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Date: 24/11/2023

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Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1483rd meeting (December 2021) (DH)

Communication from the authorities (23/11/2023) following communications from NGO (Ifade Ozgurlugu Dernegi (IFOD – Freedom of Expression Association) in the case of AHMET YILDIRIM v. Turkey (Application No. 3111/10).

Information made available under Rule 9.6 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1483^e réunion (décembre 2023) (DH)

Réponse des autorités (23/11/2023) suite à des communications d'ONG (Ifade Ozgurlugu Dernegi (IFOD – Freedom of Expression Association) dans l'affaire AHMET YILDIRIM c. Turquie (requête n° 3111/10)
[anglais uniquement]

Informations mises à disposition en vertu de la Règle 9.6 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



**Permanent Representation
of Türkiye
to the Council of Europe**

DGI

23 NOV. 2023

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

Strasbourg, 23.11.2023

2023/33766324/37127037
Yıldırım (3111/10)
Cengiz vd. (48226/10) v. Türkiye

Ms Ovey,

I enclose herewith the Government's response to the Rule 9.2 communication concerning the execution of the above-mentioned judgments.

Please accept, Ms Ovey, the assurances of my high consideration.

Ferda YILDIRIM
Deputy to the Permanent Representative

Enc.: As stated

Ms Clare OVEY
Head of Department
Department for the Execution of Judgments of the ECHR
Directorate General Human Rights and Rule of Law
Council of Europe

THE GOVERNMENT RESPONSE TO THE RULE 9.2 COMMUNICATIONS

Ahmet Yıldırım v. Türkiye (3111/10)

Cengiz and Others v. Türkiye (48226/10 and 14027/11)

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1. The Turkish authorities would like to make the following explanations in response to the submission of the *İfade Özgürlüğü Derneği (İFÖD)* dated, 3 November 2023 with respect to the present groups of cases.

2. First of all, the Government would like to note that detailed information on both individual and general measures, within the context of the supervision of the present group of cases, has been submitted to the Committee of Ministers with an action report dated 6 October 2023. The Government would like to reiterate the information provided therein. The authorities, however, find it useful to provide the following information.

3. The Turkish authorities would like to indicate that the judgments finding a violation in the present group of cases arise not from Article 8/A of the Law no. 5651, but from the application of Article 8 of this Law. The basis of the relevant judgments finding a violation was that as of the date of the incident, there was no provision in the Law no. 5651 regarding the blocking of access to entire websites, and that, in this connection, the provisions of the Law then in force did not allow the judicial authorities to carry out an examination of proportionality.

4. The authorities would like to note that as also indicated in the most recent action report, the shortcomings stated in the Court's judgement finding a violation have been remedied by new legislative regulations.

5. In this context, paragraph 17 added to Article 8 of the Law no. 5651 by the Law no. 7188 in 2019 reads as follows:

“... where it is not technically possible to block access to the offending content or where the blocking of access to the offending content cannot prevent the offence, access to the entire website may be blocked.”

6. According to the relevant provision, the blocking of access to the entire website can be applied as a last resort only in cases where it is not technically possible to block access to

the content that violates the relevant paragraphs of Article 8 of the Law no. 5651 or the violation cannot be eliminated by way of application of other measures.

7. Another important amendment to the Law no. 5651 is the measure of removal of content that has been added to Article 8 § 1 of the Law by the Law no. 7253 in 2020. While the measure of removal of content only provides for the removal of internet content that violates the Law, it is, in this respect, a lesser measure compared to the measure of blocking access via domain name.

8. The authorities consider that the introduction of the possibility of imposing lesser measures - removal of content and gradual blocking of access- is also of importance as it provides legal guarantees for the competent courts' ability to carry out an examination of proportionality.

9. The authorities emphasise that the orders to block access to different websites constituting the subject-matter of Rule 9/2 submission do not fall within the scope of the judgments of the Court finding a violation. In essence, these orders were issued not under Article 8 § 1 of the Law no. 5651, which is the subject-matter of the judgments finding a violation, but under other Articles. Therefore, the authorities consider that the decisions to block access which were not the subject of the judgments of the ECtHR and which were issued under other articles of the Law no. 5651 are not related to the process of execution of the judgments in the *Ahmet Yıldırım* group of cases.

10. Lastly, the Turkish authorities would like to note that in the communication in question there are speculations on issues which are not subject to the supervision process. The Turkish authorities find it unnecessary to comment on these issues that are of speculative nature.

CONCLUSION

11. The Government kindly invite the Committee of Ministers to take into consideration the above-mentioned explanations within the scope of the execution of the present groups of cases.