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## **RULE 9.2. COMMUNICATION**

in case of

**DINK v. Turkey**

*(Case Number: 2688/07)*

by

**MLSA**

*(Media and Law Studies Association)*

October 2024

## **MEDIA AND LAW STUDIES ASSOCIATION (MLSA)**

[Media and Law Studies Association](#) (MLSA) is a non-profit organization founded in Istanbul (registered as Medya ve Hukuk Çalışmaları Derneği) founded in December 2017 to respond to an urgent and growing need for a return to democracy and normalization in Turkey by providing pro bono legal support to journalists whose freedom of expression is violated. MLSA's legal unit provides legal representation and counseling services to journalists whose freedom of expression is threatened without considering their affiliations, political views, gender or ethnicity. MLSA legal unit also conducts strategic litigation services where there is a systematic violation of freedom of expression.

MLSA also maintains a trial monitoring program since 2017; the program has monitored more than 2.500 hearings in all over the country. The program monitors cases where freedom of expression and or freedom of assembly is concerned.

MLSA also maintains Free Web Turkey as an internet freedom watchdog platform in Turkey. The project monitors internet bans in Turkey and report it in yearly reports and also publishes weekly "censorship agendas" in which every week all news about internet censorship is being published on the webpage and on twitter.

MLSA is also maintaining a program to strengthen Turkey's civil society against the legal threats posed after the adoption of new CSO law, it provides legal and administrative training for the members of CSOs and also it provides simulation audits for threatened NGOs.

MLSA's editorial unit publishes opinion pieces and news articles on different aspects of Turkey's media landscape in cooperation with freelance journalists and provides these journalists a platform to express themselves.

## **INTRODUCTION**

1. The case concerns the violation of the right to freedom of expression, right to life, and right to an effective remedy (violations of Articles 2, 10, and 13 of the Convention). Specifically, the authorities failed to protect Hrant Dink from known threats to his life, did not conduct an effective investigation into his assassination, and convicted him under Article 301 of the Turkish Penal Code for his journalistic activities, which violated his freedom of expression.
2. The submission provides an updated analysis of Turkey's compliance with the *Dink* judgment by examining the information presented in Turkey's latest Action Plan alongside independent research, including data from MLSA. Despite the passage of over a decade since the Court's ruling, critical issues remain unresolved, and there has been insufficient progress in implementing both individual and general measures.

## **REGARDING INDIVIDUAL MEASURES**

3. This section analyzes Turkey's progress in implementing the individual measures as required by the *Dink* judgment, particularly focusing on the effectiveness of the criminal proceedings, access to justice for the victim's family, and the lack of accountability for public officials implicated in the case.
4. Despite the passage of 17 years since the assassination of Hrant Dink, the criminal proceedings are still ongoing, with many aspects of the case remaining unresolved. Although the Turkish authorities have prosecuted numerous individuals in connection with the murder, these efforts have been marred by significant delays, procedural shortcomings, and a lack of transparency.
5. The government's latest Action Plan highlights that trials involving 78 suspects are still ongoing, but the slow pace of these proceedings and the lack of meaningful outcomes raise serious concerns about the state's compliance with Article 2 of the Convention. The Turkish government's Action Plan itself acknowledges that several high-ranking officials implicated in the *Dink* case have benefited from the statute of limitations.
6. In Paragraph 11 of the action plan, the government admits that criminal proceedings against six key accused, including the Istanbul Provincial Police Chief and the former Head of the Intelligence Department, were discontinued due to the expiration of the statute of limitations<sup>1</sup>.

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<sup>1</sup> Action Plan, 05/07/2022, Communication from Türkiye concerning the case of Dink v. Turkey (Application No. 2668/07), para 11.

7. In Paragraph 23, the government further acknowledges that disciplinary investigations against 17 individuals were also closed because the statutory limitation period for administrative penalties had expired<sup>2</sup>. Another disciplinary investigation concerning 8 high-level officials suffered a similar fate. This development highlights a serious gap in ensuring effective accountability, as these individuals held crucial positions during the period leading up to Hrant Dink's assassination.
8. These delays not only prevent effective accountability but also contradict the very purpose of the individual measures: to establish justice for Hrant Dink and to ensure that similar violations do not recur. The use of statutory limitations has shielded several officials who were in positions of responsibility and who failed to act on intelligence indicating imminent threats to Dink's life. As a result, the full scheme and mechanism behind the assassination have yet to be uncovered<sup>3</sup>.

## **REGARDING GENERAL MEASURES**

### *Response to legislative measures*

9. The government references a "Regulation on Protective Services" as a key measure to ensure the safety of individuals under threat, but there is a lack of clarity on what this regulation entails or how it specifically addresses the safety of journalists. The Action Plan does not provide any detailed information regarding:
  - The scope and application of this regulation.
  - Criteria for identifying who qualifies for protection.
  - Specific procedures for journalists facing targeted threats, particularly those related to their professional activities.
10. Without this information, it is impossible to assess whether the regulation is effective or if it meets the ECtHR's standards for ensuring the safety of individuals at risk
11. The Action Plan suggests that individuals, including journalists, have the possibility to seek protective measures from law enforcement agencies. However, this approach ignores a

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<sup>2</sup> Action Plan, 05/07/2022, Communication from Türkiye concerning the case of Dink v. Turkey (Application No. 2668/07), para 23.

<sup>3</sup> <https://www.agos.com.tr/tr/yazi/28921/dink-ailesi-avukatları-anayasa-mahkemesi-ne-basvurdu>, As an example it can be taken that When Prime Ministry inspectors, unable to obtain information about the murder of Hrant Dink during a dinner at Trabzon MIT (National Intelligence Agency) Regional Directorate, asked 'At least give [us] a crumb', the MIT officer in question said, 'A crumb will take you to the oven'. On 13 April 2017, the court asked the inspectors who were heard as witnesses. Yasemin Tuğçe (İnan) Babaoğlu said, 'This is exactly what happened', and her statement was confirmed by two other inspectors, Mehmet Akın and Ayşegül Genç (Istanbul 14th Assize Court, 2016/32, 43rd Session Minutes of the hearing dated 13.4.2017, pp. 37, 65, 84., <https://www.failibelli.org/maras-madimak-hrant-dink-cinayeti-ve-mit/>)

fundamental contradiction: in the Dink case, accomplices were themselves part of the police and law enforcement agencies<sup>4</sup>. The Action Plan does not mention any reforms to establish an independent oversight body that could handle protection requests and oversee the conduct of law enforcement agencies in cases involving journalists and other individuals at risk.

## **DATA RELATED TO JOURNALISTS ATTACKED**

12. The MLSA Report 2023, titled “Journalism in Turkey: I Don’t Feel Safe” provides detailed and compelling data illustrating the severe risks and threats faced by journalists in Turkey<sup>5</sup>. The report’s findings demonstrate that the *Dink* case is far from an isolated incident and that the systemic problems identified by the ECtHR continue to endanger the safety and freedom of expression of journalists across the country. The following data points and case examples from the report serve to highlight the failure of Turkey’s general measures in addressing these ongoing threats.
13. In Turkey, 57 journalists were killed between 1948 and 2022, as reported by the Turkish Journalists’ Association (TGC)<sup>6</sup>. However, despite these high numbers, almost none of these murders have been effectively investigated or solved, including high-profile cases such as the murders of Abdi İpekçi, Uğur Mumcu, and Ahmet Taner Kışlalı, and the assassination of Hrant Dink in 2007<sup>7</sup>. The persistence of unresolved killings reflects a broader pattern of impunity, leaving journalists unprotected and perpetrators unaccountable.
14. According to the Turkish Journalists’ Union (TGS), at least 96 journalists were physically assaulted, and 43 journalists received verbal threats in the past year alone<sup>8</sup>.
15. The environment of hostility against journalists in Turkey is further illustrated by the recent case of Sinan Aygül, a journalist and President of the Bitlis Journalists’ Association. On 17 June 2023, Aygül was physically assaulted by one municipality employee and mayor protection police in Tatvan, Eastern Turkey. Shockingly, the assault took place while a police officer stood by and actively prevented citizens from intervening, underscoring the complicity of law enforcement in such acts of violence<sup>9</sup>. Furthermore, Aygül was the first

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<sup>4</sup> <https://medyascope.tv/2023/11/16/hrant-dink-cinayeti-davasinin-kronolojisi-kac-dava-acildi-kim-ceza-aldi-hangi-davalar-suruyor/>

<sup>5</sup> The MLSA Report 2023, “Journalism in Turkey: I Don’t Feel Safe”,

<https://www.mlsaturkey.com/images/2023/08/MLSA-rapor-1-en-rev.pdf>

<sup>6</sup> The MLSA Report 2023, “Journalism in Turkey: I Don’t Feel Safe”, p. 5.

<sup>7</sup> The MLSA Report 2023, “Journalism in Turkey: I Don’t Feel Safe”, p. 5.

<sup>8</sup> The MLSA Report 2023, “Journalism in Turkey: I Don’t Feel Safe”, p. 5.

<sup>9</sup> The MLSA Report 2023, “Journalism in Turkey: I Don’t Feel Safe”, p. 5.

journalist prosecuted and sentenced under Turkey's new Disinformation Law, which was enacted in October 2022. He was arrested on 14 December 2022 and later released, but the Tatvan 1st Criminal Court of First Instance sentenced him to 10 months in prison for allegedly "openly disseminating information misleading the public."<sup>10</sup>

16. Another troubling case is that of Bülent Kılıç, an AFP photojournalist, who was violently detained while covering the 19th Istanbul Pride on 26 June 2021. During the incident, police officers physically assaulted Kılıç, forcibly throwing him to the ground and pressing their knees on his back and neck, nearly suffocating him. This excessive use of force occurred despite Kılıç being visibly identified as a journalist. The incident was captured on video and sparked widespread condemnation from both domestic and international press freedom organizations<sup>11</sup>. Following the assault, the MLSA's Legal Unit filed a criminal complaint against the officers involved for "intentional injury through the use of excessive force." However, despite an administrative court ruling in January 2023 that the police officers had used "disproportionate force" and ordering compensation of 30,095.58 Turkish liras to be paid to Kılıç, the Istanbul Prosecutor's Office decided not to prosecute the officers involved. Instead, the same prosecutor indicted Kılıç himself on charges of "preventing officers from performing their duty" and "publicly insulting a public official" on the very same day the non-prosecution decision was made<sup>12</sup>.
17. The hostile environment for journalists is further reflected in the results of a survey conducted by the report. According to the survey, 46 out of 57 journalists (over 80%) reported that they had been physically attacked, verbally threatened, or harassed due to their professional activities<sup>13</sup>.
18. According to MLSA's survey, 18 out of 46 journalists who were attacked or threatened chose to file formal complaints. However, only 13 of these complaints made to the prosecution, and 10 of them resulted in non-prosecution decisions that indicates the impunity atmosphere against journalists<sup>14</sup>.

## **CONCLUSION AND RECOMMENDATION**

19. In light of the data presented and the ongoing concerns about Turkey's compliance with the *Dink* judgment, it is clear that the measures cited in the Turkish government's Action Plan

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<sup>10</sup> The MLSA Report 2023, "Journalism in Turkey: I Don't Feel Safe", p. 5.

<sup>11</sup> The MLSA Report 2023, "Journalism in Turkey: I Don't Feel Safe", p. 6.

<sup>12</sup> The MLSA Report 2023, "Journalism in Turkey: I Don't Feel Safe", p. 6.

<sup>13</sup> The MLSA Report 2023, "Journalism in Turkey: I Don't Feel Safe", p. 6.

<sup>14</sup> The MLSA Report 2023, "Journalism in Turkey: I Don't Feel Safe", p. 16.

are insufficient to address the systemic issues concerning the safety of journalists.. Despite over a decade having passed since the judgment was delivered, threats to journalists' safety remain high, and the mechanisms to protect them are inadequate.

20. The Committee of Ministers, in its 1324th meeting, already noted the lack of any substantial information from Turkey on concrete measures to protect journalists. The absence of early-warning and rapid-response mechanisms, combined with the involvement of law enforcement in many cases of harassment and violence, underlines the need for independent oversight and reform.

21. Based on these findings and previous observations by the Committee, we kindly ask the Committee to:

- a. Strongly urge Turkey to create an independent oversight body responsible for monitoring threats against journalists, investigating attacks, and ensuring accountability for law enforcement officers implicated in these crimes. This body should operate separately from the existing law enforcement and judicial structures to ensure impartiality and effectiveness.
- b. Request Turkey to consider creating specialized bodies under the Parliament to handle threats and violence against journalists. Such bodies would demonstrate the government's political will to address this issue and provide a structured approach to implementing reforms.
- c. Encourage Turkey to actively cooperate with the Council of Europe Platform for the Protection of Journalism and Safety of Journalists by responding promptly to alerts concerning threats and violence against journalists.
- d. Request Turkey to implement safeguards to prevent procedural failings leading to closure of cases due to the statute of limitations in future cases involving threats or violence against journalists.
- e. Request the Turkish authorities to provide comprehensive data on the number of journalists who have made formal complaints to law enforcement or prosecution authorities due to threats, violence, or harassment related to their journalistic activities, including the total number of complaints filed by journalists over the past five years, details of the nature of the complaints (e.g., physical violence, digital harassment, threats), the outcomes of these complaints, including how many resulted in prosecution, how many were dismissed, and how many were resolved with non-prosecution decisions, and information on any disciplinary actions taken against law enforcement officers or other officials involved in these cases.