



Judgments of 17 September 2019

The European Court of Human Rights has today notified in writing ten judgments¹:

one Chamber judgment is summarised below; a separate press release has been issued for another Chamber judgment in the case of *Akdağ v. Turkey* (application no. 75460/10);

one separate press release has also been issued for a Committee judgment in the case of *Iovcev and Others v. the Republic of Moldova and Russia* (no. 40942/14);

the seven other Committee judgments, concerning issues which have already been submitted to the Court, can be consulted on [Hudoc](#) and do not appear in this press release.

The judgment below is available only in French.

Avşar and Tekin v. Turkey (applications nos. 19302/09 and 49089/12)

The applicants, Abdulkerim Avşar and Abdulkerim Tekin, are Turkish nationals who were born in 1973 and 1967 respectively. After being sentenced to life imprisonment for terrorist offences and attempted territorial separatism respectively, they each asked to be transferred to a prison nearer their family home.

At the time of lodging his application, Mr Avşar was being held in the F-type prison in Kırıkkale, whereas his family lived in Diyarbakır. His mother, who was suffering from Parkinson's disease, was unable to travel. In June 2008 Mr Avşar's lawyer asked the Ankara Directorate General of Prisons to transfer his client to a prison in the province of Diyarbakır. Mr Avşar twice applied to the Directorate General of Prisons attached to the Ministry of Justice for the same purpose. The Ministry of Justice refused his requests. In December 2008 Mr Avşar wrote to the Kırıkkale post-sentencing judge challenging the Directorate General's refusal to allow his request for a transfer. The judge rejected his application on the grounds that he did not have jurisdiction to rule on the matter. Mr Avşar appealed against the judge's decision. The Kırıkkale Assize Court dismissed the appeal and decided to refer the request to the Ministry of Justice. On 25 May 2018 Mr Avşar was transferred to Diyarbakır T-type prison.

At the time of lodging his application, Mr Tekin was being held in the F-type prison in Kırıkkale, whereas his family lived in a village near Siirt. In November 2011 Mr Tekin applied to the Ministry of Justice to be transferred closer to his family. The Ministry refused his application on the grounds that the prisons to which he had asked to be transferred had reached full capacity. Mr Tekin applied to the Kırıkkale post-sentencing judge challenging that decision. In April 2012 the judge found that the refusal by the Ministry had not been unlawful. Mr Tekin appealed to the Kırıkkale Assize Court, which dismissed his appeal. On 22 August 2016 Mr Tekin informed the Court's Registry that he had been transferred to a prison some 1,500 km away from Siirt.

¹ Under Articles 43 and 44 of the Convention, Chamber judgments are not final. During the three-month period following a Chamber judgment's delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Under Article 28 of the Convention, judgments delivered by a Committee are final.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

Relying on Article 8 (right to respect for private and family life) of the European Convention on Human Rights, the applicants complained that their requests to be transferred to a prison closer to their family home had been rejected.

Violation of Article 8

Just satisfaction: 6,000 euros (EUR) each to Mr Avşar and Mr Tekin for non-pecuniary damage, and EUR 1,000 to Mr Avşar for costs and expenses

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.