiterates that Article 6 § 1 of the Convention must be interpreted in the light of the Preamble to the Convention, which declares, among other things, the rule of law to be part of the common heritage of the Contracting States (see *Advance Pharma sp. z o.o v. Poland*, no. 1469/20, § 331, 3 February 2022, and *Kural*, cited above, § 60).

88. It further reiterates that the right to a court protected by Article 6 would be illusory if a Contracting State's domestic legal system allowed a final, binding judicial decision to remain inoperative, to the detriment of one party. The execution of a judgment given by any court must therefore be regarded as an integral part of the "trial" for the purposes of Article 6 (see *Hornsby v. Greece*, 19 March 1997, § 40, *Reports of Judgments and Decisions* 1997-II, and *Sharxhi and Others v. Albania*, no. 10613/16, § 92, 11 January 2018). Otherwise, the provisions of Article 6 § 1 of the

Convention would be deprived of all useful effect (see *C.M. v. Belgium*, no. 67957/12, § 55, 13 March 2018, with further references).

89. These principles are even more important in administrative proceedings concerning a dispute whose outcome is decisive for a litigant's civil rights. By lodging an application for judicial review with the State's highest administrative court, the litigant seeks not only the annulment of the impugned decisions but also and above all the removal of its effects. The effective protection of a party to such proceedings and the restoration of legality presupposes an obligation on the administrative authorities' part to comply with the judgment of that court. Where administrative authorities refuse or fail to comply with a judgment against the State, or even delay in doing so, the guarantees under Article 6 enjoyed by a litigant during the judicial phase of the proceedings are rendered devoid of purpose (see *Hornsby*, cited above, § 41, and *Cingilli Holding A.Ş. and Cingillioğlu*, cited above, § 38, 21 July 2015). Moreover, the Court has on many occasions emphasised that the domestic authorities' failure to duly enforce judicial decisions would be incompatible with the rule of law and the principle of legal certainty (see *Hornsby*, cited above, §§ 40-41; *Dolińska-Ficek and Ozimek v. Poland*, nos. 49868/19 and 57511/19, § 328, 8 November 2021; and *Kural*, cited above, § 67).

90. The complexity of the domestic enforcement procedure or of the State budgetary system cannot relieve the State of its obligation under the Convention to guarantee to everyone the right to have a binding and enforceable judicial decision enforced within a reasonable time. Nor is it open to a State authority to cite lack of funds or other resources (such as housing) as an excuse for not honouring a judgment debt (see *Burdov v. Russia (no. 2)*, no. 33509/04, § 70, ECHR 2009; *Süzer and Eksen Holding A.Ş.*, cited above, § 116; and *Cingilli Holding A.Ş. and Cingillioğlu*, cited above, § 39).

91. The Court notes that, in the present case, the domestic courts annulled the decision regarding the valuation, invitation to tender and subsequent sale of Viva TV-Radio Viva.

92. The Court accepts that a situation may exceptionally arise where the *restitutio in integrum* enforcement of a court judgment, declaring administrative acts unlawful and void, may, as such, prove objectively impossible on account of insurmountable factual or legal obstacles. However, in such situations and in accordance with the right of access to a court, guaranteed by Article 6 § 1 of the Convention, a member State must, in good faith and of its own motion, examine other alternative solutions that can remedy the unlawful effects of its acts, in particular the awarding of compensation (see *Cingilli Holding A.Ş. and Cingillioğlu*, cited above, § 41, and *Nikoloudakis v. Greece*, no. 35322/12, § 50, 26 March 2020).

93. The Court notes that on 23 March 2016 and 7 August 2017, the applicant formally requested the Fund to comply with the Supreme Administrative Court's judgments and enforce them. He further pointed out

that he had previously warned the public, the buyer company and its owners through various means about the legal proceedings he had initiated and the potential annulment of the sale of Viva TV-Radio Viva (see paragraphs 31 and 39 above). However, the Fund responded that it would be impossible to enforce the judgments, as the asset had already been sold to bona fide third parties. The Fund further stated that it no longer had control over that economic and commercial entity and all proceeds from the sale had been used to settle the debt (see paragraphs 32 and 40 above).

94. The Court notes that the Government have failed to demonstrate that the Fund took any steps to address the applicant's situation in the light of the judgments that annulled the decisions relating to the valuation, tender process and sale of Viva TV-Radio Viva.

95. In view of the foregoing, the Court concludes that the Fund's complete inaction to enforce the Supreme Administrative Court's judgments effectively deprived the applicant of his right of access to a court.

Accordingly, there has been a violation of Article 6 § 1 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL NO. 1 TO THE CONVENTION

96. The applicant complained that the measures taken by the Fund, and upheld by the national courts, had infringed his right to the peaceful enjoyment of his possessions as guaranteed by Article 1 of Protocol No. 1 to the Convention.

97. The Government argued that the applicant did not have victim status as the shareholders of joint-stock companies could not claim victim status under the Convention in respect of measures targeting the company. They claimed that, while the applicant did not directly own shares in the companies that operated Viva TV-Radio Viva, he had held indirect interests through intermediary entities. They further noted that the applicant neither directly owned a majority or controlling stake in these companies nor claimed to represent them in the proceedings. They referred in this context to the shareholder structure of the four companies out of the nine that owned Viva TV-Radio Viva (see paragraph 15 above)

98. The Government further argued that the applicant had failed to demonstrate that the companies were unable to pursue legal action through their corporate structures. Referring to the Liquidation Protocol, they maintained that the applicant's liability under a debt repayment agreement did not, in itself, confer personal victim status. In their view, the applicant's interest in challenging the sale of the economic and commercial unit stemmed from a desire to reduce his joint debt burden, rather than from any direct infringement of his right to property. In this connection, they pointed out that there is no certainty that a revaluation of Viva TV-Radio Viva would result in a higher value, and even if it did, it remains uncertain whether the unit

would be sold at a higher price. They argued that, for these reasons, the applicant's personal interest in a potential increase in the sale price and the corresponding reduction of his debt was merely speculative.

99. In conclusion, the Government maintained that the applicant's indirect and non-controlling shareholder status, the absence of exceptional circumstances and the companies' separate legal personalities rendered the application incompatible *ratione personae* with the provisions of the Convention and the Protocols thereto and they invited the Court to dismiss the complaint on that basis.

100. The applicant contested the Government's submission and argued that the companies owning Viva TV-Radio Viva had lacked the independence to initiate proceedings against the Fund, as they had been under the Fund's control. He described this as an exceptional situation justifying the lifting of the corporate veil in his favour. He asserted that he had had a personal interest in the matter as an indirect shareholder of Kutay Özel Radyo Televizyon Yayıncılık A.Ş. and a majority shareholder through Avrupa ve Amerika Holding A. Ş. and İktisat Bank. He cited national proceedings where his standing had been upheld, including Supreme Administrative Court rulings affirming his role as a claimant against the Fund to annul the sale of Viva TV-Radio Viva. He noted that the Fund and national courts had repeatedly recognised his personal interest, even after the Fund had challenged his standing in a previous case in 2006, which the Supreme Administrative Court had rejected. The applicant argued that his case revealed significant overlap between corporate and personal interests. He maintained that the debt recovery actions followed by the sale of the assets of the Erol Aksoy group's companies, initiated by the Fund, had stemmed from the failure of İktisat Bank, in which he had held nearly all shares through his holding company, Avrupa ve Amerika Holding A. Ş. The applicant emphasised his legitimate interest in the value of Viva TV-Radio Viva, noting that it had been essential to secure the best financial terms for the sale of this valuable asset and to settling his debt under more favourable conditions. He contended that, as he had been a personal signatory to the Liquidation Protocol, the irregular sale conditions and undervaluation of assets had affected him directly, violating his right to property under the Convention.

101. In conclusion, he requested the rejection of the Government's objections as to his standing.

102. The Court has repeatedly held that in order to be able to lodge an application in accordance with Article 34, an applicant must be able to show that he or she was "directly affected" by the measure complained of (see *Burden*, cited above, § 33; *Aksu*, cited above, § 52; and *Centro Europa 7 S.r.l. and Di Stefano v. Italy* [GC], no. 38433/09, § 92, ECHR 2012). Even though the Court should have regard to the fact that an applicant had been party to the domestic proceedings, the concept of "victim" in Article 34 must be interpreted autonomously and independently of domestic law concepts, such

as a capacity to bring or take part in legal proceedings (see *Aksu*, cited above, and *Greek Federation of Customs Officers, Gialouris and others v. Greece*, no. 24581/94, Commission decision of 6 April 1995, DR 81-B, p. 127). The Court reiterates that as a general rule a shareholder of a company, including the majority shareholders, cannot claim to be a victim of an alleged violation of the company's rights under the Convention (see *Agrotexim and Others v. Greece*, 24 October 1995, §§ 62-66, Series A no. 330-A).

103. When it comes to cases brought by shareholders of a company, it is crucial to draw a distinction between complaints brought by shareholders about measures affecting their rights as shareholders and those about acts affecting companies, in which they hold shares (see *Albert and Others v. Hungary* [GC], no. 5294/14, § 122, 7 July 2020, and the cases cited therein). In the former group, shareholders themselves may be considered victims whereas in the latter group the general principle is that shareholders of companies cannot be seen as victims within the meaning of Article 34 of the Convention. However, this principle may be justifiably qualified in two kinds of situations: firstly, where the company and its shareholders are so closely identified with each other that it is artificial to distinguish between the two; and, secondly, if it is warranted by "exceptional circumstances" (*ibid.*, §§ 120-45).

104. In the present case, the Court observes that, according to the announcements published in the Official Gazette, Viva TV-Radio Viva was owned by nine companies, namely: Cinebeş Filmcilik ve Yapımcılık A.Ş., Cine Dijital İletişim Hizmetleri Ticaret A.Ş., Kutay Özel Radyo Televizyon Yayıncılık A.Ş., Spor ve Çocuk Televizyon Reklamcılık ve Yapımcılık A.Ş., Erdem Radyo Televizyon Yayıncılığı ve Reklamcılık A.Ş., Multikanal Dağıtım ve Ticaret A.Ş., Aks Radyo ve Yayıncılık Sanayi ve Ticaret A.Ş., Medya İletişim Hizmetleri Sanayi A.Ş., and Anadolu Radyo ve Görüntü Hizmetleri A.Ş. These entities are joint-stock companies with legal personality and the capacity to acquire and exercise property rights independently under domestic law.

105. It is undisputed between the parties that the applicant's complaint concerning the alleged non-enforcement of domestic court judgments pertains to the valuation and subsequent sale of assets belonging to the aforementioned companies. However, the present application has been lodged by the applicant in his personal capacity and not on behalf of those legal entities.

106. Furthermore, the Court notes that the acts complained of concerned the nine companies that owned Viva TV-Radio Viva and did not directly interfere with the applicant's rights as a shareholder. In this context, the Court distinguishes the present case from cases such as *Olczak v. Poland* ((dec.), no. 30417/96, §§ 71-85, ECHR 2002-X (extracts)), and *Shesti Mai Engineering OOD and Others v. Bulgaria* (no. 17854/04, §§ 80-92, 20 September 2011). In those cases the impugned measures – the artificial

dilution of voting rights or the outright cancellation of shares – directly affected the applicants’ legal rights or had a clear and decisive impact on their ability to exercise shareholder rights. In light of these considerations, the Court concludes that the measures in question did not directly affect the applicant’s shareholder rights.

107. As to the question whether the applicant, as a shareholder, could be identified with the companies owning Viva TV-Radio Viva (see *Albert and Others*, cited above, §§ 135-137), the Court acknowledges the applicant’s assertion that the sale of Viva TV-Radio Viva resulted from the failure of İktisat Bank. The applicant personally held 1.01% of the bank’s shares. In addition, 95.19% of the shares were owned by a holding company, Avrupa ve Amerika Holding A.Ş., in which the applicant owned 61.8% of the shares (see paragraph 7 above). From the documents submitted by the Government, it can further be discerned that he was a shareholder in some of the companies that own Viva TV-Radio Viva, either directly or indirectly through the same holding company (see paragraph 15 above).

108. The Court notes that the Liquidation Protocol was signed following the transfer of İktisat Bank to the Fund. Its purpose was to establish the principles and procedures for repayment of debts, primarily arising from loans obtained from banks taken over by the Fund. The nine companies that own Viva TV-Radio Viva were listed in the Protocol as either principal debtors or jointly liable co-debtors, along with the applicant. However, neither the Liquidation Protocol nor the parties provided a complete account of the shareholder structures of all nine companies. Moreover, neither the applicant nor the Government claimed that these companies were wholly or predominantly owned by the applicant, nor that they were family-owned or family-run enterprises. In fact, the Government only submitted information on four of the companies, indicating that the applicant personally held merely a minor direct share -0.62%- in Erdem Radyo Televizyon Yayıncılığı ve Reklamcılık A.Ş. Further analysis of the data revealed that two other individuals held substantially larger shares in the companies, ranging from 95.81 % to 0.31%. It also showed that Avrupa ve Amerika Holding A.Ş. did not hold a majority stake in any of them (see paragraph 15 above). The applicant did not dispute this information, nor did he provide the shareholding structures of the remaining companies.

109. In the light of the available information, the Court considers that the exact percentage of shares held by the applicant in these companies is not determinative. In these circumstances, it cannot be assumed that the applicant and the companies were so closely associated that it would be artificial to distinguish between them. The fact that they are co-debtors under the same debt originating from İktisat Bank does not alter this conclusion.

110. Turning to the applicant’s argument that his victim status should be upheld on the grounds that the corporate entities in question – of which he claims to be the majority shareholder through his holding company – are

unable to bring proceedings against the Fund due to their subordination to the Fund, the Court notes that the non-enforcement of the judgments directly affected the interests of the companies that own Viva TV-Radio Viva. Rather than claiming to act on behalf of the companies concerned, the applicant has asserted a personal interest in the case, both as an indirect shareholder of Kutayay Özel Radyo Televizyon ve Yayıncılık A.Ş., and the majority shareholder, through his holding company and İktisat Bank (see *Albert and Others*, cited above, § 139 and, *mutatis mutandis*, *IZA Ltd and Makrakhidze v. Georgia*, no. 28537/02, § 29, 27 September 2005). However, he has failed to provide any specific information regarding the extent of his shareholding or the precise ownership structure of the companies in question. Furthermore, based on the information provided by the Government concerning the shareholding structures of the companies, the Court notes that the available information does not substantiate the claim that the applicant holds a majority shareholding, either directly or indirectly through his holding company.

111. The Court further notes that, by a decision dated 18 September 2008, the management and control of all companies that own Viva TV-Radio Viva, along with the rights of their shareholders – except for the entitlement to dividends – were transferred to the Fund. In these circumstances, while the existence of measures of external supervision or control over the company in question may generally be regarded as an important factor, it is not the sole consideration (see *Albert and Others*, cited above, §§ 143-144). As the Court explained in *Agrotexim and Others* (cited above), differences of opinion between a company's stakeholders are a normal occurrence in "the life of a limited company", and may also be exacerbated when insolvency or other similar types of proceedings involving the transfer of control of the company's affairs to an outside official are brought in respect of the company (*ibid.*, § 65). From the information provided, it appears that other individuals hold more significant shares in these companies than the applicant, who held only 0.62% of the shares in one of them. For instance, A.K. owns 95.82% of the shares in Medya İletişim Hizmetleri Sanayi ve Ticaret A.Ş., while C.S. holds 0.42%, 0.31%, and 0.67% of the shares in Kutayay Özel Radyo Televizyon ve Yayıncılık A.Ş., Medya İletişim Hizmetleri Sanayi ve Ticaret A.Ş., and Anadolu Radyo ve Görüntü Hizmetleri A.Ş., respectively (see paragraph 15 above).

112. Accordingly, it must be acknowledged that the applicant cannot be regarded as the sole or exceptionally significant owner and shareholder of those entities (compare and contrast, *G.J. v. Luxembourg*, no. 21156/93, §§ 23-24, 26 October 2000; *Ankarcrona v. Sweden* (dec.), no. 35178/97, 27 June 2000; and *Glas Nadezhda EOOD and Anatoliy Elenkov v. Bulgaria*, no. 14134/02, § 40, ECHR 2007). In such circumstances, there remains a risk of differences of opinion among shareholders, as well as between shareholders and the board of directors, as to whether there has been an infringement of the rights protected under the Convention and its Protocols,

or regarding the most appropriate course of action in response to such infringements (see *Ankarcrona*, cited above). Having regard to the applicant's minimal direct shareholding in the companies concerned, the Court concludes that he cannot claim to be a "victim," within the meaning of Article 34 of the Convention, of the alleged violation of Article 1 of Protocol No. 1 concerning the non-enforcement of a judgment relating to the valuation and sale of assets belonging to companies on whose behalf the applicant has never claimed to act (compare with *Nosov v. Russia* (dec.), no. 30877/02, 20 October 2005 and *J.W. v. Poland*, no. 27917/95, Commission decision of 11 September 1997, Decisions and Reports 90, p. 69). The mere fact that the domestic courts considered the applicant as a legitimate plaintiff does not, in itself, confer victim status under the Convention. The Court observes in that connection that the conditions governing individual applications are not necessarily the same as national criteria relating to *locus standi*. National rules in this respect may serve purposes different from those contemplated by Article 34 of the Convention and, whilst those purposes may sometimes be analogous, they need not always be so (see, *mutatis mutandis*, *Zehenther v. Austria*, no. 20082/02, § 39, 16 July 2009 with further references).

113. It follows that this complaint is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 and must be rejected in accordance with Article 35 § 4.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

114. Article 41 of the Convention provides:

"If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

115. The applicant claimed 11,900,000 US dollars (USD) in respect of pecuniary damage. He referred to a 2006 estimate in the Liquidation Protocol which, according to him, had valued four radio stations, including Radio Viva, at USD 50,000,000. On that basis, he argued that a proportional calculation justified a valuation of USD 11,900,000 for Viva TV-Radio Viva. The applicant claimed a further 100,000 euros (EUR) in respect of non-pecuniary damage, submitting that the Fund's failure to enforce the court's judgments had caused him significant and prolonged distress.

116. The Government contested those claims. Regarding pecuniary damage, they argued that the applicant's calculations and allegations of damage were speculative. They noted that, even if a new tendering process had been implemented for the asset in question, it was uncertain whether its

valuation would have increased or whether it would have been sold at a higher price. Alternatively, the Government contended that the amount claimed was manifestly excessive. Concerning the non-pecuniary damage, they asserted that there was no causal link between the damage alleged and the violation of the Convention. Moreover, they argued that the damages claimed were unsubstantiated and excessive.

117. The Court recalls that the most appropriate form of redress in respect of a violation of Article 6 is to ensure that, as far as possible, the applicant is put in the position he would have been had the requirements of Article 6 not been disregarded (see *Dovguchits v. Russia*, no. 2999/03, § 48, 7 June 2007; *Lungoci v. Romania*, no. 62710/00, § 55, 26 January 2006; and *Piersack v. Belgium* (Article 50), judgment of 26 October 1984, Series A no. 85, p. 16, § 12). This principle also applies in the present case (see *Nikoloudakis*, cited above, § 64; *Gerasimov and Others v. Russia*, nos. 29920/05 and 10 others, § 198, 1 July 2014; *Kalinkin and Others v. Russia*, nos. 16967/10 and 20 others, § 55, 17 April 2012; *Ilyushkin and Others v. Russia*, nos. 5734/08 and 28 others, § 64, 17 April 2012). The Court therefore considers that the respondent State must secure, by appropriate means, the enforcement of the judgments of the domestic courts in question in the light of the Court's findings in the present case. For this reason, the Court does not find it necessary to make an award for pecuniary damage. However, in respect of the non-pecuniary damage alleged, the Court, making an assessment on an equitable basis, awards the applicant EUR 5,000 under this head.

B. Costs and expenses

118. The applicant also sought reimbursement of costs and expenses incurred both before the domestic courts and the Court, without specifying any amounts or providing documents supporting those claims. Additionally, he requested EUR 9,000 for legal fees, submitting an invoice in support of that request.

119. The Government contested those claims, arguing that they were excessive and insufficiently itemised.

120. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum (see, among other authorities, *Lupeni Greek Catholic Parish and Others v. Romania* [GC], no. 76943/11, § 187, ECHR 2016 (extracts)). The Court requires itemised bills and invoices that are sufficiently detailed to enable it to determine to what extent the above requirements have been met (see *Maktouf and Damjanović v. Bosnia and Herzegovina* [GC], nos. 2312/08 and 34179/08, § 94, ECHR 2013).

121. In the present case, with respect to domestic costs and expenses, the Court reiterates that it will uphold such claims only to the extent that they

pertain to the violations it has identified. There is no evidence to suggest that the applicant incurred any costs or expenses before the domestic authorities in seeking redress for the violation of the Convention established in this case. Accordingly, the Court dismisses that claim.

122. As regards the claim for costs and expenses incurred before the Court, the Court notes that the applicant has been represented before it since 1 July 2019, which is after the case had been communicated to the Government. It further observes that the applicant's representative failed to submit a sufficiently itemised invoice, preventing the Court from determining to what extent the above requirements have been met. While the Court acknowledges that the case raised complex issues of fact and law, it considers that the amount claimed in respect of costs is excessive (see *Sargsyan v. Azerbaijan* (just satisfaction) [GC], no. 40167/06, § 63, 12 December 2017, and *Penchevi v. Bulgaria*, no. 77818/12, § 89, 10 February 2015).

Having regard to the information available to it and the criteria set out above, the Court considers it reasonable to award the sum of EUR 2,500 to cover all the applicant's costs and expenses.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Articles 6 § 1 of the Convention admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
 - (i) EUR 5,000 (five thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 2,500 (two thousand five hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

EROL AKSOY v. TÜRKİYE JUDGMENT

Done in English, and notified in writing on 10 February 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Dorothee von Arnim
Deputy Registrar

Arnfinn Bårdsen
President