

**Resolution CM/ResDH(2007)96<sup>1</sup>**

**Execution of the judgments of the European Court of Human Rights  
Dağ and Yaşar against Turkey  
Karagöz against Turkey**

(Applications Nos. 4080/02 and 78027/01, judgment of 8 November 2005, final on 8 February 2006 and judgment of 8 November 2004, final on 12 April 2006)

The Committee of Ministers, under the terms of Article 46, paragraph 2, of the Convention for the Protection of Human Rights and Fundamental Freedoms, which provides that the Committee supervises the execution of final judgments of the European Court of Human Rights (hereinafter “the Convention” and “the Court”),

Having regard to the judgments transmitted by the Court to the Committee once they had become final;

Recalling that the violations of the Convention found by the Court in these cases concern the fact that the applicants were taken into custody for further interrogation under state of emergency legislation after their detention on remand had been ordered, and the absence of a remedy to challenge their being taken into custody (violations of Articles 5 §§ 1 (c) and 4, see details in Appendix);

Having invited the government of the respondent state to inform the Committee of the measures taken in order to comply with Turkey's obligation under Article 46, paragraph 1, of the Convention to abide by the judgments;

Having examined the information provided by the government in accordance with the Committee's Rules for the application of Article 46, paragraph 2, of the Convention;

Having satisfied itself that, within the time-limit set, the respondent state paid the applicant(s) the just satisfaction provided in the judgments (see details in Appendix),

Recalling that a finding of violations by the Court requires, over and above the payment of just satisfaction awarded in the judgments, the adoption by the respondent state, where appropriate, of

- individual measures to put an end to the violations and erase their consequences so as to achieve as far as possible *restitutio in integrum*; and
- general measures preventing similar violations;

Having examined the measures taken by the respondent state to that effect, the details of which appear in the Appendix,

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<sup>1</sup> Adopted by the Committee of Ministers on 20 June 2007 at the 997th meeting of the Ministers' Deputies.

DECLARES, having examined the measures taken by the respondent state (see Appendix), that it has exercised its functions under Article 46, paragraph 2, of the Convention in these cases and

DECIDES to close the examination of these cases.

## Appendix to Resolution CM/ResDH(2007)96

### Information about the measures to comply with the judgments in the cases of Dağ and Yaşar and Karagöz against Turkey

#### Introductory case summary

The cases concern the detention of the applicants following their transfer to Gendarmerie premises in Diyarbakır for further questioning (for between 18 and 40 days in November 2001 in the case of Dağ and Yaşar and more than 40 days in the case of Karagöz) while they were already detained on remand. The Court found that the applicants' detention under Decree-Law No. 430 on additional measures to be taken in the region covered by the state of emergency circumvented all effective judicial supervision, including the legislation governing the conditions of detention on remand (violations of Article 5§1 (c)).

The case also concerns the absence of a remedy whereby the applicants might challenge their custody in the Gendarmerie station (violations of Article 5§4).

#### I. Payments of just satisfaction and individual measures

##### a) Details of just satisfaction

Name and application number	Pecuniary damage	Non-pecuniary damage	Costs and expenses	Total
Dağ and Yaşar 4080/02	-	EUR 12,000	EUR 1,000	EUR 13,000
<b>Paid on 05/05/2006</b>				
Karagöz 78027/01	-	EUR 8,000	EUR 315	EUR 8,315
<b>Paid on 05/05/2006</b>				

##### b) Individual measures

No individual measures are necessary since the applicants are no longer detained.

#### II. General measures

In November 2002 the state of emergency was lifted in all regions in Turkey. Consequently, Decree-Law No. 430 is no longer in force. In addition, extensive safeguards have been provided through legislation and regulations to ensure that police custody in Turkey complies with the Convention's requirements (see *inter alia*

Interim Resolutions of the Committee of Ministers DH(99)434, DH(2002)98 and ResDH(2005)43).

### **III. Conclusions of the respondent state**

The government considers that the measures adopted will prevent new, similar violations and that Turkey has thus complied with its obligations under Article 46 paragraph 1 of the Convention.