

# European Court of Human Rights: Recent Judgments on the Freedom of Expression

## **IRIS 2000-10:1/2**

*Dirk Voorhoof  
Human Rights Centre, Ghent University and Legal Human Academy*

In a judgment of 10 October 2000 the European Court of Human Rights (first section) has held in the case of *Akkoç v. Turkey* that a disciplinary sanction because of an interview published in a newspaper, was not in breach of Article 10 of the Convention. The applicant, a former teacher, received a disciplinary punishment in 1994 for a statement made to the press in which she declared that at a meeting some teachers were assaulted by the police. In 1998, however, the Supreme Administrative Court decided that the disciplinary sanction was unlawful. In 1999 the Administrative Court adopted the reasoning of the Supreme Administrative Court and finally cancelled the disciplinary sanction imposed on the applicant. The Strasbourg Court decided that although five years and nine months is a considerable period of time, it did not deprive the domestic procedures of efficacy in providing adequate redress. The Administrative Court quashed the disciplinary sanction which thereby ceased, retrospectively, to have any effect, vindicating the applicant's right of freedom of expression. In such circumstances the applicant cannot longer claim to be a victim of an interference with her right of freedom of expression under Article 10 of the Convention.

In the same case, however, the Court found a violation of Article 2 of the Convention (right to life) and Article 3 of the Convention in respect of the torture of the applicant in police custody.

In another judgment of 10 October 2000 the European Court of Human Rights (3rd section) in the case of *Ibrahim Aksoy v. Turkey* concluded that Article 10 of the Convention had been violated. The applicant, a writer and former Member of Parliament, was convicted several times in Turkey for disseminating separatist propaganda. Neither the speech at a regional congress, nor the publication of an article in a weekly magazine, nor the content of a leaflet, could justify these convictions according to the Strasbourg Court. The Court was of the opinion that the speech, the article and the leaflet did not constitute an incitement to violence, armed resistance or an uprising. The Court emphasised that one of the principal characteristics of democracy is the possibility to resolve a country's problems through dialogue and without recourse to violence, even when it is irksome. According to the Strasbourg Court, the conviction of the applicant could not be regarded as necessary in a democratic society and hence violated Article 10 of the European Convention on Human Rights. This judgment is not final. Either party to the case may, within three months from the date of the judgment of a

Chamber, request that the case be referred to the Grand Chamber (Art. 43-44 of the Convention).

***Judgment by the European Court of Human Rights of 10 October 2000, Case of Akkoç v. Turkey, Applications nos. 22947/93 and 22948/93***

<http://www.echr.coe.int/hudoc>

***Arrêt de la Cour européenne des Droits de l'Homme, 10 octobre 2000, affaire Ibrahim Aksoy c. Turquie, n° 28635/95, 30171/96 et 34535/97***

<http://www.echr.coe.int/hudoc>

*Judgment by the European Court of Human Rights of 10 October 2000, Case of Ibrahim Aksoy v. Turkey, Applications nos. 28635/95, 30171/96 and 34535/97. Available on the ECHR's website at:*

