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

SECOND SECTION

DECISION

Application no. 27603/20
İsmail AYDIN against Türkiye
and 2 other applications
(see list appended)

The European Court of Human Rights (Second Section), sitting on 4 February 2025 as a Committee composed of:

Anja Seibert-Fohr*, President*,
Davor Derenčinović,
Gediminas Sagatys*, judges*,
and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to:

the applications 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 the applicants listed in the appended table ("the applicants"), on the various dates indicated therein;

the decision to give notice of the complaint under Article 10 of the Convention to the Turkish Government ("the Government") 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, and to declare inadmissible the remainder of the applications;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The applications concern the prison authorities' refusal to permit the applicants to receive the daily newspaper "*Yeni Asya (New Asia)*" while serving their sentences.

2. At the material time the applicants had been convicted of membership of an armed terrorist organisation described by the Turkish authorities as FETÖ/PDY ("Fetullahist Terror Organisation/Parallel State Structure") and were serving prison sentences in various institutions (see table appended).

3. On various dates in 2018 and 2019 each applicant submitted a request to their respective facility to receive *Yeni Asya* at their own expense. The prison administrations rejected their requests, citing insufficient demand, misuse of the newspaper's "victims' column" (*mağdur köşesi*) as a means of intra-organisational communication, and concerns over institutional security risks posed by the newspaper.

4. Following these decisions, the applicants each brought proceedings with the relevant enforcement judges on various dates and requested that the prison administrations be ordered to permit access to *Yeni Asya*. The enforcement judges rejected all requests, finding the prison administrations' decisions lawful and justified by the security needs of the institutions. The respective assize courts upheld those decisions, agreeing with the findings of the enforcement judges.

5. The applicants lodged individual applications before the Constitutional Court on various dates, reiterating their complaints about being denied access to *Yeni Asya*. The status of these proceedings is in dispute between the parties. The Government indicated that the Constitutional Court had found a violation of the applicants' freedom of expression, whereas the applicants alleged that the Constitutional Court had rendered inadmissibility decisions (see paragraphs 9 and 10 below).

6. All the applicants complained before the Court about a breach of their right to receive information and ideas under Article 10 of the Convention, save for the first applicant who raised the same complaint under Article 8.

THE COURT'S ASSESSMENT

7. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

8. Having regard to the manner in which the first applicant formulated his complaint in the application form and being the master of the characterisation to be given in law to the facts of the case, the Court considers that his complaint falls to be examined from the standpoint of Article 10 (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 126, 20 March 2018).

9. The Government raised a preliminary objection based on loss of victim status by the applicants, stating that the Constitutional Court had acknowledged a violation of the applicants' rights and awarded appropriate redress. In their observations submitted on 15 January 2024 the Government provided the Court with a copy of an annex to the Constitutional Court's judgment in the case of *Yavuz Şen and others* (no. 2017/20009, 12 January 2022), which listed the applicants' names among those included in the judgment. In that judgment the Constitutional Court had found a violation of the right to freedom of expression on account of non-delivery of certain newspapers and periodicals in respect of hundreds of individuals in prison,

awarding each 500 Turkish liras (TRY) in non-pecuniary damages (approximately 32 euros (EUR) at that time).

10. The Court takes note that, at the time they lodged their applications with the Court, the applicants enclosed inadmissibility decisions issued by the Constitutional Court bearing their names. However, the Government, submitting copies of the relevant documents, explained that these decisions had concerned different applications to the Constitutional Court regarding unrelated facts and complaints and were not relevant to the instant case. By letters of various dates the Government's observations, including the annex listing the applicants' names in the above-mentioned *Yavuz Şen and others* judgment of the Constitutional Court, were forwarded to the applicants who were invited to submit observations in reply. The second and the third applicant did not respond to the Government's observations within the specified time-limit. The first applicant, in his observations of 5 March 2024, did not provide any arguments or information to explain why he remained a victim of a violation of his rights under the Convention despite having received a favourable judgment and redress.

11. The Court reiterates that an applicant is deprived of his or her status as a victim for the purposes of Article 34 of the Convention if the national authorities have acknowledged, either expressly or in substance, and then afforded appropriate and sufficient redress for a breach of the Convention (see *Scordino v. Italy (no. 1)* [GC], no. 36813/97, §§ 178 - 93, ECHR 2006-V).

12. The Court observes that, in the instant case, the Constitutional Court acknowledged a violation of the right to freedom of expression, protected by Article 10 of the Convention, in relation to the applicants' complaints. It further notes that, in addition to that acknowledgement, the Constitutional Court awarded the applicants each TRY 500 (approximately EUR 32 at the time) in compensation for non-pecuniary damage. It also observes that the applicants did not provide any evidence to argue that they maintained their victim status. The Court further has regard to the awards it had made itself in the case of *Mehmet Çiftci v. Turkey* (no. 53208/19, 16 November 2021) and in follow-up cases (compare *İncedere and Altay v. Türkiye* [Committee], nos. 58778/19 and 2 others, § 16, 12 December 2023; *Aktaş v. Türkiye* [Committee], no. 64870/19, § 23, 9 July 2024; and *Necdet Vural v. Türkiye* [Committee], no. 35555/19, § 29, 17 December 2024). Having regard to all the circumstances of the case, the Court finds that the requirements for the loss, by the applicants, of their victim status have been met.

13. On the basis of the foregoing, the Court upholds the Government's preliminary objection and concludes that the applicants can no longer be considered victims of a violation of their rights under Article 10 of the Convention within the meaning of Article 34 of the Convention.

14. It follows that the application must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 6 March 2025.

Dorothee von Arnim Deputy Registrar	Anja Seibert-Fohr President

Appendix

List of cases:

Application no.	Case name	Lodged on	Applicant Year of Birth Penitentiary Institution Nationality	Representative
27603/20	Aydın v. Türkiye	17/06/2020	**İsmail AYDIN** 1980 Balıkesir L-Type Prison Turkish	**Kadir Öztürk**
51816/20	Tali v. Türkiye	06/11/2020	**Ramazan TALİ** 1978 Eskişehir H-Type Prison Turkish	
1944/21	Özdemir v. Türkiye	22/12/2020	**Eren ÖZDEMİR** 1989 Gümüşhane E-Type Prison Turkish	