Third Party Intervention

In the Case of Ramazan Demir v. Turkey (no. 68550/17)

by

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Introduction

1. İfade Özgürlüğü Derneği (İFÖD) would like to submit its comments to the Court in the case of Ramazan Demir v. Turkey which involves the rejection by the prison authorities of the applicant lawyer's request for access to the Internet from a detention centre as he wanted to consult various websites for legal information related to his own case as well as his clients' cases. The Court asked to the parties two questions; whether there was an interference with the applicant's freedom of expression and especially with his right to receive information or ideas within the meaning of Article 10 § 1 of the Convention and if so, whether this interference was prescribed by law and necessary, within the meaning of Article 10 § 2. Therefore, the application involves important issues related to access to Internet subject to Article 10 of the Convention. İFÖD will provide an overview of legal developments with regards to access to the Internet in Turkey and the limitations provided by law through prisons and detention centres addressing the question of whether the rejection of the applicant's request was prescribed by law and whether it was necessary within the meaning of Article 10 § 2 by reference to the Court's recent case-law on this issue.
2. In today's World, as indicated by the Court, the Internet has become one of the principal means by which individuals exercise their right to freedom to receive and impart information and ideas (*Editorial Board of Pravoye Delo and Shtekel v. Ukraine*, Application no. 33014/05, Judgment of 05.05.2011, para 63; *Times Newspapers Ltd (Nos. 1 and 2) v. The United Kingdom*, Applications 3002/03 and 23676/03, Judgment of 10.03.2009) providing as it does essential tools for participation in activities and discussions concerning political issues and issues of general interest (*Ahmet Yıldırım v. Turkey*, no.3111/10, judgment of 18 December 2012, § 54). The Court, further, stated in *Cengiz and others* case that as to the importance of Internet sites in the exercise of freedom of expression, 'in the light of its accessibility and its capacity to store and communicate vast amounts of information, the Internet plays an important role in enhancing the public's access to news and facilitating the dissemination of information in general'. (*Cengiz and Others v. Turkey*, judgment of 1 December 2015, § 52).
3. With these developments and recognition in mind, the Internet today has become the biggest library of the world accessible worldwide. The volume of information stored only digitally without printing is increasing rapidly. For example, most of the judgments of the European Court of Human Rights and decisions of the Constitutional Court of Turkey are only published and stored digitally and can only be accessed through the Internet.
4. Therefore, Internet access is today, in many countries, almost a requirement for people who want to actively participate in some of the basic aspects of life involving education, work, and social communication. This is reflected in the way that, for example, universities, schools, and public services operate, where information is often primarily accessible through the Internet. In some parts of the world, there also seems to be a shift towards making digital communication with public administration either preferable or, in some cases, even obligatory;

this can leave those without Internet-access in a problematic situation. In any case, being without Internet-access can certainly constitute a very serious handicap in today's society.[1]

5. Statistics shows that penetration rates increased to 95% of the population in North America and 85.2% in Europe in June 2018. 55.1% of the World population had access to the Internet on the same date.[2]
6. Therefore, Internet access has become a major human rights issue. In fact, certain countries and international organizations, such as the United Nations started to recognize Internet access as inherent to the right to free expression and as such to be a fundamental and universal human right. Countries such as Finland and Estonia already have ruled that access is a fundamental human right for their citizens. Furthermore, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression highlighted the importance of Internet access in his May 2011 report and stated that "the Internet, as a medium by which the right to freedom of expression can be exercised, can only serve its purpose if States assume their commitment to develop effective policies to attain universal access to the Internet."[3]
7. Recommendation CM/Rec(2014)6 of the Committee of Ministers to member States on a Guide to human rights for Internet users states that "3. The Internet has a public service value. People, communities, public authorities and private entities rely on the Internet for their activities and have a legitimate expectation that its services are accessible, provided without discrimination, affordable, secure, reliable and ongoing. Furthermore, no one should be subjected to unlawful, unnecessary or disproportionate interference with the exercise of their human rights and fundamental freedoms when using the Internet."[4]
8. On the other hand, interference with Internet access may affect various Convention rights such as Article 8, Article 10, Article P1-1, P1-2, and even procedural rights article 6/3-b or 5/4 in some circumstances. The Court has already examined different aspects of these issues (see Research Report, *Internet: case-law of the European Convention on Human Rights*[5]). The special significance of Internet access in terms of freedom of expression has already been recognised by the Court in a number of cases (see, among others *Delfi AS v. Estonia* [GC], no. 64569/09, § 133, ECHR 2015; *Ahmet Yıldırım v. Turkey*, no. 3111/10, § 48, ECHR 2012; and *Times Newspapers Ltd v. the United Kingdom* (nos. 1 and 2), nos. 3002/03 and 23676/03, § 27, ECHR 2009).

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1 Peter Scharff Smith, "Imprisonment and Internet-Access Human Rights, the Principle of Normalization and the Question of Prisoners Access to Digital Communications Technology" NJHR 30:4 (2012), 454–482

2 https://www.internetworldstats.com/stats.htm

3 The UN Human Rights Council's Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression stated the following in his report of 16 May 2011 to the Human Rights Council (A/HRC/17/27), para 60.

4 https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804d5b31

5 https://www.echr.coe.int/Documents/Research_report_internet_ENG.pdf

9. The question in terms of the case at hand is whether prisoners have a right to Internet access and if so, how far this right can be restricted. In another words, considering that the Court has already recognised a general right to Internet access, should the same right be recognised to the prisoners as well.

The Right of detainees to Internet access

10. The founding principle of prisoners' rights is the principle of normalisation which consists of two related key elements: 1) Prisoners retain all their rights when imprisoned except those which are taken away by necessary implication of the deprivation of liberty. 2) Conditions in prison should resemble conditions in the free community as much as possible.[6] The UN Human Rights Committee stated in General Comment No 21 that "[p]ersons deprived of their liberty enjoy all the rights set forth in the Covenant, subject to the restrictions that are unavoidable in a closed environment".[7] For example, pursuant to article 10 of the Covenant, a prisoner does not lose the entitlement to access to his medical records.[8] The principle of normalization is also reflected in the European Prison rules and described in the basic principles underpinning these rules. The first two of these basic principles underline the rights-based aspect by stating, that prisoners 'retain all rights that are not lawfully taken away by the decision sentencing them or remanding them in custody' (number 2) and that 'life in prison shall approximate as closely as possible the positive aspects of life in the community' (number 5).[9]
11. The European Court of Human Rights also endorsed the principle of normalisation without naming it. The Court underlined that "*prisoners in general continue to enjoy all the fundamental rights and freedoms guaranteed under the Convention save for the right to liberty, where lawfully imposed detention expressly falls within the scope of Article 5 of the Convention.*" (*Hirst v. the United Kingdom* (No. 2), no. 74025/01, judgment of 6 October 2005, § 69). In this regard, the Court reminded its case-law verifying that prisoners retained their Convention Rights. "For example, prisoners may not be ill-treated, subjected to inhuman or degrading punishment or conditions contrary to Article 3 of the Convention (*Kalashnikov v. Russia*, no. 47095/99, ECHR 2002-VI, and *Van der Ven v. the Netherlands*, no. 50901/99, ECHR 2003-II); they continue to enjoy the right to respect for family life (*Płoski v. Poland*, no. 26761/95, 12 November 2002, and *X v. the United Kingdom*, no. 9054/80, Commission decision of 8 October 1982, DR 30, p. 113); the right to freedom of expression (*Yankov v. Bulgaria*, no. 39084/97, §§ 126-45, ECHR 2003-XII, and *T. v. the United Kingdom*, no. 8231/78, Commission's report of 12 October 1983, DR 49, p. 5, §§ 44-84); the right to practise their religion (*Poltoratskiy v.*

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6 Dirk van Zyl Smit and Sonja Snacken, Principles of European Prison Law and Policy. Penology and Human Rights (Oxford University Press 2009) 103

7 UN Doc. HRI/GEN/1/ Rev.1(1992) [1]–[3].

8 See communication No. 726/1996, Zheludkov v. Ukraine, Views adopted on 29 October 2002.

9 Committee of Ministers (EC), 'Recommendation Rec (2006)2 of the Committee of Ministers to members states on the European Prison Rules' COM 11 January 2006 ('European Prison Rules') https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae

Ukraine, no. 38812/97, §§ 167-71, ECHR 2003-V); the right of effective access to a lawyer or to a court for the purposes of Article 6 (*Campbell and Fell v. the United Kingdom*, judgment of 28 June 1984, Series A no. 80, and *Golder v. the United Kingdom*, judgment of 21 February 1975, Series A no. 18); the right to respect for correspondence (*Silver and Others v. the United Kingdom*, judgment of 25 March 1983, Series A no. 61); and the right to marry (*Hamer v. the United Kingdom*, no. 7114/75, Commission's report of 13 December 1979, DR 24, p. 5, and *Draper v. the United Kingdom*, no. 8186/78, Commission's report of 10 July 1980, DR 24, p. 72). Any restrictions on these other rights must be justified, although such justification may well be found in the considerations of security, in particular the prevention of crime and disorder, which inevitably flow from the circumstances of imprisonment (see, for example, *Silver and Others*, cited above, pp. 38-41, §§ 99-105, where broad restrictions on the right of prisoners to correspond fell foul of Article 8, but the stopping of specific letters containing threats or other objectionable references was justifiable in the interests of the prevention of disorder or crime)." (*Hirst v. the United Kingdom* (No. 2), no. 74025/01, judgment of 6 October 2005, § 69).

12. The question of prisoners' Internet-access has not been directly addressed in international documents. Nevertheless, prisoners' communication with outside world has been subject of regulations. The European Prison Rules (EPR), for example, states that prisoners "shall be allowed to communicate as often as possible by letter, telephone or other forms of communication" (24.1) and similarly holds that prisoners shall normally "be allowed to keep themselves informed regularly of public affairs by subscribing to and reading newspapers, periodicals and other publications and by listening to radio or television transmissions" (24.10). In more general terms, the EPR accept that "communication and visits may be subject to restrictions and monitoring necessary for the requirements of continuing criminal investigations, maintenance of good order, safety and security, prevention of criminal offences and protection of victims of crime" (24.2). Importantly, the EPR maintains that such restrictions "shall nevertheless allow an acceptable minimum level of contact". (24.2)
13. On the other hand, one of the main objectives of the penitentiary systems is rehabilitation of the prisoners. The Covenant on Civil and Political Rights states that the "penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation", (art 10.3) while the European Prison Rules declare that "all detention shall be managed so as to facilitate the reintegration into free society of persons who have been deprived of their liberty" (rule 6). Three areas that are often acknowledged as being relevant for prisoner rehabilitation are education, employment and family relationships in which internet-access play an increasingly important role.
14. Although, the question of prisoners' access to Internet has not been elucidated by other international human rights mechanisms so far, the European Court of Human Rights recognised prisoners' right to access Internet sites containing specific information recently in two cases.

15. In the case of *Kalda v. Estonia* where the applicant's request to access to three Internet websites, containing legal information, run by the State and by the Council of Europe was refused by the authorities, the Court ruled that in the circumstances of the case, since access to certain sites containing legal information was granted under Estonian law, **the restriction of access to other sites that also contain legal information constituted an interference with the right to receive information.** The Court, while reaching this conclusion, emphasized the role of the Internet in enhancing the public's access to news and facilitating the dissemination of information in general considering its accessibility and its capacity to store and communicate vast amounts of information. The Court also observed that Internet access has increasingly been understood as a right by referring to the fact that in a number of Council of Europe and other international instruments the public-service value of the Internet and its importance for the enjoyment of a range of human rights has been recognised and calls have been made to develop effective policies to attain universal access to the Internet and to overcome the "digital divide". The Court considered that these developments reflect the important role the Internet plays in people's everyday lives (*Kalda v. Estonia*, no 17429/10, judgment of 19 January 2016).
16. Nevertheless, the Court noted that Contracting States are not obliged to grant prisoners access to Internet or specific internet sites. It found, however, that if a State was willing to allow prisoners access, as was the case in Estonia, it had to give reasons for refusing access to specific sites. In the specific circumstances of the applicant's case, the reasons, namely the security and costs implications, for not allowing him access to the Internet sites in question had not been sufficient to justify the interference with his right to receive information. Notably, the authorities had already made security arrangements for prisoners' use of the Internet via computers specially adapted for that purpose and under the supervision of the prison authorities and had borne the related costs. Indeed, the domestic courts had undertaken no detailed analysis as to the possible security risks of access to the three additional websites in question, bearing in mind that they were run by an international organisation and by the State itself (*Kalda v. Estonia*, para. 51-54).
17. In the case of *Jankovskis v. Lithuania*, the Court assessed whether a prisoner have a right to access a website run by the Ministry of Education and Science. The prisoner complained that refusal of authorities his access to the website of Ministry of Education prevented him from receiving education-related information. He had written to that Ministry requesting information about the possibility of enrolling at university in order to acquire a degree in law, and the Ministry had written back to him, informing him that information about study programmes could be found on its website. However, the prison authorities refused to grant the applicant Internet access to this website, on the grounds that law prohibited prisoners having Internet access. The Court reiterated its observations about importance of internet access for the freedom of expression referring to its previous case-law. The Court also reiterated that Article 10 could not be interpreted as imposing a general obligation to provide access to

the Internet, or to specific Internet sites for prisoners. However, the Court reached the conclusion that since access to information relating to education was granted under Lithuanian law, the restriction of access to the Internet site in question had constituted an interference with the applicant's right to receive information.

18. The Court ruled that there had been a violation of Article 10 (freedom of expression) of the Convention on the grounds that Lithuanian authorities' interference with the applicant's right to receive information was not necessary in a democratic society. The website to which the applicant wished to have access contained information about learning and study programmes in Lithuania, and it was not unreasonable to hold that such information was directly relevant to the applicant's interest in obtaining education, which was in turn relevant for his rehabilitation and subsequent reintegration into society. The Court also observed that the Internet played an important role in people's everyday lives, in particular since certain information was exclusively available on the Internet. The Lithuanian authorities had however not considered the possibility of granting the applicant limited or controlled Internet access to that particular website administered by a State institution, which could hardly have posed a security risk (*Jankovskis v. Lithuania,* no.21575/08, §§ 52-64, judgment of 17 January 2017).
19. In these two judgments, the Court made reference to increasing importance of Internet access in people's everyday life and also to its significance for the rights and rehabilitation of the prisoners. Although the Court stated that Article 10 could not be interpreted as imposing a general obligation to provide access to the Internet, or to specific Internet sites for prisoners in both cases, nevertheless, recognised the rights of the applicants, in specific circumstances of the cases, to access specific Internet sites considering that relevant domestic laws recognised those rights. The difference between *Kalda* and *Jankovskis* judgments is that while Estonian law recognised prisoners' right to access to specific legal information on the Internet, Lithuanian law did not grant prisoners the right to access Internet, on the contrary, authorities argued that law prohibited such access. But the Court took into account that Lithuanian Law on Education granted access to information relating to education and accepted that the restriction of access to the Internet site to which the Ministry referred the applicant in reply to his request to provide information constituted an interference with the right to receive information.
20. In both cases, the Court noted that imprisonment inevitably entails a number of restrictions on prisoners' communications with the outside world, including on their ability to receive information. The Court accepted that security considerations or additional costs incurred for the State for extended Internet access may justify restriction of prisoners right to access Internet, but necessity of such restriction should be showed by national authorities.
21. It should be noted that, in **Ramazan Demir v. Turkey**, the applicant as a lawyer requested to access websites of the Turkish Constitutional Court and the European Court of Human Rights in order to prepare his defence and to assist

his clients in relation to ongoing cases. The applicant's request concerned information that was freely available in the public domain.

Relevant Turkish Law

22. The Turkish law permits prisoners access to Internet only for educational and rehabilitation purposes and under supervision. Article 67 of The Law on Execution of Penalties and Security Measures (Law No 5275) reads as follows:

"The convict's right to receive radio and television broadcasts and to use the Internet

ARTICLE 67.- (1) Where there is a central broadcasting system in the penal institution, the convict shall have the right to hear or watch radio and television broadcasts provided by this system.

(2) In those institutions where there is no central broadcasting system, permission shall be given to hear or watch radio and television broadcasts by means of an independent antenna, on condition that measures are in place to prevent hearing or watching of broadcasts which are not useful. Such equipment shall be purchased by the institution on behalf of the convict, who shall pay its price. Radios, televisions and computers brought by others from the outside in any manner whatsoever shall not be admitted into the institution.

(3) In closed or open penal institutions and in reformatories, audio-visual education materials and equipment may only be permitted to be used in places specified by the administration and ***in the framework of education and rehabilitation programmes****.* ***Where such programmes require, the Internet may also be used under supervision.*** *The convict may not keep a computer in his room. However, if it is considered appropriate by the Ministry of Justice, permission may be given to bring a computer into the penal institution for educational and cultural purposes.*

(4) These rights may be restricted for dangerous convicts and for convicts of organised crime."

23. The Law No 5275 also regulates rights of convicts to participate in cultural and artistic activities and freedom of expression (article 60), right to utilize library (article 61) and right to benefit from periodical and nonperiodical publications (article 62) as well. Article 116 of the Law No 5275 stipulates that those rights can also be enjoyed by on remand detainees in so far as they are compatible with their status. Article 90 of the Regulation (Tüzük) on Management of Penitentiary Institutions and Execution of Penalties and Security Measures (dated 2006) repeats Article 67 of the Law No 5275. The Regulation allows further restriction of these rights for certain category of convicts or detainees such as members of terrorist organisations etc in Article 67.
24. It should be noted that in Turkish Law there are systemic problems related to prisoners' right to receive information and Constitutional Court's case-law provides limited remedy for restrictions of right to receive information. Prison authorities

frequently refuse to give prisoners the books, magazines or letters sent to them on vague security grounds. [See, for example, Constitutional Court decisions: Bejdar Ro Amed App., 2014/10257, 30.11.2017, (violation decision, rejection of prison authorities to give the applicant copy of three books on the grounds that they constitute terrorist propaganda); Kamuran Reşit Bekir Applications (1-10) (rejection of public authorities to give the applicant newspapers, magazines and different documents); Ahmet Temiz Applications (1-10), (rejection of public authorities to give the applicant newspapers, magazines and different documents); Erdener Demirel ve Feki Roni Temizyüz Başvurusu, App. No. 2014/13310, 18/07/2018 (inadmissibility decision, applicants' request to watch certain TV channels were refused by authorities). Nevertheless, IFÖD would like to focus on prisoners' right to access Internet in this observation.

25. As can be seen from above mentioned provisions, the Turkish Law provides a limited opportunity to the detainees to access Internet. Prisoners may only access Internet for educational and rehabilitation purposes. As mentioned above, the ECtHR stated that Article 10 could not be interpreted as imposing a general obligation to provide access to the Internet, or to specific Internet sites for prisoners. However, the Court, considering the specific circumstances of two cases, recognised that prisoners can have access to specific Internet sites. In the *Kalda* case, the Court took into account that Estonian Law recognised prisoners right to access Internet. In the *Jankovskis* case Lithuanian Law did not grant prisoners the right to access Internet, but the Court relied on the fact that access to a specific Internet site was necessary for the enjoyment of a right recognised by Lithuanian Law; namely, access to information relating to education.
26. So, according to the case-law, prisoners may have a right to access the Internet in two different situations; either such a right should have been recognised in domestic law, or access to Internet should be necessary for the enjoyment of a right recognised in domestic law.
27. In Turkish Law, prisoners have right to access Internet only for education and rehabilitation purposes under the supervision of authorities. In the Ramazan Demir application the detained applicant who is a lawyer requested to access specific Internet sites in order to prepare his legal defence. Even if access to the Internet for the preparation of legal defence was not recognised in Turkish Law, the right to have adequate facilities for the preparation of a legal defence has definitely been recognised in Turkish Law. The Code of Criminal Procedure ("CCP") guarantees the accused a right to have adequate facilities for preparation of his defence. Article 59 of the Law No 5275 regulates right of prisoners to consult a lawyer. Similarly, articles 149-156 of the CCP regulates right to defence of the accused and right to consult with a lawyer.
28. On the other hand, the ECHR is part of the Turkish legal system and have priority over domestic laws according to Article 90 of the Constitution. Article 6 § 3 (b) of the Convention guarantees the accused "adequate time and facilities for the preparation of his defence" and therefore implies that the substantive defence activity on his behalf may comprise everything which is "necessary" to prepare for the main trial. The accused must have the opportunity to organise his defence in an appropriate way and without restriction as to the opportunity to put all relevant

defence arguments before the trial court and thus to influence the outcome of the proceedings (see Can v. Austria, 30 September 1985, § 53, Series A no. 96; Connolly v. the United Kingdom (dec.), no. 27245/95, 26 June 1996; and Mayzit v. Russia, no. 63378/00, § 78, 20 January 2005). Furthermore, the facilities available to everyone charged with a criminal offence should include the opportunity to acquaint himself for the purposes of preparing his defence with the results of investigations carried out throughout the proceedings (see C.G.P. v. the Netherlands, (dec.), no. 29835/96, 15 January 1997, and Foucher v. France, 18 March 1997, §§ 26-38, Reports 1997 II). The issue of the adequacy of the time and facilities afforded to an accused must be assessed in the light of the circumstances of each particular case. If the accused is detained, the prison authorities must take reasonable steps to supply him or her with the legal and other materials needed to prepare an appeal (see Ross v. UK, no 11396/85, 50 DR 179 (1986).

29. Furthermore, Article 5/4 of the Convention guarantees a right to challenge legality of detention. Within this context, a detained person must be allowed the necessary time and facilities to prepare his case. In order to effectively challenge the lawfulness of his detention, the detainee must be provided basic requirements of a fair trial (Garcia Alva v. Germany, no 23541/94, 13.02.2001, § 39; Lebedev v. Russia, no 4493/04, 25.10.2207, § 77).
30. These rights have been guaranteed both under Turkish domestic law and under international human rights law. That is, the right to have adequate time and facilities to prepare one's defence is also guaranteed by the Convention. In order for effective enjoyment of these rights, a detained person may necessarily need to access Internet sites of the Turkish Constitutional Court and the European Court of Human Rights.
31. IFÖD is in the belief that the applicant himself is a lawyer and he cannot be forced to receive legal assistance to prepare his defence. That was the case, even if the applicant was not a lawyer. Every accused person may choose to prepare his defence by himself. In such a case, he may need to examine relevant constitutional and ECHR case-law in order to prepare his defence. The only possibility of examining constitutional and ECHR case-law is to access websites of the relevant courts. Without reaching the websites of the Constitutional Court and the European Court, the applicant cannot prepare his defence effectively. Because most of the up-to-date judgments or decisions of these courts are available only online and relevant decision or judgments can only be determined as a result of online search on the relevant websites.
32. Therefore **İFÖD is of the opinion that a detained accused's right to have adequate facilities to prepare his/her defence may require provision of access to websites of the Constitutional Court and the European Court of Human Rights** considering that most of the judgments or decisions of these courts are available only online and relevant decisions or judgments can only be determined as a result of online search on the relevant websites. **Without Internet access, the applicant had no means of obtaining the information necessary to pursue his defence in his own case.**
33. Therefore, refusal of authorities to grant a prisoner to access a particular website administered by a national or international court for the information he needed to

prepare his defence should be accepted as an interference with the right to receive information.

34. According to the established case-law of the Court any interference with freedom of expression will constitute a violation of Article 10 of the Convention unless it is "prescribed by law", pursues one or more legitimate aims for the purposes of Article 10 § 2 and can be regarded as "necessary in a democratic society".
35. In order to evaluate whether an interference was necessary in a democratic society and proportionate to the legitimate aim pursued the Court looks at the interference complained of in the light of the case as a whole and examines whether the reasons adduced by the national authorities to justify interference are "relevant and sufficient". The Court also takes into account the fairness of proceedings and the procedural guarantees afforded to the applicant when assessing the proportionality of an interference with the freedom of expression guaranteed by Article 10 (see *Baka v. Hungary* [GC], no. 20261/12, § 161, 23 June 2016).
36. İFÖD is of the opinion that it should be taken into consideration that providing a detainee lawyer access to websites of the Constitutional Court and the European Court of Human Rights **do not incur unbearable additional costs to the prison authorities considering that the law already provides access to the Internet for educational and rehabilitation purposes**. On the other hand, whilst the security considerations arising from prisoners' access to Internet may be considered as relevant, possibility of granting the prisoners limited or controlled Internet access to particular websites administered by national and international courts can hardly pose a security risk.

Conclusion

37. Considering the role of the Internet in enhancing the public's access to news and facilitating the dissemination of information and its important role in people's everyday life, Internet, in today's world has become an important tool for the enjoyment of a range of human rights. Internet access has already been recognised as a right in the caselaw of the Court. Normalisation principle which prevails in European legal culture requires that prisoners retain all their rights when imprisoned except those which are taken away by necessary implication of the deprivation of liberty and conditions in prison should resemble conditions in the free community as much as possible. Consideration of these two phenomena in tandem, requires that **prisoners should be provided a greater access to Internet in order to guarantee enjoyment their fundamental human rights**.
38. Even if a general right of prisoners' access to Internet cannot be inferred from the right to receive information protected under Article 10 of the Convention, in certain conditions, Article 10 may require public authorities to provide prisoners access to particular websites. Particularly, if effective enjoyment of a legal or Convention right requires access to particular websites, such an access should be provided to prisoners unless there is a compelling public interest necessity legitimising rejection of such access.

39. IFÖD is of the opinion that effective enjoyment of the right to have adequate facilities to prepare one's defence protected under articles 5/4 and 6/3-b of the Convention may require public authorities to provide prisoners to access to websites of the TCC and the ECtHR. Rejection of such an access constitutes interference with the right to receive information under Article 10 of the Convention and public authorities should prove the necessity of interference in a democratic society. It should also be taken into account that granting the prisoners limited or controlled Internet access to particular websites administered by national and international courts can hardly pose a security risk.

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İfade Özgürlüğü Derneği (İFÖD) has been set up formally in August 2017 protect and foster the right to freedom of opinion and expression. The new Association envisions a society in which everyone enjoys freedom of opinion and expression and the right to access and disseminate information and knowledge.