European Court of Human Rights: Bayar (nos. 1-8) v. Turkey

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In eight judgments of 25 March 2014 the European Court of Human Rights has once more found gross violations of the right to freedom of expression and information in Turkey. Each of the judgments concerns the criminal conviction for publishing declarations from an illegal armed organisation. The applicant in all of the eight cases is Hasan Bayar, the editor-in-chief of the Ülkede Özgür Gündem, a daily newspaper based in Istanbul. In 2004 the newspaper published a series of statements and articles expressing, in various ways, the positions of the PKK (the Kurdistan Workers' Party), as well as statements by its leaders. It also published appeals from prisoners to the Turkish Government to negotiate with Mr Öcalan, the PKK leader. Other articles described events linked to Mr Öcalan's incarceration. Some of the statements from the PKK or Congra-Gel or PJA, a branch of the PKK, concerned the political situation of the Kurds, the role of women in society and appeals for democratisation and peace. One article, reproducing declarations of the leader of Congra-Gel, protested against the visit of the Turkish Prime Minister to Iran. After the publication of each article, the public prosecutor charged Mr Bayar and the owner of the newspaper with spreading propaganda via the press, and publishing material from an illegal armed organisation. On each occasion Mr Bayar and the owner of the newspaper were convicted in application of the anti-terrorism act nr. 3713 and they were ordered to pay a fine. Mr Bayar appealed to the Court of Cassation against each of these decisions, arguing that his rights as guaranteed by Article 10 of the European Convention had been violated. However, all Mr Bayer's appeals were declared inadmissible.

The Strasbourg Court is of the opinion that Mr Bayer's right under Article 6 (right to a fair trial) was violated, as the Court of Cassation had wrongfully declared his appeals inadmissible. The European Court also found that Mr Bayer's right to freedom of expression under Article 10 was violated, as the Court saw no pertinent reason to justify Mr Bayer's conviction. The Court said that it was aware of the difficulties the fight against terrorism was confronted with, but it emphasised at the same time the importance of the right to freedom of expression, by notifying that the impugned articles did not encourage violence, armed resistance or insurrection and did not constitute hate speech. According to the Court this was crucial, and it could not find any pertinent and sufficient reasons to justify any of the interferences with the editor-in-chief's right to freedom of expression. Unanimously, the Court awarded Mr Bayer - in all the

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cases taken together - the total sum of EUR 6,133 (pecuniary damage), EUR 10,400 (non-pecuniary damage), and EUR 4,000 (costs and expenses).

Arrêts rendus le 25 mars 2014 par la Cour européenne des droits de l'homme (quatrième section) dans l'affaire Bayar (n 1 - 8) c. Turquie, requêtes nos 39690/06, 40559/06,48815/06, 2512/07, 55197/07, 55199/07, 55201/07 et 55202/07

Judgments by the European Court of Human Rights (Fourth Section), case of Bayar (nos. 1-8) v. Turkey, Appl. nos 39690/06, 40559/06,48815/06, 2512/07, 55197/07, 55199/07, 55201/07 and 55202/07 of 25 March 2014

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