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

SECOND SECTION

DECISION

Application no. 37381/22
Remzi SOLMAZ
against Türkiye
(see appended table)

The European Court of Human Rights (Second Section), sitting on 19 September 2024 as a Committee composed of:

Diana Sârcu, *President*,
Davor Derenčinović,
Gediminas Sagatys*, judges*,
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 6 July 2022,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant's details are set out in the appended table.

The applicant was represented by Mr M. Kaçan, a lawyer practising in Van.

The applicant's complaints under Article 10 § 1 of the Convention concerning the pre-trial detention or non-suspended prison sentence imposed for the offence of propaganda in favour of a terrorist organization were communicated to the Turkish Government ("the Government").

THE LAW

The applicant complained under Article 10 of the Convention that his conviction for the crime of disseminating propaganda in favour of a terrorist organisation based on the posts he had shared on social media violated his right to freedom of expression.

The Government raised several preliminary objections and contended that the present application must be dismissed as an abuse of the right of application.

The Government argued that the submissions of the applicant's lawyer and the documents annexed to the application form contain false and misleading information. The Government contended that the applicant intended to deliberately mislead the Court by annexing a different Constitutional Court inadmissibility decision to his application, and by failing to inform the Court about the fact that the Constitutional Court had found his individual application concerning his conviction for the propaganda offence inadmissible on 14 April 2021, more than one year before the date of the introduction of his application with the Court, for failing to exhaust the cassation appeal remedy that was introduced by Law no. 7188 (see *Öztırak v. Türkiye* (dec.), no. 46472/19, 26 March 2024). Moreover, the Government stated that the applicant omitted the fact that he had submitted a cassation appeal following the entry into force of Law no. 7188, which was, at the date of introduction, still pending before the Court of Cassation.

The applicant did not comment on that objection raised by the Government.

The notion of "abuse" within the meaning of Article 35 § 3 (a) of the Convention must be understood as any conduct on the part of the applicant that is manifestly contrary to the purpose of the right of individual application as provided for in the Convention and which impedes the proper functioning of the Court or the proper conduct of the proceedings before it (see *S.L. and J.L. v. Croatia*, no. 13712/11, § 48, 7 May 2015). The Court reiterates that an application may be rejected as an abuse of the right of application under Article 35 § 3 of the Convention if, among other reasons, an applicant submits incomplete or misleading information, in particular if the information concerns the very core of the case and no sufficient explanation is given for the failure to disclose that information. Any omissions on a representative's part in this respect are in principle attributable to the applicant himself (see *Bekauri v. Georgia* (preliminary objection), no. 14102/02, §§ 22-25, 10 April 2012, and *Martins Alves v. Portugal* (dec.), no. 56297/11, §§ 16-17, 21 January 2014).

Having examined all the material before it, the Court notes that at the time when the applicant lodged his application before the Court on 6 July 2022, the Constitutional Court had already declared his individual application relating to his conviction for the crime of making terror propaganda inadmissible on 14 April 2021. Furthermore, the applicant had submitted a cassation appeal concerning his conviction on 24 October 2019 following the entry into force of Law no. 7188. However, the applicant omitted to inform the Court of these developments, which concern the very core of his case, as well as had attached a misleading Constitutional Court decision to the application form.

Furthermore, the applicant failed to advance any reason, let alone a plausible one, for his failure to submit the impugned information (compare *G.I.E.M. S.R.L. and Others v. Italy* [GC], nos. 1828/06 and 2 others, § 173, 28 June 2018). In the Court's view, the information which the applicant failed to disclose concerned an important aspect of the application and was material to its admissibility. In such circumstances, the Court is bound to conclude that the applicant knowingly withheld important information which may have a decisive bearing on the admissibility and merits of the application, thereby abusing his right to individual application (contrast *Ekiz v. Türkiye* [Committee] (dec.), no. 16682/15, § 16, 23 May 2023).

Accordingly, the Government's preliminary objection must be upheld, and the application must be declared inadmissible pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 10 October 2024.

Viktoriya Maradudina	Diana Sârcu
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 10 § 1 of the Convention (pre-trial detention or non-suspended prison sentence imposed for the offence of propaganda in favour of a terrorist organization)

Application no. Date of introduction	Applicant's name Year of birth	Name of the first-instance court Date and reference number of decision	Impugned statement or act of the applicant	Length of detention or prison sentence imposed	Reasoning of domestic court's decision
37381/22 06/07/2022	**Remzi SOLMAZ** 1975	Van 2nd Assize Court 03/10/2017 2016/497 E. 2017/293 K.	Sharing information about leaders of the PKK/KCK and YPG, terrorist organisations, and about funerals organised for terrorist fighters. Publishing photos and videos of terrorist fighters and demonstrations carried out by them, accompanied by the flags of the said organisations.	3 years of imprisonment	The Assize Court noted that the applicant's posts on social media constituted an offense of terrorist propaganda and that they were likely aiming to legitimise terrorist activities involving violence, force and threatening behavior by the PKK/KCK and YDG-H. It therefore concluded that theses post could not be considered as falling within the protection of freedom of expression and of the press. The court of appeal upheld that conclusion.