



Refusal to allow a prisoner to consult Internet sites on legal matters (such as that of the European Court) was unjustified

In today's **Chamber** judgment¹ in the case of [Ramazan Demir v. Turkey](#) (application no. 68550/17) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 10 (freedom of expression: freedom to receive information and ideas) of the European Convention on Human Rights.

The case concerned the prison authorities' refusal to grant a request for access to certain Internet sites, lodged by Mr Demir in the course of his pre-trial detention in Silivri Prison in 2016.

Mr Demir, a lawyer, wished to access the Internet sites of the European Court of Human Rights, the Constitutional Court and the Official Gazette, with a view to preparing his own defence and following his clients' cases.

The Court considered that since prisoners' access to certain sites containing legal information had already been granted under Turkish law for the purposes of training and rehabilitation, the restriction of Mr Demir's access to the above-mentioned sites, which contained only legal information that could be relevant to the applicant's development and rehabilitation in the context of his profession and interests, had constituted an interference with his right to receive information.

It noted in this connection that the domestic courts had not provided sufficient explanations as to why Mr Demir's access to the Internet sites of the Court, the Constitutional Court or the Official Gazette could not be considered as pertaining to the applicant's training and rehabilitation, for which prisoners' access to the Internet was authorised by the national legislation, nor on whether and why Mr Demir ought to be considered as a prisoner posing a certain danger or belonging to an illegal organisation, in respect of whom Internet access could be restricted. Furthermore, neither the authorities nor the Government had explained why the contested measure had been necessary in the present case, having regard to the legitimate aims of maintaining order and safety in the prison and preventing crime.

It followed that the interference in question had not been necessary in a democratic society.

Principal facts

The applicant, Ramazan Demir, is a Turkish national who was born in 1983 and lives in Istanbul (Turkey) and is a lawyer.

Mr Demir, who was suspected of the offences of membership of a terrorist organisation and disseminating propaganda in favour of a terrorist organisation, was placed in pre-trial detention on 6 April 2016 and released on 7 September 2016.

On 12 April 2016 Mr Demir asked the prison authorities to allow him to access the Internet sites of the European Court of Human Rights, the Constitutional Court and the Official Gazette, so that he could obtain legal information in order to follow his clients' cases as their lawyer before these two

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its 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.

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.

courts, and also to prepare his own defence for a hearing due to be held on 22 June 2016 in the context of the criminal proceedings against him.

The prison authorities and the first-instance and appeal courts dismissed his complaints. Mr Demir lodged an individual application with the Constitutional Court, which dismissed it as manifestly ill-founded on 14 April 2017.

Complaints, procedure and composition of the Court

Relying on Article 10 (freedom of expression), Mr Demir complained about the refusal to grant him access to the Internet sites of the European Court of Human Rights, the Constitutional Court and the Official Gazette during the period he was detained in Silivri Prison, and considered that there had been an interference with his right to receive information and ideas.

The application was lodged with the European Court of Human Rights on 14 July 2017.

Judgment was given by a Chamber of seven judges, composed as follows:

Jon Fridrik **Kjølbro** (Denmark), *President*,
Marko **Bošnjak** (Slovenia),
Aleš **Pejchal** (the Czech Republic),
Valeriu **Grițco** (the Republic of Moldova),
Branko **Lubarda** (Serbia),
Pauliine **Koskelo** (Finland),
Saadet **Yüksel** (Turkey),

and also Hasan **Bakırcı**, *Deputy Section Registrar*.

Decision of the Court

[Article 10 \(freedom of expression: right to receive information and ideas\)](#)

The Court reiterated that, in the light of its accessibility and its capacity to store and communicate vast amounts of information, the Internet played an important role in enhancing the public's access to news and facilitating the dissemination of information in general.

It further noted that a number of instruments of the Council of Europe and other international instruments had recognised the public-service value of the Internet and its importance for the enjoyment of a series of human rights. The Court considered that these developments reflected the important role played by the Internet in individuals' everyday lives. Indeed, an increasing amount of information and services were available only on the Internet.

It also noted that imprisonment inevitably involved a number of restrictions on prisoners' communications with the outside world, including on their ability to receive information. It reiterated that it had already held in this connection that Article 10 of the Convention could not be interpreted as imposing a general obligation to provide access to the Internet, or to specific Internet sites, for prisoners².

In the present case, Turkish legislation provided that prisoners could be granted access to the Internet in the context of training and rehabilitation programmes.

The Court considered that (whatever the specific reasons put forward by Mr Demir in support of his request for Internet access) it could not be excluded that this request also and inevitably pertained to the aims of training and rehabilitation, justifying Internet access for prisoners under the domestic

² *Kalda v. Estonia*, no. 17429/10, § 45, 19 January 2016

legislation, especially in view of the applicant's professional activity as a lawyer and the nature of the three Internet sites to which he requested access. In this connection, it noted that a large number of its judgments and decisions, and also those of the Constitutional Court, were available only online and required navigation and research on the Internet sites in question.

In consequence, the Court considered that, since prisoners' access to certain sites containing legal information had already been granted under Turkish law for the purposes of training and rehabilitation, the restriction of Mr Demir's access to the Internet sites of the Court, the Constitutional Court and the Official Gazette, which contained only legal information that could be relevant to the applicant's development and rehabilitation in the context of his profession and interests, had constituted an interference with Mr Demir's right to receive information.

The Court further noted that the interference in question had been prescribed by law, namely section 67 § 3 of Law no. 5275 and Rule 90 § 3 of the Prison Regulations and that it had pursued the legitimate aims of preventing disorder and crime.

As to the necessity of the interference, the Court noted that Mr Demir's request had been dismissed by the prison authorities as inappropriate.

It then noted that the domestic courts had not provided sufficient clarification as to why Mr Demir's access to the Internet sites of the Court, the Constitutional Court or Official Gazette could not be considered as pertaining to the applicant's training and rehabilitation, in which case prisoners' access to the Internet was authorised under the above-mentioned provisions, and whether and why Mr Demir ought to be considered as a prisoner posing a certain danger or belonging to an illegal organisation, in respect of whom Internet access could be restricted.

In addition, neither the authorities nor the Government had explained why the contested measure had been necessary in the present case, having regard to the legitimate aims of maintaining order and safety in the prison and preventing crime. In this connection, the Court noted that the necessary provisions for Internet use by prisoners had in any event been adopted in the context of training and rehabilitation programmes.

Although the security considerations raised by the national authorities had to be regarded as pertinent, the Court observed that the national courts had not carried out any detailed analysis of the security risks which would have arisen from Mr Demir's access to these three Internet sites, especially given that the websites in question belonged to State authorities and to an international organisation, and that Mr Demir would have accessed them only under the authorities' supervision and in the conditions laid down by them.

Accordingly, the Government had not shown that the reasons adduced by the national authorities to justify the measure being challenged were relevant and sufficient, or that this interference had been necessary in a democratic society. **It followed that there had been a violation of Article 10 of the Convention.**

Just satisfaction (Article 41)

The Court held that Turkey was to pay Mr Demir 1,500 euros (EUR) in respect of non-pecuniary damage and EUR 2,000 in respect of costs and expenses.

The judgment is available only in French.

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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.