



Resolution 1297 (2002)¹

Final version

Implementation of decisions of the European Court of Human Rights by Turkey

Parliamentary Assembly

1. The Parliamentary Assembly refers to its [Resolution 1268 \(2002\)](#) on implementation of decisions of the European Court of Human Rights, in which “considering the high number of decisions against Turkey that have not been implemented, the Assembly instructs its Committee on Legal Affairs and Human Rights to confer with the national delegation of Turkey and with the Turkish Government and to report to the Assembly, by June 2002 at the latest, on the progress made. The Assembly envisages inviting the Turkish Minister for Justice to the June part-session to confer on this matter.” The deadline for the submission of the report was extended by the Bureau of the Assembly until the September 2002 part-session.
2. The Assembly accordingly drew up a list of the oldest and/or most important cases still unresolved. These cases notably raised issues relating to respect for life (Article 2 of the European Convention on Human Rights) and the prohibition of torture (Article 3), freedom of expression (Article 10) and the right to a fair trial (Article 6). In addition, this list included the case of Cyprus against Turkey, and in particular the problem of missing persons and violations of the human rights of the Greek Cypriots in northern Cyprus.
3. The list also included the Loizidou case, in which Turkey continues to refuse to take the measures required to comply with its basic obligation under Article 46.1 of the Convention to abide by the Court’s judgments.
4. The list was sent to the Turkish delegation in order to obtain its assistance in ensuring the speedy resolution of these outstanding issues. The delegation was also invited to submit any comments on the cases mentioned.
5. Having regard to the information gathered on the state of execution in the cases on the list and the comments submitted by the Turkish delegation, the Assembly makes the following evaluation of the situation.
6. The Assembly welcomes the constitutional and legal changes which have taken place in Turkey, in particular in the autumn of 2001, in early 2002 and very recently in August 2002, which will contribute to preventing the repetition of violations of the Convention in the future. The Assembly has in particular noted that as a result of the implementation of amendments to the Turkish Constitution in 2001, introducing rapid judicial review of detention in police custody, the Committee of Ministers has been able to indicate that it will now close its examination of the Court’s judgments concerning this problem (see, inter alia, the judgment in the case of Sakik and others against Turkey of 26 November 1997).
7. It welcomes in particular the progress made with the reform aimed at ensuring that the security forces and other law enforcement authorities respect the Convention in all circumstances. It also notes the changes introduced in the scope of freedom of expression and freedom of association, in particular those relating to the activities of political parties. The Assembly stresses, however, the need to go further and the importance attached to the courts, and in the first place the highest courts, effectively applying the new provisions in such a way that Turkey respects the Convention in general and the judgments of the Court in particular.

1. Assembly debate on 23 September 2002 (25th Sitting) (see [Doc. 9537](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Jurgens). Text adopted by the Assembly on 23 September 2002 (25th Sitting).



8. However, despite the progress recently achieved, the Assembly cannot but regret that a number of important problems remain outstanding.

9. The Assembly therefore reiterates its calls upon the Turkish authorities to ensure rapidly that:

- i. the modalities of payment of just satisfaction respect the judgments of the Court (ninety cases);
- ii. the recently adopted legislation on the reopening of judicial proceedings is given immediate effect and made applicable to all cases pending before the Committee of Ministers for control of execution, so as to enable the consequences of the violations found to be remedied;
- iii. legislation be adopted to allow the consequences of the violations of the Convention to be immediately erased, including by restoring the applicants' civil and political rights (eighteen cases of freedom of expression);
- iv. further legislative action is rapidly taken to ensure respect for freedom of expression, notably in application of the anti-terror legislation;
- v. further progress is made in preventing, through development of the training of the security forces and the development of effective criminal and civil remedies, new violations notably of Articles 2 and 3 of the Convention (thirty-eight cases concerning actions by the security forces);
- vi. concrete measures are adopted in the case of Cyprus against Turkey, notably to deal with the problems of missing persons in a manner respecting the Convention and to stop the continuing violations of the rights of the Greek Cypriots in northern Cyprus;
- vii. the necessary legislative amendments in the Zana case are adopted without further delay.

10. The Assembly deeply regrets that the new legislation on the reopening of proceedings adopted by Turkey in August 2002 expressly excludes any possibility of complying with the Court's judgment in the case of Sadak and others, so that the four applicants will continue to serve their fifteen-year prison sentences, imposed following an unfair trial. It strongly supports the Committee on Legal Affairs and Human Rights' demand to remedy urgently the applicants' situation, either by making this new legislation immediately applicable to all pending cases or by adopting ad hoc measures in the applicants' favour. In the event that the applicants' situation is not remedied, the Assembly will consider the consequences of such a refusal at its session in April 2003.

11. The Assembly also notes with grave concern Turkey's continued refusal to respect the Court's judgments in the Loizidou case. It finds, with the Committee of Ministers, that this refusal demonstrates a manifest disregard by Turkey for its international obligations, both as a High Contracting Party to the Convention and as a member state of the Council of Europe. The Assembly therefore invites Turkey to ensure payment of the just satisfaction owed to the applicant without any further delay. In case this request is not satisfied, the Assembly will consider the consequences of this continuing refusal at its April 2003 session.