



DGI Directorate General of Human Rights and Rule of Law
Department for the Execution of Judgments of the ECtHR
F-67075
Strasbourg Cedex FRANCE
Email: DGI-Execution@coe.int

RULE 9.2. COMMUNICATION

in the group of cases of

OYA ATAMAN v. Turkey

(Case Number: 74552/01)

by

MLSA
(Media and Law Studies Association)

March 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 the 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.

CASE GROUP

1. This group concerns violations of the right to freedom of peaceful assembly, including the prosecution of participants and/or the use of excessive force to disperse peaceful demonstrations (violations of Articles 2, 3, 5, 10, 11 and 13 of the Convention).
2. Until 13 December 2023, bans on Kurdish cultural events and activities were reviewed under the [Ulusoy and Others v. Turkey](#) (No. 34797/03) group of cases. The case group was closed through a [final resolution](#), and the Committee decided that the supervision of general measures pertaining to this issue will continue under the Oya Ataman case group.
3. This communication provides information on specific bans on Kurdish cultural events¹. MLSA has documented the administrative practice of banning cultural activities based on the language they are performed. This practice specifically targets Kurdish cultural events, being in order to prevent any depiction of the Kurdish cultural sphere.

STATE OF LEGISLATIVE MEASURES

1. The infringements resulted in bans on gatherings, demonstrations and cultural events such as concerts, theatre plays and other activities. Such events are banned through two main legislative instruments. Article 17 of the Law on Meetings and Demonstration Marches authorizes the provincial and district governors to ban public meetings. Article 11§C of the Provincial Administration Code No. 5442 has vague wording authorizing the governors to take “*necessary measures*” to “...*to ensure peace and security, personal inviolability, security of property, public well-being*”.
2. The government argues that it had adopted the relevant legislation in line with the Court’s judgment in the case at stake. The MLSA observes that the amendments to the legislation are ineffective and did not improve the state of freedom of expression on the issue. The real issue remains that the administrative authority to block any form of peaceful assembly is being arbitrarily exercised. For a detailed review of the legislative framework please refer to [MLSA’s prior submission](#)².
3. These administrative actions are adopted in various forms and by different authorities. In most cases, cultural events in Kurdish are banned either through a one-day general order on

¹ Resolution CM/ResDH(2023)460, Execution of the judgment the European Court of Human Rights, *Ulusoy and others against Turkey*, [https://hudoc.exec.coe.int/#{%22execidentifier%22:\[%22001-230860%22\]](https://hudoc.exec.coe.int/#{%22execidentifier%22:[%22001-230860%22])

² DH-DD(2023)1400 - Communication from an NGO (Media and Law Studies Association (MLSA)) (06/11/2023) in the case of ULUSOY AND OTHERS v. Turkey (Application No. 34797/03) [Available at: [https://hudoc.exec.coe.int/#{%22execidentifier%22:\[%22DH-DD\(2023\)1400E%22\]](https://hudoc.exec.coe.int/#{%22execidentifier%22:[%22DH-DD(2023)1400E%22])

all kinds of public events/activities. Mostly these bans are imposed by the provincial governors³ (*vali*) or by district governors⁴ (*kaymakam*).

4. In some cases, the municipalities cancel the lease agreements for stages (in local districts) concluded with the theatre companies. For example, Amed City Theatre (Diyarbakır) had a lease agreement with the Kocaeli Çayırova Municipality and the municipality cancelled the lease agreement without just cause which in effect banned the performance of the play⁵. When such a *de facto* ban takes place, the remedy is no longer administrative, but civil. However, civil courts are reluctant to view the dispute from a human rights and perspective, but rather assess it as a contractual dispute.
5. In most of these cases, the decisions to ban such activities are adopted in a short period which renders it impossible for the organizers or the artists to file an administrative action against the authorities to reverse the administrative ban. In addition, the decisions to ban the activities are taken in a timeframe that renders obtaining a stay of execution impossible. Therefore, there is no effective remedy method for those who are affected by the decisions of the authorities to ban such cultural events. These events are sensitive in terms of timing; most of the time the organizers and or artists have certain contracts to perform their pieces, and, in all these cases, time is of the essence. As a result of these bans, the organizers and artists suffer substantial financial losses due to being unable to perform their duties under their lease contract.
6. One of the most recent bans was the concert of **Metin-Kemal Kahraman**⁶ a musical duo singing in Kurdish. The Bingöl Governorate had cancelled the concert scheduled for February 21, International Mother Language Day, without providing any reasons, just two hours before the event. The duo announced that they would file a lawsuit for compensation⁷, but the two-hour prior ban did not provide any reasonable time period to ask for a stay of execution in Administrative Courts, rendering them without an effective remedy.

³ For example the concert of Metin-Kemal Kahraman was banned by the Governor of Mus on May 16, 2022 <https://bianet.org/haber/kurdish-theater-play-concert-banned-261953>

⁴ The theatre play titled “Qral û Travis” (The King and Travis) was banned by the district governor of Patnos in Ağrı province on January 23, 2024, duvarEnglish <https://www.duvarenglish.com/turkish-district-governor-finds-kurdish-play-inappropriate-cancels-performance-news-63703>

⁵ Kurdish theater play, concert banned, Bianet English, <https://bianet.org/haber/kurdish-theater-play-concert-banned-261953>

⁶ Metin Kahraman: 'We will file a lawsuit against the concert ban', bianet English, <https://bianet.org/haber/metin-kahraman-we-will-file-a-lawsuit-against-the-concert-ban-292261>

⁷ Ibid

DATA RELATED TO THE KURDISH CULTURAL ACTIVITY BANS

7. Since 2019, MLSA has identified that at least **28 cultural events** (*concerts, theatre plays, literary events or stand-ups*) have been banned by administrative authorities⁸.
8. The administrative bans on Kurdish culture plays have spanned over **at least 16 cities**: *Adana, Ankara, Ağrı, Bingöl, Bitlis, Bursa, Dersim, İstanbul, İzmir, Kocaeli, Mardin, Mersin, Muş, Şanlıurfa, Şırnak, Van*.
9. The breakdown of these banned Kurdish cultural activities are as follows: **18 concerts, eight theatre plays, one stand-up show and one literary event**.
10. Since December 2023, **two concerts and two theatre plays** in Kurdish have been banned. No substantial evidence was provided by the administrative authorities in these cases. The Kurdish cultural activity bans are still a pressing issue in Turkey limiting the scope of freedom of expression in artistic forms. Subsequently, the arbitrary bans on these cultural activities restrict the access of the public to Kurdish artistic and cultural content.
11. Recent banned Kurdish cultural activities banned are listed below:
 - On **December 18, 2023**, the concert of the Mesopotamia Culture Center titled **Em ê Bejin** (*Let's Sing Together*) scheduled to take place in Yahya Kemal Beyathı Show Center in Küçükçekmece was banned by the Küçükçekmece District Governor's office⁹.
 - On **January 23, 2024**, a district governor's office in Turkey's eastern Ağrı province has banned staging the Kurdish play "*Qral û Travis*" (The King and Travis) at the Patnos Culture and Arts Center, claiming it found the play "inappropriate."¹⁰
 - On **February 16, 2024**, the same play titled "*Qral û Travis*" was banned by the Şişli District Governor's office, and the stage was surrounded by the riot police¹¹.

⁸ MLSA Turkey (2024) '*Turkey's bans on Kurdish cultural events in focus on World Music Freedom Day*', MLSA Turkey. Available at: <https://www.mlsaturkey.com/en/turkeys-ban-on-kurdish-cultural-events-faces-legal-challenges> (Accessed: 13 March 2024).

⁹ TİHV Documentation Center, (12/162) **Concert Banned in İstanbul...**, <https://en.tihv.org.tr/documentation/16-18-december-2023-hrft-documentation-center-daily-human-rights-report/>

¹⁰ The theatre play titled "*Qral û Travis*" (The King and Travis) was banned by the district governor of Patnos in Ağrı province on January 23, 2024, duvarEnglish, <https://www.duvarenglish.com/turkish-district-governor-finds-kurdish-play-inappropriate-cancels-performance-news-63703>

¹¹ İstanbul'da Kürtçe tiyatro oyununa saatler kala yasak: Sahneyi terk etmeyeceğiz <https://www.gazeteduvar.com.tr/istanbulda-kurtce-tiyatro-oyununa-saatler-kala-yasak-haber-1670051>

- On **February 21, 2024**, the concert of Metin-Kemal Kahraman was banned by the Bingöl Governorate without providing any reasons just 2 hours before the event¹².
- MLSA submits the following list to inform both the Committee and the Execution Department of bans that have been imposed since 2019. The list has been compiled through open data resources.

¹² Metin Kahraman: 'We will file a lawsuit against the concert ban', bianet English, <https://bianet.org/haber/metin-kahraman-we-will-file-a-lawsuit-against-the-concert-ban-292261>

DATE	TYPE	ORGANIZER - ACTIVITY		CITY
07/20/2019	Concert	İzmir Musicians Association		İzmir
07/23/2019	Concert	Mem Ararat		Van
07/28/2019	Concert	Azad Bedran and Zinar Sozdar		Mardin
10/08/2019	Concert	7 Unkown Musicians		Şanlıurfa
09/23/2020	Concert	Roj Band	Art on the street	İstanbul
10/13/2020	Literarary event	Mirza Metin	Avesta Press	Mardin
11/13/2020	Theatre play	İBB Theatre Play	Beru	İstanbul
11/14/2020	Theatre play	Dario Fo	Beru	Şanlıurfa
11/15/2020	Stand-up	HDP İstanbul Youth Assembly	Dawiya Dawi	İstanbul
10/16/2021	Concert	Mezopotamya Culture center	Berbang	İstanbul
10/22/2021	Concert	Mikail Aslan ve Cemil Qoçgiri		Dersim
10/24/2021	Concert	Mesopotamia Culture Center		Adana
11/15/2021	Concert	Mem Ararat		Ankara
12/5/2021	Theatre play	Amed City Threatre	Tartuffe	Mardin
03/06/2022	Theatre play	Şermola Performance	Memu Zin	Şırnak
05/13/2022	Concert	Aynur Doğan		Kocaeli
05/13/2022	Theatre play	Amed City Threatre	Don Kixot	Kocaeli
05/16/2022	Concert	Metin-Kemal Kahraman		Muş
05/29/2022	Concert	Mem Ararat		Bursa
09/11/2022	Concert	Xece		Şırnak
09/27/2022	Concert	Mem Ararat		Mersin
02/14/2023	Concert	Azad Berdan		Mardin
06/19/2023	Theatre play	ŞanoWan	Hay Lo Dîsa Tevlihev Bû	Bitlis

11/11/2023	Concert	Sanatça Organization	Cizre Kùltür ve Sanat Festivali	Şırnak
12/18/2023	Concert	Mezopotamia Culture Center	Em ê Bêjin-Biz Söyleyeceğiz	İstanbul
01/23/2024	Theatre play	Şano Ar	Qral a Travis	Ağrı
02/16/2024	Theatre play	Şano Ar	Qral a Travis	İstanbul
02/21/2024	Concert	Metin-Kemal Kahraman		Bingöl

CONCLUSIONS and RECOMMENDATIONS

12. MLSA observes that the Government is pursuing a political agenda to eliminate Kurdish social sphere from the public and the bans against the aforementioned activities are a result of this political agenda¹³. In light of the information submitted in this communication, MLSA considers that the situation regarding Kurdish concert and theater plays has worsened since the judgment has been handed down. The practice of arbitrarily banning all kinds of Kurdish cultural events became the norm.

13. Having in mind the findings above, MLSA kindly requests the Committee to ask Turkey to:

- Submit relevant disaggregated data on bans on cultural activities in Turkish especially those of concerts, theatre plays, and literary events;
- Invite Turkey to review the Provincial Administration Law which is used as the legal basis by governors to ban public events in cities with a majority Kurdish population;
- Urge Turkey to ensure that the arbitrary bans on Kurdish cultural events are eliminated and public officials responsible for the arbitrary bans are formally made aware of the bans' unlawfulness and held accountable.

¹³ World Report 2023: Turkey | Human Rights Watch (hrw.org); Turkey: Freedom in the World 2022 Country Report | Freedom House; Kurdish political representation and equality in Turkey - House of Commons Library (parliament.uk); The State of the Turkish-Kurdish Conflict - Center for American Progress, UK Government, Guidance County Policy and information note: Kurds, Turkey, October 2023, 26.10.2023, <https://www.gov.uk/government/publications/turkey-country-policy-and-information-notes/country-policy-and-information-note-kurds-turkey-october-2023-accessible> ; Deutsche Welle, 17.10.2020, Turkey Bans Kurdish Language play in Istanbul, <https://www.dw.com/en/turkey-bans-kurdish-language-play-in-istanbul/a-55306289> ; Stockholm Center for Freedom, 12.05.2021, Suppression of Kurdish Language in Turkey is reflection of general intolerance towards Kurds: community leader,