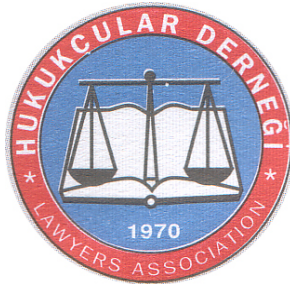


LAWYERS ASSOCIATION
REPORTS - 3

THE SCOPE AND THE CONSEQUENCES
OF THE BAN ON HEADSCARF IN TURKEY



OSCE

2006 HUMAN DEMİNSİON İMPLEMENTATION MEETING

2-13 October 2006

WARSAW

THE SCOPE AND THE CONSEQUENCES OF THE BAN ON HEAD SCARF IN TURKEY

1. Sequence of Events

For the last 15 years, education with head scarf has become a problem in Turkish universities. Towards the end of 1986, Kenan Evren, made a talk in Adana and requested the ban of head scarf in the universities. He was then the president of the Republic, a position he took over after he lead the military coup in 1982 against the democratically elected government. Following his speech, the Council of Higher Education immediately met at the same place and on the same day to ban the head scarf in the universities. Soon after, the implementation of the ban has begun in various universities. Covering hear is a religious requirement for the Muslim women. Therefore, it must be treated in the light of the fundamental human rights within the framework of the section on the principles of the personal rights and freedoms in the Constitution of the Republic of Turkey. Consequently, it is a domain that can be limited only by a law or by certain reasons listed in the Constitution. Despite this, in 1987, enjoying such a fundamental right has been prohibited by the decision of the university administrations. In this process, Council of Higher Education revised some of its decisions, by the advice of the elected governments, to allow education, even in part, by head scarf. Yet, the problem has never been completely solved because it has been left to the arbitrary decisions. Consequently, the government of that period, made a revision in the law which regulated higher education; the revised version of the law explicitly stated that students who cover their hair out of religious obligation are allowed to continue their education in the universities. This change in the law was soon taken to the Constitutional Court which cancelled it. Afterwards, the government made yet another change in the law, by taking into consideration the reasons Constitutional Court has used when it canceled the previous change, and issued a new law which gave a complete freedom to all kinds of dress in the universities (See Higher Education Law, article 17 in the appendix). This time, the Constitutional Court found the new law consistent with the Constitution yet it declared, after an arbitrary interpretation, that the freedom of dress in the universities as mentioned in the law excluded head scarf. Lawyers, in particular some of the members of the Constitutional Court (including the current President of Turkey, A. Necdet Sezer) stated that the decision of the Constitutional Court did not cancel the text of the law, and it is not even entitled to interpret the law in such a manner, therefore it did not actually cancel the freedom of dress, including head scarf, in the universities. Eventually, the freedom for head scarf was put in practice.

After 1989, following the above mentioned law, the restrictions on head scarf gradually decreased until it completely disappeared. Until the end of 1998, there was not any problem concerning dress in the universities. In 1997, while the government was forced to resign under pressure by the military, the issue of head scarf was used as an argument against it. In 1998, the Constitutional Court made a decision to close the Welfare Party (Refah Partisi) and mentioned in its decision that the scarf should be banned in the universities, although it had nothing to do with the case. This segment, which carried no legal weight, was wrongly used as a pretext to resume the ban of head scarf once again in the universities. In the middle of that year, the restrictions on dress began preventing students with head scarf from registering schools, entering classrooms and participating in other educational activities. It is difficult to understand that although during a decade after the first enactment of this law there had not been any problem concerning head scarf, in 1998 it re-emerged as a problem. At this particular moment, nothing had changed in the laws and Constitution; likewise (although there is a principle in the Turkish Constitution that the fundamental freedoms can only be restricted by law) nothing had changed in the regulations the universities prepared from themselves;

Phone : +90 212 532 26 67

Fax : +90 212 533 69 48

Web : www.hukukcularder.org

E-mail : hukuk@hukukcularder.org

Address : Savaklar Cd.No:1 Eminbaba

Köşkü Edirnekapı - Eyüp/ İSTANBUL

furthermore, the universities did not experience any trouble with head scarf in this period which may have served as a ground for the ban. If so, then what has changed? At that moment, there was only one change: military intervention. Those who called for a military coup, with the purpose of forcing the government to resign, also initiated a campaign against freedom of faith and consciousness, including the ban of head scarf.

After a short while, in major cities, students with head scarf were no longer allowed to enter university campuses and buildings as they were deprived from the rights of students. In some cities, there was resistance by the faculty and the university administration against the implementation of this ban which, in their view, had no legal ground. In this period, legal investigations begun about the administrators and instructors who showed unwillingness to implement the ban; since it was not legally possible to accuse them directly with this matter, other accusations were used to dismiss them from their jobs. What went on in the courts during the trials of these employees were even more interesting. In response, when the employees of the universities who were thus dismissed sued their universities, since there was no legal ground for the practice of these universities, the university administrations could not legally defend themselves. Instead, state institutions used other methods; they initiated investigations about the judges who applied the present laws fairly; these judges were banished without providing any reason. The judges who actively supported the ban of head scarf were assigned to the courts where these cases were dealt with while the judges who did not support the ban were sent to exile to the remote parts of the country. All the judges who decided that wearing a head scarf is not unlawful within the framework of the present laws were sent to exile, without any exception. This is how the legally and administratively suspicious acts have been carried on by putting the courts under pressure.

A ban similar to the one practiced in the universities was applied to state employees in general. State employees who worked over a decade without experiencing any difficulty because of their head scarf were investigated, removed from their positions or dismissed after the military intervention on "February 28". There are many signs and examples that an effort has been made to generalize the ban on head scarf to all areas in the society.

Students with head scarf are not allowed to use their rights at all levels. They are not allowed to enter the school building or campus even after they pass the competitive entrance exam successfully. There is no alternative way of education in Turkey to this, which may permit the students with head scarf to go to school, because all the state and private universities are under the control of Council of Higher Education; therefore they are all required to follow the same regulations and implement the same rules.

According to the decision of the Council of Higher Education, which was issued on September 15, 2000, with the number 3699/20644, even those who live in the university housing, which is their private home, are banned from wearing head scarf (*See Appendix 1*). Furthermore, the Council of Higher Education decided on March 27, 2001 that to wear a wig is a crime and a reason to get expelled from university (*See Appendix 2*).

There is no exception to this. For instance, on 26/05/1998, four students with head scarf were locked in a dark amphitheater on the order of an instructor because they refused to leave his class. The Fourth Court of First Instance (Fatih 4. Asliye Hukuk Mahkemesi) in Fatih district, Istanbul, accepted that the students were locked in the amphitheater since it was registered in a document by a notary public (*See Appendix 3*) yet it refused their request for indemnity, for it was not officially determined who gave the order to prison them (*See Appendix 4*).

Phone : +90 212 532 26 67
 Fax : +90 212 533 69 48
 Web : www.hukukcularder.org
 E-mail : hukuk@hukukcularder.org
 Address : Savaklar Cd.No:1 Eminbaba
 Köşkü Edirnekapı - Eyüp/ İSTANBUL

Women with headscarf are not allowed to enter the universities even as ordinary visitors. The patients with head scarf were not allowed to enter a meeting which aimed to train the patients with asthma in Cerrahpasa School of Medicine, Istanbul (See Appendix 6). Furthermore, Istanbul University did not even give permission to a female faculty whom they invited from Oman to serve as the chair of a session in a conference. In a subsequent statement, the University declared that "we thought she was a man" (See Appendix 7).

Head scarf has been banned even in the High Schools, including Imam Hatip High Schools which provide religious education. Therefore it is impossible to attend any High School with head scarf. Students are required to show their hair even in the court yard of the school. The police forcefully opened the hair of a student from Imam Hatip High Schools in the middle of a street (See Appendix 5).

The ban has reached to such a level that even in the driving schools, which prepares for driving license test, photos are required to be without head scarf. For instance, Office of the National Education in Kırklareli refused to accept the photo of a student with head scarf in her application form (See Appendix 8). Consequently, the student was dismissed from the driving school despite the fact that this school was run by a private company, the student paid all the fees and there was no legal regulation on this issue (See Appendix 9).

Same is true for the working women. The opportunity for women to work with head scarf is restricted. Although every Turkish citizen has the right to work as state employee, the women with head scarf are not permitted to work for state. They are required to show their hair even during the job interview otherwise they cannot even take the interview. Those who had been hired by the state prior to the ban on head scarf have been gradually dismissed from their jobs. When state employees are dismissed from their jobs, as the law stipulates, they can no longer get a state job again in their life. Consequently, they lose their right for retirement also which they gained during the years they worked for the state. Since, according to the present legal regulations, wearing a head scarf is punishable only by warning and reproach, female state employees with head scarf are therefore accused by other kinds of crimes such as bringing disorder to the institution and disturbing the peaceful work environment for political and ideological reasons. Yet concrete evidence about how they caused disorder in the work place is never demonstrated. In fact, the same people had worked for years peacefully without any negative disciplinary record; and there was not any actual disorder in reality. Yet in practice, without getting any punishment, many of the other employees continuously violate the rules of dress code, outlined in "The Regulations Concerning the Dress and Appearance of Employees Working in Public Institutions and Organizations," which was issued on 25/10/1982. While dealing with head scarf, it is not taken into consideration that the other violations go completely unpunished even without a warning. It is stated that the number of the teachers who have been dismissed from their jobs for wearing a head scarf is at least 5.000.

Among them is a female teacher who was dismissed from her job after nineteen years of work in various schools even without getting a chance to defend herself and bringing a witness because she was going through cancer therapy when this happened. She was dismissed from her job without using her right to defend herself verbally (See Appendix 10).

The teachers who used a wig also went through disciplinary investigation. Although it is not prohibited by the regulations about the conduct of the state employees, it is

Phone : +90 212 532 26 67

Fax : +90 212 533 69 48

Web : www.hukukcularder.org

E-mail : hukuk@hukukcularder.org

Address : Savaklar Cd.No:1 Eminbaba

Köşkü Edirnekapı - Eyüp/ İSTANBUL

proposed that they should be punished by dismissal from their jobs (*See Appendix 11*). The court decided about a female teacher who was expelled from her job for using a wig that "since she is using a wig, she is not sincere in following the Regulations Concerning Dress and Appearance, therefore the punishment to expel her from her job due to causing disorder for ideological and political reasons is correct" (*See Appendix 12*). It is not taken into consideration whether causing disorder actually happened or not and also the fact that the head was open as required by the regulations. These incidents clearly demonstrate that the basic reason for punishing the women employees with head scarf by dismissal from job is their predicted "intentions."

Similarly, some teachers also were taken to the courts by their employers because of the way they dressed. Since, dress is not a crime according to Turkish Penal Code, the employees who were sued that way were all acquitted by the courts. Yet unfortunately hundreds of women with head scarf had to appear in the courts like criminals. A judge in the First Instance Penal Court in Tuzla did not even allow a woman employee, who was sued for working with head scarf, to stay in the courtroom with her head scarf and asked her to leave the courtroom. Likewise on 07/11/2003 a defendant was asked to leave the courtroom because she wore a head scarf (*See Appendix 13*).

Even the judges went through disciplinary investigation if their wives wear head scarf. For instance, an official letter of investigation such a judge received stated: "Because of your social and family life and the dress style of your wife which is not modern, it is claimed that you give the impression that you feel close to anti-secular ideas" (*See Appendix 15*). In addition to the style a judge's wife dressed, another letter of investigation also stated the following: "you are hosting your male and female guests in separate rooms and listening religious music from radio and type recorder in your room" (*See Appendix 16*). The fact that a judge went through disciplinary investigation not because of his deeds but because the way his wife dressed in the so-called "not modern style" prevented the possibility of fair trial according to the existing legal norms for the claimants and defendants with head scarves. The judges who decided that such practices had no legal ground went through disciplinary investigation and they were exiled to remote parts of the country as a punishment (*See Appendix 14*).

2. Legal Situation

Above the legal situation have been touched upon briefly while explaining the historical development; here it will be presented in a more orderly manner.

Since the establishment of the Republic of Turkey has not been any legal regulation concerning specifically women's dress. No law has ever been made on this issue. Presently, there are two laws about dress and appearance in general. One of them is dated 25 Teşrinî Sani 1341 according to the Hijra calendar, which is titled Law on Wearing a Hat. This law banned wearing anything other than a particular hat. The text of the law and its practice in history clearly demonstrate that it was for men alone. The second law was dated 13 Kanunevvel 1934 according to the Hijra calendar, numbered 2596, and is titled as the Law on the Prohibition of Certain Costumes. This law stipulates that the clergy cannot go with their special dress out of the mosque after rituals. It is also clear from the text and the implementation of the law that it is also for men alone.

The regulations about costume and appearance are usually found in the statutes. The first of them is published in the Official Gazette on 25 October 1982 with the title, Statute on the Dress and Appearance of the Personnel Working in the Public Institutions and Organizations. The second article in this statute states that its regulations are applicable only to the state employees, contracted and part-time employees and laborers working

Phone : +90 212 532 26 67

Fax : +90 212 533 69 48

Web : www.hukukcularder.org

E-mail : hukuk@hukukcularder.org

Address : Savaklar Cd.No:1 Eminbaba

Köşkü Edirnekapı - Eyüp/ İSTANBUL

for the state. Another statute was issued on 22 July 1981, numbered as 8/3349, by the approval of the cabinet, which was titled as "Statute on the Dress and Appearance of the Teachers and Students in the Schools of National Educational Ministry and other Ministries." This statute introduced regulations concerning the dress of teachers and students in the high schools.

As to the institutions of higher education, various regulations have been issued at different periods, which today present "historical" features. It is possible to mention as examples the law with the number 3511 and the article 16 which is an amendment to Law of Higher Education, numbered 2547. This article was cancelled by the Constitutional Court decision with the number 1989/2 on 7/3/1989. Later, article 17 was introduced by the law, numbered 3670. The Constitutional Court rejected the demand to cancel this article also on 9/4/1991 with a decision numbered 1991/8.

Occasionally, various regulations appeared about the costume in the universities as well in the form of statutes. The regulations introduced on 28/12/1989 have cancelled the former regulations made on 8/1/1987 and 4/12/1988 in the Statute on the Discipline of Students in the Institutions of Higher Education.

Consequently, there is only one regulation concerning dress and appearance in the institutions of higher education. It is the article 17 which was amended to the Law of Higher Education, numbered 2547. According to this article, there is no restriction on dress and appearance in the universities. The scope of the other regulations on dress, which have been mentioned above, includes only particular groups with certain features. Therefore they cannot be applied to university students even by implication or analogy. This issue has been made clear in the aforementioned regulations by the articles on the "purpose and scope" of the laws and statutes.

This is how the situation currently is regarding the legal regulations on head scarf. Yet what really needs to be explored is the place of this issue in the legal system.

Head scarf is a religious obligation on Muslim women required by their religion. Regardless of the motivation and intention of particular woman in wearing it, it cannot be denied that head scarf is a requirement of Islamic faith. Freedom of religion and consciousness are among the primary freedoms protected by the international human rights declarations. Freedom of religion includes believing or not believing in a religion and practicing the requirements of one's religion (See Kokkinakis v. Greece 25 May 1993, Series A no. 260, p. 17, § 31, and Buscarani v. San Marino [GC], no 24645/94, § 34, ECHR 1999-I). Hence, freedom of religion includes the right to believe in a religion, live according to it and put it in practice.

Although the legal system grants the freedom of religion, it does not have the right to limit its scope and content. This is a very important point; every religion proposes obligations which are plausible only to its followers; those who do not believe in this particular religion cannot make decisions about its content. The legal system does not aim to protect the religions and the theological systems but the faith of those who subscribe to them. Consequently, if some believes in a religion it is worth protecting from a legal perspective. From this point of view, it becomes clear that the state is not supposed to determine the content and the scope of the freedom of religion. As we will elaborate below in connection with the decision of European Court of Human Rights, the differences among religions and the divergence in the form of their rituals demonstrate that it is impossible to accept a standard about the content of the freedom of religion. When we say religion, if we have in mind Judaism and Christianity alone and judge the faith and practice of other religions with the criteria derived from these religions, it would

Phone : +90 212 532 26 67

Fax : +90 212 533 69 48

Web : www.hukukcularder.org

E-mail : hukuk@hukukcularder.org

Address : Savaklar Cd.No:1 Eminbaba

Köşkü Edirnekapı - Eyüp/ İSTANBUL

be impossible to talk about freedom of religion; it would be only freedom for Christians and Jews. The content of freedom of religion can only be determined by the followers of a religion.

This explanation should not lead us to conclude that legal system has not or cannot put limits to freedom of religion. It is commonly accepted that freedoms have limits. The deeds which fall outside these limits do not have to be outside the scope of the freedom of religion. Limits are accepted for certain considerations, in particular to protect other freedoms and rights. For this reason, what needs to be carefully taken into account is not whether an action or a stand falls within the limits of freedom of religion, but whether it violates the criteria used in drawing those limits. As far as these criteria are concerned, they are explicitly outlined in the constitutions of the states.

From this perspective, wearing a head scarf is certainly within the scope of the freedom of religion because it is known without doubt that head scarf is required by Islam as explicitly stated by a report prepared by the Directorate of the Religious Affairs in Turkey. In fact, it is a sufficient reason, as far as the legal system concerned, that Muslim women believe that head scarf is a religious requirement to consider it within the scope of the freedom of religion.

Whether the criteria to limit freedom of religion are applicable here requires another discussion. The criteria the Turkish Constitution accept to limit basic freedoms are clear and explicit. In the Constitution of the Republic of Turkey, Article 13 explains how the restrictions can be imposed under the title of "Restricting Basic Rights and Freedoms." According to this Article, restrictions can be imposed only (a) by a law, (b) based on the reasons mentioned in the Constitution, (c) without conflicting with requirements of the democratic social order. When the ban on head scarf is examined, it will be clearly seen that the conditions mentioned in the Constitution are not taken into account. First of all, currently, there is not any law prohibiting head scarf. As it is commonly known, a law is a legal regulation introduced by the National Assembly of Turkey; in contrast, the administrative regulations introduced by other offices and the court decisions are not laws. As some claim from time to time, the ground for the ban of head scarf is various administrative decisions and a court decision based on a misinterpretation. Yet, basic rights and freedoms can only be limited by laws. Furthermore, the Constitution outlines the scope and the ground of the limits and restrictions which may be imposed by the laws. Restrictions can only be made for certain reasons. Neither the ban of head scarf was made by a law, nor is there a legitimate ground for such a law. There had not been any incident, which may serve as the cause of the ban of head scarf, for a decade during which students with head scarf attended universities in considerable numbers. There had not been any complaint about them. In contrast, according to a poll, % 85 of the population, with and without head scarf, think that the ban is wrong and should be lifted. This is a significant social consensus by a great majority of people which can rarely be reached on other issues. That means even if there had been a law banning head scarf, it would have been cancelled for not having the legitimate grounds described by the Constitution. The other important requirement is that restrictions of basic freedoms cannot be against the "requirements of democratic order." When the abstract and concrete requirements of a democratic order are taken into account, it would look unacceptable to impose a restriction which would deprive citizens with head scarf from entering universities and other public institutions. The most concrete evidence in this issue is the absence of such a restriction in Western countries. Consequently, there is not any legal regulation in existence which prohibits working or studying with head scarf based on the criteria required by the Constitution of the Republic of Turkey to restrict freedom of religion.

3. Evaluation and Conclusion

Phone : +90 212 532 26 67
 Fax : +90 212 533 69 48
 Web : www.hukukcularder.org
 E-mail : hukuk@hukukcularder.org
 Address : Savaklar Cd.No:1 Eminbaba
 Köşkü Edirnekapı - Eyüp/ İSTANBUL

It has become clear from the above account that there is no legal foundation in the Turkish legal system for the ban of head scarf, and the practice is maintained with illegal/unlawful methods. It is also understood that the freedom which lasted for many years was lifted due to the pressures after 28 February military intervention and the ban is a reflection of political and ideological problem, rather than a legal one.

This question, which involves "violation of the right to freedom of religion and education" and remains without a solution in Turkey because of its political and ideological nature, gained a new dimension after the European Court of Human Rights also turned it into an ideological problem.

As it is commonly known, the European Court of Human Rights was founded to control the implementation of the rights and freedoms guaranteed by the European Human Rights Convention. The Court judges the cases brought to it solely based on the European Human Rights Convention, disregarding the domestic legal regulations. This should be seen as natural because the states which accepted the Convention also agreed that they will make the practice and the laws of their country consistent with the Convention. Therefore, for the European Court of Human Rights the primary legal text is the Convention and the domestic regulations carry weight only when they are consistent with it. The ongoing practice of the Court has also been like this. In many decisions, the Court underlined that the domestic regulations are not binding for it.

However, the Court changed this stand, which suits best with the purpose of its existence, in the case of ban on head scarf in Turkey. Instead, the Court adopted the view of the Constitutional Court of Turkey in its decision on the Leyla Şahin vs. Turkey based on the conviction that although head scarf is allowed in most European countries, in a country like Turkey with a Muslim majority, local authorities would decide better about the restrictions on basic rights and freedoms. Therefore, the decision of the European Court of Human Rights about head scarf contradicts with the purpose of the Convention and the reason for the existence of the Court because it ignores its own philosophy and undermines its own foundations. The Court based its decision on head scarf solely on the Turkish law and the interpretations of the Turkish courts. It avoided looking at whether this practice was compatible with the Convention. That means the Court did not play the role expected from it. If the Court is going to base all its decision on domestic laws, then there would be no need for the Convention and the Court because domestic laws are already being implemented by the domestic courts. Instead, the Court should examine not only the violation of human rights caused by the malpractice of domestic laws but also the consistency of the domestic laws with the Convention.

If the decision of the Court had been merely a "mistake," as we have just explained, it would have remained a single problem. However, what makes the decision even worse is that the Court intentionally made this "mistake." Therefore, it is proper to explore the ideological stand of the court. There are two basic approaches which have been witnessed here. First, the explicit effort of the court to make a decision which is "suitable to Turkey," which presumes that a human rights framework may be suitable for Turkey even if it is not valid in Europe. That means the Court sees that a different standard of human rights for Turkey is possible. Second, the negative views and misconceptions about Islamic religion are coupled by conventional conviction that the Western religion (Christianity) is true and superior. **These two issues demonstrate that the Court does not represent a universal understanding of human rights. Instead, it discriminates between religions and regions, and thinks by using some categories.** It is possible to think that the Court with its decision on head scarf triggered a process of questioning about the concept of Eurocentric human rights.

Phone : +90 212 532 26 67

Fax : +90 212 533 69 48

Web : www.hukukcularder.org

E-mail : hukuk@hukukcularder.org

Address : Savaklar Cd.No:1 Eminbaba

Köşkü Edirnekapı - Eyüp/ İSTANBUL

"Human rights of which "human beings" are going to be protected?" The human rights of Europeans, whites, Jews and Christians... The "human beings" who are not characterized by these three features are not qualified for the same human rights as Europeans." This the political and ideological background the Court demonstrated by its decision on head scarf. After this decision, what European lawyers should discuss is this mindset which divides human beings into different categories.

Another aspect of the decision of the Court about head scarf is that it has made general evaluations and expressed its judgments about Islamic religion. Even if the members of the Court are not practicing Jews and Christians, they live in a world of culture shaped by these religions. It is normal that the judges have some views on their own religion and the religion of others. However, the judges are not entitled to judge about other religions. In particular, the judges of a court which aims to establish the concept of "universal human rights" must be objective and respectful in their approach to other cultures and religions. In contrast, the comments in the decision of the Court reflect lack of knowledge and bias which may be seen as a manifestation of the antagonism against Islam in the surrounding culture. An objective judge would withdraw from a case if he thinks that he has a bias against a culture or a religion and cannot decide about it in a fair and objective manner. What is saddening is the impression one gets that when a country outside Europe or a religion other than Judaism and Christianity are concerned general principles of law and morality are ignored.

There are many statements in the decision of the court which display its biased approach. The most important one is that the Court for the first time did not examine the claims of the claimant. The evidence, information and documents presented by the claimant about the violation of her "right to education," which is regulated by the second Article of the First Protocol, have not been examined at all. Furthermore, the claim that the female students are discriminated against because the male students with the same features are not banned from education is not taken into account. In fact, such principles as equality, women's rights, pluralism and prohibition of discrimination, which demonstrate that the ban has no legal ground, are used to justify the ban. Without citing any concrete incident, it is used as evidence in the decision of the Court that the young students, who are over the age of eighteen, would be negatively influenced from the dress of each other. This evidence defies reason and logic. It is clearly understood from the decision of the Court that it preferred to decide based on its preconceived notions and ignored the evidence presented to it by the claimant. This is inappropriate not only for such an international Court but even for a tribal court. The Court has thus made a decision with exterior motives for the first time in its history which made it contradict with its own principles and undermine its own foundations.

During the case on head scarf, the European Court of Human Rights has been tested by choosing between universalism, objectivity and rule of law, on the one hand, and political, religious and ideological approach, on the other; and the relevant department has failed in the test. The court has now yet another chance. The expectation of the legal community is that the Court would rectify the mistake and apply the principles of equality and pluralism to every one.

After the decision of the European Court of Human Rights, the problem of head scarf gained a new aspect but still remains unsolved. In the process, the people of Turkey, who with great majority want to enter European Union, have become anxious about whether the one-sided decision of the Court will influence European countries as well.

In Turkey, as a result of the above mentioned discriminatory practices, hundreds of thousands of female students have been deprived from their right to education while thousands of female state employees are deprived from their right to work. This has produced perilous consequences in society and created a gap between citizens and the state. The advocates of universal human rights and freedoms are expected to work for the solution of this problem while staying away from such mistakes as the one European Court of Human Rights made. In this process, our goal as the Association of Lawyers is to leave to the next generations a free world where basic rights and freedoms are not restricted and people are not categorized based on the way they dress.

Lawyers Association
Executive Board
Att. Hüsnü TUNA

Appendixes :

1. The decision dated 15/09/2000 of Presidency of Higher Education Association. This decision is about apartments.
2. The decision dated 27/03/2001 of Presidency of Higher Education Association. This decision is about wig.
3. The court record dated 26/05/1998 of 21st Notary of İstanbul. This court record is about that students were locked in class.
4. The rejection decision dated 24/06/1998 of 4th Law Court of First Instance
5. The photography which shows that a student's headscarf was opened by policemen. This student was going to secondary school for the training of the Islamic religious personnel.
6. A newspaper clipping dated 05/02/2003 in which it was written that even if you are sick you can not enter this hospital with your headscarf which you wear on your head.
7. The news in Milliyet newspaper dated 16/10/2003. in which it was written that The Istanbul University prevented a person, who was invited by İstanbul university from Umman Sultanlığı for joining a panel, to enter the school.
8. The document of Provincial National Education Directorship of Kırklareli. This document is related to that he did not accept the identity card of a student who wore headscarf.
9. The document which is related to that Special Driver Course deleted an entry from the record book.
10. The document dated 01/09/2000 of High Discipline Committee. This document is about that a civil servant was treated cancer and her treatment which was under control of report of medicine committee was continuing, because of this treatment a new defend day would be given and about that she was expelled from civil servant without giving a defend right and without taking into consideration this excuse about her sickness.
11. The document dated 03/04/2001 was related to that it was opened a suit because she wore wig and in spite of that the civil servant stated that she obey the rules, she was accused of breaking order and there was a request by court to expel this civil servant after that expelling decision.
12. The decision of The Second Administrative Court of Sakarya is about that to wear a wig is enough intention to expel from civil servant
13. The document which is about that the suspect who wore headscarf was removed from a hearing salon.
14. The newspapers about that judges was exiled because of the headscarf issues.

Phone : +90 212 532 26 67
Fax : +90 212 533 69 48
Web : www.hukukcularder.org
E-mail : hukuk@hukukcularder.org
Address : Savaklar Cd.No:1 Eminbaba
Köşkü Edirnekapı - Eyüp/ İSTANBUL

15. The document dated 03/10/2000 about that a defend was requested from the judge because of his covered wife.
16. The document dated 03/10/2000 about that a defend was requested from the judge because of his covered wife and because of listening hymn.

ANNEX 1T.R.
THE DEPARTMENT OF THE HIGH EDUCATION INSTITUTION

No : B.30.O.hkm.06.01.001 – 3699 / 20644
ANKARA
Subject :

Bilkent /

15 September 2000
Special for Service

TO THE PRESIDENCIES OF UNIVERSITIES

In the letter sent to our students who have got the attend to the higher education institutions successfully there is the paragraph below:

"Attending to school with turban is considered as a political and ideological action, which is thought to be cause of disorder at the university, which requires expulsion from the higher education establishment. This statement depends on the decisions of Supreme Court, State Council and European Human Rights Court. The article 10/b of the Student Disciplinary regulation which regulates disciplinary punishment, which requires expulsion from higher education establishment includes the following acts **"to spoil the serenity and tranquility of the higher education establishment with ideological and political aims, boycott or invasion, preventing, to join to the actions of the personnel such as slow down action and to provoke these actions."**

In a law state there are constitutional rights and freedoms of individuals as being the citizens of that state and also there is the legislation which to be complied with for the benefit of public happiness, peace, prosperity and for the protection of the state and nation's inseparablunty."

In this letter, the article of the regulation, which will be applied to the people violating the legislation about garments, is clearly stated. I would kindly request that to apply the procedure to the violators of the legislation according to this code, to follow the subject carefully, to take every kind of precautions, to warn the people living within the campus about this issue, to apply the needed procedure to the people insisting on to continue their contrary behaviors.

Kemal GÜRÜZ
The President

(Signature)

Phone : +90 212 532 26 67
Fax : +90 212 533 69 48
Web : www.hukukcularder.org
E-mail : hukuk@hukukcularder.org
Address : Savaklar Cd.No:1 Eminbaba
Köşkü Edirnekapı - Eyüp/ İSTANBUL

ANNEX 2

REPUBLIC OF TURKEY
UNIVERSITY OF MARMARA
PRESIDENCY

NO: B.30.2.MAR.0.00.00.01/2959

SUBJECT:

27 MARCH 2002

Prof. Dr. Emin ÖZBAĞ

Vice President
Responsible of Göztepe Campus

The writs of Higher Education Board dated 11 January 2002 and with no: 191/754 has been transmitted to your unit with our writ of 01 February 2002 and with no: 1134.

As is known the students and the academic and administrative personnel within higher education establishments are obliged to obey the rules, regulations and decisions and practices prescribing that they should not dress in clothes which are symbols at a political or religious ideology.

The legal grounds for these appliances and decisions are; decision of the Constitutional Court dated 07.03.1989 and File No: 1989/1 decision No: 1989/12, refusal of the application before European Human Rights Court, decision of the Constitutional Court concerning the closure of political parties and the decision of the European Human Rights Court that the action of effected was lawful, the decision against cancellations of the actions before Istanbul 6th Administrative Court and the appeal of this decision on 19.08.1998 with decision no: 1998/947 so that the decision states that it is lawful that the students are not allowed to enter to the University campus and buildings without student identity cards and female students could not attend to the practices and appliances with head scarves. When these decisions are evaluated together with the decision of Supreme Court concerning the closure of political parties, it is seen that attending to university with turban shall be considered as ideological and political action which spoils the order and peace of the university and that this action necessitates expulsion from Higher Education Establishment.

The necessary regulations have been made within Article 10/B and 11/B of the Student Disciplinary Regulation.

Just as it is obligatory not to allow the academic or administrative personnel to attend to the university with turban, the female students should wear such clothes that their necks and heads would not be covered, it is also a legal obligation not to accept students into campus with turban or with such garments which conceal the turban (hat or beret worn over turban) .

Thus, it is important that the administrators the utmost care about these issues whose legal grounds have been stated and all necessary precautions should be taken, disciplinary and penal investigations should be launched about those who continue their contradictory acts and those administrators who do not show the sensitivity and care about this issue should be exposed to legal proceedings, so I especially ask the administrators to be extra vigilant for such a situation not to arise.

Prof. Dr. Tunç ERİM
Vice rector

Phone : +90 212 532 26 67
Fax : +90 212 533 69 48
Web : www.hukukcularder.org
Mail : hukuk@hukukcularder.org
Address : Savaklar Cd.No:1 Eminbaba
Köşkü Edirnekapı - Eyüp/ İSTANBUL

ANNEX 3**REPUBLIC OF TURKEY****11881**

(IT IS A COPY) 26.05.1998

DETERMINATION MINUTES IN THE FORM OF ARRANGEMENT

Twenty-sixth of May Nineteen ninety eight, Tuesday, 26.05.1998.

I, the 21ST NOTARY PUBLIC OF İSTANBUL FİKRET DÜZGÜN while I was performing my duty in my office at the address Kuvayı milliye Cad. No: 9 Kocamustafapaşa İstanbul, the following people applied to me to issue a determination minute in the form of arrangement: AYSUN KALİNCİ, BORN İN Mudurnu on 1977, daughter of Muzaffer and Mesrure, registered in Bolu, Mudurnu, Esenkaya, volume no 014, page no30, and raw no 32 according to her identification card given from Mudurnu Birth Office due to change with date of 27.08 1977, record number 997/650 and serial number 098906 Y04; REYHAN GÖK, born in Gerede on 1978, daughter of Muzaffer and Kamile, registered in Bolu, Yeniçağa, Ören, volume no 110/01, page no 34, row no 44, according to her identification card given from Bağcılar Birth Registry Office due to change with date 03.03.1994 record number 2.2611 and serial number 064011 D06; SEMRA BATI, born in Bursa on 1978, daughter of İsmail and Semiha, registered in Bursa, Osmangazi, Alalahirra, volume no 005/08, page no 580, and row no 012 according to her identification card given by Osmangazi Birth Registry Office due to change with date 18.09.1998, record number 17.15942 and serial number 777242HU6; ŞULE UÇAR, born in Nevşehir on 1977, daughter of Harun and Fatma, registered in Nevşehir, Merkez, Basansarnıç, volume no 051/01, page no 50, row no 008 according to her identification card given by Nevşehir Birth Registry Office due to birth with date 02.09.1981, record number 80445 and serial number 382750. From the examination of their identification cards, I have concluded that they are the people mentioned in their identification cards and they have the ability to perform this. As a result of this, we have gone to İstanbul University İstanbul Medical Faculty, Cihat Abaoğlu Lecture Hall where cardiology lecture would be held at 14:00. there were 1 secret policeman and 2 policemen and 2 private security people and students of university in front of the lecture hall. The door was locked. I have seen that when secret policeman opened the door, 4 students wearing headscarf came out of lecture hall and I was said that concerned policemen came to the lecture hall at 13:45 on instruction of lecturer Nevres Koylan and lecturer cancelled the lecture he was said that all students should go out of lecture hall and because Reyhan Gök, Aysun Kalinci, Şule Uçar and Semra Batı (students wearing headscarf) did not go out of lecture hall, light was switched off and the door was locked after that policemen and other staff went out of the building; that this will cause drawbacks that are impossible to compensate and that they have requested this determination because of their request of damages for pecuniary loss and damages for pain and suffering; and I have thus determined the issue. After this below this minutes have been signed and seales together. Twenty-sixth of May Nineteen ninety eight, Tuesday, 26.05.1998.

DETERMINATION REQUESTED BY: REYHAN GÖK-AYSUN KALİNCİ-ŞULE UÇAR-SEMRA BATI (Signatures)

21ST NOTARY PUBLIC OF İSTANBUL (Official Seal and Signature)

I approve that this copy is the same as the original that they have the same date and number and kept at the file of our office.

21ST NOTARY PUBLIC OF
İSTANBUL
FİKRET DÜZGÜN

(Official Seal and Signature)

Phone : +90 212 532 26 67

Fax : +90 212 533 69 48

Web : www.hukukcularder.org

E-mail : hukuk@hukukcularder.org

Address : Savaklar Cd.No:1 Eminbaba

Köşkü Edirnekapı - Eyüp/ İSTANBUL

ANNEX 4**REPUBLIC OF TURKEY****FATİH**4th Law Court of First Instance**DECISION**

Base no : 1999/2
Decision no : 1999/404
Judge : Orhan Sezgin 21352
Secretary : Esin Sayışman
Plaintiff : Reyhan Gök

Attorney of plaintiff: **Lawyer Mustafa Akçay_ Millet Cad. Muratpaşa Sok. Yeni Han
 No.8/109 Aksaray - İstanbul**

Defendant : Nevres Koylan

Attorney of defendant: **Lawyer Mustafa Akman_ İstiklal Cad. Sahne Sok. Ali Han Kat:5 No:
 504-504 Galatasaray İstanbul**

Denounced Defendant: İstanbul University Rectorate, Beyazıd_ İstanbul

Lawsuit : Action for damages

Date of lawsuit : 31.12.1998

Date of decision : 24.06.1999

As a conclusion of the open lawsuit for damages in the court in which defendant was sued by attorney of plaintiff,

REQUEST : Attorney of plaintiff in his lawsuit petition explained that his client was a student in İstanbul University Medical Faculty but although her name was on the attendance sheet, security staff was instructed and the door of the lecture hall was locked when his client was inside and the light of the lecture hall was switched off. The situation of his client was determined by Notary Public on request of his client and the action of security staff cannot be justified and these events hurt his client, because of that he requested 250,000,000 TL for damages.

DEFENSE : The attorney of defendant in his answer petition requested that this lawsuit should be refused because this lawsuit belonged to administrative judgment. He explained that the plaintiff tried to attend the lecture with wearing headscarf, which was banned in the university and she insisted on staying there, wearing headscarf was banned and against the laws as everybody knew, many authorities decided the same for wearing headscarf. Because of these he resisted against the lawsuit and requested refusal. He informed İstanbul University Rectorate because its rights also will be affected by the lawsuit.

PROOFS AND REASON :Lawsuit is due to a request for damages. All proofs are in the file.

The lawsuit was evaluated in the Law Court of First Instance because the plaintiff was due to defendant's fault.

Witnesses of plaintiff said that secret policeman holding a radiotelephone warned them to go out of the lecture hall but they resisted with plaintiff and he switched off the light and locked the door. They said Notary public was waiting there and Notary Public determined the situation.

In this situation the relationship between action and the defendant could not be proved.

Defendant did not do any action necessitating damages. It is necessary to refuse this lawsuit.

Because of the reason which was explained before,

DECISION : Refusal of lawsuit

Giving back 2,250,000 TL expenditure, 1,370,000 TL decision expenditure with 880,000 TL residues on request of plaintiff.

Giving 24,000,000 TL from plaintiff to defendant.

Phone : +90 212 532 26 67

Fax : +90 212 533 69 48

Web : www.hukukcularder.org

E-mail : hukuk@hukukcularder.org

Address : Savaklar Cd.No:1 Eminbaba

Köşkü Edirnekapı - Eyüp/ İSTANBUL

The decision was explained and was read to both attorney and way of Law is open.
24.06.1999
Secretary

Judge: 21352
(Signature and Stamp)

ANNEX 5

ANNEX 6

05.05.2002 – Zaman Newspaper

“IF YOU HAVE HEADSCARVES, YOU CAN NOT ENTER THIS HOSPITAL EVEN BECOME ILL”

Women who wear headscarves were not allowed to participate at the meeting which was organised in Cerrahpasa Medical Faculty to inform asthma patients. Officials said “There is our rector’s order. You can not enter with headscarves”. Prof. Dr. Bilun Gemicioğlu who couldn’t persuade the authorities to let the patients said simply: “I was shocked”

Said Edinge
Zeliş Yıldız İstanbul

Women who wear headscarves were not allowed to participate at the meeting which was organised in auditorium of Cerrahpasa Medical Faculty for May 7 World Asthma Day to inform asthma patients. Women with headscarves came from all over Istanbul to get information about their illness were warned by officials and were not allowed into the hall. Officials said “There is our rector’s order. You can not enter the dressed like that. Upon this some of women with headscarves took their headscarves off and some of them didn’t take them off and turned back protesting this action. Lecturers of the university also reacted to this action.

A patient with headscarf, Gül Geyik, who came to Cerrahpasa Medical Faculty Auditorium from Avcılar by taxi and had an invitation, was outraged. She said that “ I am a patient and I want only information about my illness. This is very important for me”. Meanwhile, the security director of the auditorium left without responding to the questions of the media. The security personnel said that they had taken orders from President Kemal Alemdaroğlu not to let anyone with headscarves.

The event resulted in reaction from university lecturers. Dr. Bilun Gemicioğlu who is a Professor in Cerrahpasa Medical Faculty Chest Diseases Branch said he was very sorry about the situation of the patients with headscarf, he said he was “shocked”. Dr. Gemicioğlu said that the University President had banned the entry of people with headscarf in the halls within the university two weeks ago and that he learned about this fact through this event. Gemicioğlu said that they had tried to explain to the authorities that this was a patients meeting but they were unable to get permission. “ We thought that patients would have a different status and didn’t think of the ban and thus decided to hold the meeting here. We will not hold our future meetings here. I am shocked about this situation. I tried to explain it to our patients. We weren’t informed either and I was very sorry”, said Dr. Gemicioğlu.

Phone : +90 212 532 26 67
Fax : +90 212 533 69 48
Web : www.hukukcularder.org
E-mail : hukuk@hukukcularder.org
Address : Savaklar Cd.No:1 Eminbaba
Köşkü Edirnekapı - Eyüp/ İSTANBUL

ANNEX 7

<http://www.milliyet.com.tr/2003/10/16/guncel/gun01.html>, 16.10.2003, Thursday

A “COMMUNICATION” SCANDAL

1- Dr. Samira Moosa from the Umman Sultanate, was invited to I. International Lecture About Children And Communication. However she wasn't allowed to join it because of her headscarf.

Ayten Gorgun Ozel - Istanbul

Dr. Samira Moosa was invited from Umman Sultanate to the I. International Lecture About Children And Communication which was organized by Istanbul University, Communication Faculty. However because of her headscarf, she was not allowed to join the conference.

Nobody from Istanbul University guessed, that The Sultan Qaboos University, Society Science College president assistant Dr. Samira Moose was a woman before she was invited to the conference. On the conference day, a surprise was waiting for Dr. Moosa and the organizers.

Dr. Moosa was a woman and she was wearing a headscarf.. While she was trying to enter the central building of Istanbul University Bayazit Campus, she was stopped. The answer was given by gestures when she asked what the problem was. A woman guard who didn't speak any foreign language, pointed the headscarf on Moosa's head and tried to tell her that she had to take it off.. Moosa didn't take her headscarf off and waited for minutes at the entrance, but nobody came so she returned her hotel.

The Istanbul University Communication Faculty Dean Prof.Dr.Suat Gezgin made the following explanation about the event;

“We realized later whether she was a man or not. There is strict order which the rectorship decided about wearing headscarf's. And according to this decision, entering the university with wearing a headscarf is banned. So we said this to her kindly and asked if she could enter by taking it off. She said “I have never took my headscarf off during my life and left the school. If there is a principle, we had to abide by it.”

“We thought she was a man”

Of the correspondence one of the teachers of Istanbul University Communication Faculty Nilüfer Öcel was in charge with the delegates, said Dr. Moosa was one of the invited guests and verified she wasn't allowed to enter because of her headscarf. Ocel also said; “We thought she was a man. We don't discriminate against women guests, and we didn't imagine that a guest would come wearing a headscarf and a problem would occur. Without an authorized permission, we couldn't let her in. In the evening, we organized a cocktail and dinner which took place somewhere else out of the university. I invited her but she said “a person is either a part of a whole organization or not at all. If I was not allowed to join to the conference, I would use my “not joining the other activities of the organization” right.

“They want me to direct one the panels”

Dr. Samira Moosa who we met in her hotel in Sultanahmet, said that the electronic mail which was an invitation to the lecture was sent to her 15 days ago and said;

“The time was not enough for me to prepare a text. I wrote to the University to ask about the topic of the panel. They asked me at least to direct one of the panels. On Friday, I participated in another congress in Kuşadası. On Monday with the other participants, I was taken from the hotel and brought to the Istanbul University by the university's car.”

Phone : +90 212 532 26 67

Fax : +90 212 533 69 48

Web : www.hukukcularder.org

E-mail : hukuk@hukukcularder.org

Address : Savaklar Cd.No:1 Eminbaba

Köşkü Edirnekapı - Eyüp/ İSTANBUL

ANNEX 8

Turkish Republic
Kırklareli Governor Office
Department Of Education

Number : B.08.4.MEM.4.39.00.05.420/ 8945
Subject : Students wearing style

24th of June 1999

To The Private Aydınlar Informal Education Directorship

The related :21.06.1999 dated 139 numbered written report:

The regulations about clothing in the informal education places has been sent in the annex, and the application form of 6710 numbered candidate was not certified due to her picture which was not appropriate according to the regulations.

Kindly for your information

Ali Filiz
The Director of Department

Annexes:

Annex 1 : The Decision's example

Annex 2 : 45 Identity Cards

Phone : +90 212 532 26 67
Fax : +90 212 533 69 48
Web : www.hukukcularder.org
E-mail : hukuk@hukukcularder.org
Address : Savaklar Cd.No:1 Eminbaba
Köşkü Edirnekapı - Eyüp/ İSTANBUL

ANNEX 9

REPUBLIC OF TURKEY
GOVERNERSHIP OF ISTANBUL
Bakırköy National Education Ministry

Chapter:
Number: B.08.4.MEM.4.34.05.00.420/15673
Subject: Obedience of clothing regulation

DIRECTORATE OF PRIVATE COURSES
BAKIRKÖY

CONCERN: a)-The writ dated 13.05.1998 and numbered 420/8150
CONCERN: b)-The writ dated 23.06.1998 and numbered 420/10720

I would like you to obey the rule of clothing regulation of civil servants dated 04.02.1998 and numbered 1998/9 of Prime Ministry Staff and Principles General Directorate which was attached to writ of concern (a) by canceling the writ of concern (b) and to obey the same rules for the photo on the documents of candidates by the given institute.

Meral CİHAN
Director
Director of branch
(Signature)

K: 120
(Signature)

ANNEX 10

REPUBLIC OF TURKEY

MINISTRY OF NATIONAL EDUCATIONPresidency of Supreme Disciplinary Board
Number: 404.1-1-765

ANKARA

Dear:.....

Teacher in Istanbul's Pendik District
Fatih Sultan Mehmet Primary School

İSTANBUL

Concern: a) Higher Disciplinary Committee Presidency' letter requesting defense, dated 04.04.2000, numbered 388
b) 24.04.2000 dated your defense writ

Our committee has approved that you should come to Meeting Room, numbered 11 in The Ministry's Head Office Building, 1st floor, Block D to present your oral defense, should call the people that you would like to be listened as witness, should bring along the documents which you may built your defense based on and before meeting day, you should come to Higher Disciplinary Committee's Office (National Education Office, 8th floor, Block C, No:2) for looking at the investigation file.

If you are not present in the day and place mentioned above, it will be considered that you have decided not to give a defense.

(Signature)

Bener CORDAN

Undersecretary

President of Supreme Disciplinary Board

Phone : +90 212 532 26 67
Fax : +90 212 533 69 48
Web : www.hukukcularder.org
E-mail : hukuk@hukukcularder.org
Address : Savaklar Cd.No:1 Eminbaba
Köşkü Edirnekapı - Eyüp/ İSTANBUL

ANNEX 10

*AT THE POINT OF – HIGH DISCIPLINE COMMITTEE PRESIDENCY,
FATİH SULTAN MEHMET PRIMARY SCHOOL ADMINISTRATION*

PENDİK;

The writing numbered with 404.1.11765 at 28.08.2000, with the attention to 24.04.2000 dated paper; its said to be in seven days I can examine my file at Ministry of Education, at 8.floor numbered 2, however with this case they will give a date for defending myself. But all this sentence says if I won't examine my file, that means I will give up. And from there there is a mistake, because I did not request a day for the examination. I said when doctors report and my medical treatment will finish I will use my defense right. I have report for six months, and I am going for ray cure every day so that it's impossible to go Ankara in seven days and do the examination on time. Its unacceptable to say unless I go Ankara, I will lose my right of defense.

I did have an operation on 14.02.2000 with burst cancer diagnosis. The Validebağ Teachers Hospital where the operation did happen. I got a report for a month with the beginning 30.03.2000. With the decision of Oncology Department my treatment is continue at Kartal Education and Research Hospital. After investigation I have given doctor report for 3 months, after 30.03.2000. I have started to chemotherapy cure on 01.04.2000. Later than 30.06.2000 again from the same hospital I got doctor report for six months started with 04.07.2000. And all the treatment is still go on. Now I have seen both chemotherapy and radiotherapy cure. Especially at radiotherapy cure am going to hospital five days in a week for ray cure.

I live in Istanbul with my family. Although doctors report, if I go to Ankara and delay treatment, my illness does not let me go out of the city. The pills which I have take all the time had a effect such as "headache, nausea, weakness, exhaustion, cant using my right arm, burn and pain where ray cure be done, losing weight." all these intercept me using buses in the city also.

I show my health situation with the documents. That's why I think there should be a mistake on this decision. I wish you would correct verdict. My illness has deadly efficiency but face with such a problem kill me before cancer.

SÜEYLA YADİGAR

Address:

Sapanbağları District. Sakarya Street. Emiroğulları apartment. Number : 4 / 4 Pendik–İstanbul

Addition:

1 – Six months K.E.A.H. Health Committee Report

2 - 2 pieces Health Committee Report copy which were send before.

Phone : +90 212 532 26 67

Fax : +90 212 533 69 48

Web : www.hukukcularder.org

E-mail : hukuk@hukukcularder.org

Address : Savaklar Cd.No:1 Eminbaba

Köşkü Edirnekapı - Eyüp/ İSTANBUL

ANNEX 10

T.R.
S.S.Y.B

KARTAL TRAINING AND RESEARCH HOSPITAL

The Health Commission Report
Date: 04\07\2000

The Report Number :4048

Name, Surname :

Photo

The Card Owner :

Proximity:

Birth Date and Place: 01\01\1955 Konya- Ereğli

Profession and the Institution: The Ministry of Education

File Number :

Reason for The Report : RECREATION REPORT

The Institution referring :

The Date and Number of the referral document: 27\03\2000- 230232

The Clinic or doctor referring :

Height : 0

Weight: 0

Clinical findings: opere meme ca

X-ray findings:

Lab. Findings:

Clinical Diagnosis: opere meme ca

The decision : PERSON WHO IS SICK HAVE TO RECREATION FOR SIX MONTHS FORT HE
CHEMOTHERAPY AND RADIOTHERAPY.

Internist: Dr.Ali Yayla
(Signature)

Surgeon: Prof. Dr. Mustafa Gülmen
(Signature)

Neurologist: Dr. Ülkü Türk
(Signature)

Ophthalmologist: Dr. Anıl Kubaloğlu
(Signature)

Otorhinolaryngologist : Dr. Şeref Ünver
(Signature)

Psychiatrist :Dr. Nihat Beşikçi
(Signature)

The Chief Doctor: Dr. Necmi Kurt
(Signature)

The Head of Health Commission: Prof.Dr. Kamil Doğan
(Signature)

Phone : +90 212 532 26 67

Fax : +90 212 533 69 48

Web : www.hukukcularder.org

E-mail : hukuk@hukukcularder.org

Address : Savaklar Cd.No:1 Eminbaba

Köşkü Edirnekapı - Eyüp/ İSTANBUL

ANNEX 10

REPUBLIC OF TURKEY
 MINISTRY OF NATIONAL EDUCATION
 Supreme Disciplinary Board

NUMBER: 404.1
 FILE NO: 2000/434
 DATE OF DECISION: 11.10.2000
 DECISION NO: 2000/

OFFICE : General Directorate of Primary Education
 NAME, SURNAME, DUTY OF RELATED PERSON :
 : İstanbul, Pendik Fatih Sultan Mehmet Primary School teacher

SUBJECT OF ACCUSATION : The person not respects the attire regulation and disrupts the peace and working order of establishment with ideological and political purposes.

INVESTIGATION MADE BY : Office manager ; Dursun SEZER, Abdurrahman BAŞER

PROPOSAL OF THE INVESTIGATORS : The penalty of dismissal from state officer according to article 125/E-a of State Officers Law numbered 657.

DATES OF DEFENSE LETTER : 18.02.2000

The defense letter that has been taken in its due time and according to the requirements by means of the file that was sent of our Board with the letter of General Directorate of Primary Education dated 14.01.2000 and numbered 529 has been examined and it has been considered as follows.

According to the information and documents in the file, it has been understood the action has been realized in an continuous manner; therefore by considering the importance and characteristics of the occupation of teacher and characteristics of the offense according to the purposes and principles of Basic Law of National Education, the register of the related person has been examined according to the provision of the second paragraph coming after clause "k" of article 125/E of the Law numbered 657 and to give a penalty which is one degree lighter has not been found appropriate. For that reason it has been decided unanimously to ACCEPT the proposal of dismissal from state officer given pursuant to article 125/E-a of the Law numbered 657 and that for the necessary action taken, the copies of this decision should be sent to the General Directorate of Primary Education together with the file.

President Remzi SEZGİN Undersecretary	Member Cevdet CENGİZ President of Inspection Committee	Member Osman ÇELİK 1. Law Consultant
	Member Hüseyin ACAR General Director of Personnel	Member Süheyla AKPINAR General Director of Girls Technical Education

"CORRESPONDING TO THE ORIGINAL" 26/10/2000

Phone : +90 212 532 26 67
 Fax : +90 212 533 69 48
 Web : www.hukukcularder.org
 E-mail : hukuk@hukukcularder.org
 Address : Savaklar Cd.No:1 Eminbaba
 Köşkü Edirnekapı - Eyüp/ İSTANBUL

ANNEX 11

SILIFKE BOROUGH DEPARTMENT OF EDUCATION

Number : 232.1/402
The Subject : Your Testimony

SILIFKE
03.04.2001

Emine Ergin
Ataturk Primary School
The teacher of Religious and conscious lecture
Silifke

I have observed that you attended to lectures with your coat and wig. Why have you been attending lectures while you wear coat and wig?

I would like to you to write your defense below and sign it within seven days.

Musa Koroğlu
The Director

Write your testimony here:

*The 5th clause of in the name of women of 5th article of the regulation:
"Clothes must be clean, tidy, ironed and plain; shoes or boots must be plain or with normal heel and dyed: the staff must be uncovered and being combed or collected in the office; nails must be cut normally.*

It is forbidden to wear trousers, sleeveless or open collared shirt, blouse or dress. Skirts must be under knee and without slit..."

I have been dressed according to this regulation and I have been uncovered and my hair was clean and combed in the office. My hairstyle is my choice out of matter; there is no regulation over how hairstyle must be.

In the 2nd clause of an article of the regulation, it is clear which clothes must not be dressed in. Coat is not included in the regulation. As a result, there is no contrary action according to the clothing regulation. On the contrary, I have been dressed in appropriate clothes.

On the other hand, it is my dressing style, and I have been dressed for 11 years work period. And I had not got any problem in the school and offices because of my dressing style in this period.

It could not be understood why I have to defense myself although I have been dressed in appropriately according to the regulations.

Yours Sincerely

(Signature)
E.Engin
09.04.2001

Phone : +90 212 532 26 67
Fax : +90 212 533 69 48
Web : www.hukukcularder.org
E-mail : hukuk@hukukcularder.org
Address : Savaklar Cd.No:1 Eminbaba
Köşkü Edirnekapı - Eyüp/ İSTANBUL

ANNEX 11

REPUBLIC OF TURKEY
MINISTRY OF NATIONAL EDUCATION
Supreme Disciplinary Board

Number: 404.1
File no: 2002/89

Date of decision: 12.06.2002

Decision no: 2000/

Office : General Directorate of Primary Education
Name, surname, duty of related person : Emine ERGİN, İel, Silifke Merkez Primary Education School teacher
Subject of accusation : The person not respects the attire regulation and disrupts the peace and working order of the establishment with ideological and political purposes.
Investigation made by : Primary Education Inspector Mehmet ANDAN
Proposal of the investigators : The penalty of dismissal from state officer according to article 125/E-a of State Officers Law numbered 657
Dates of defense letter : 27.05.2002
Attorney of Emine Ergin : Att.Doğan ATAY

The defense letter that has been taken in its due time and according to the requirements by means of the file that was sent of our Board with the letter of General Directorate of Primary Education dated 28.02.2001 and numbered 2082 has been examined and it has been considered as follows.

According to the information and documents in the file, it has been understood the action has been realized in an continuous manner; therefore by considering the importance and characteristics of the occupation of teacher and characteristics of the offense according to the purposes and principles of Basic Law of National Education, the register of the related person has been examined according to the provision of the second paragraph coming after clause "k" of article 125/E of the Law numbered 657 and to give a penalty which is one degree lighter has not been found appropriate. For that reason it has been decided unanimously to ACCEPT the proposal of dismissal from state officer given pursuant to article 125/E-a of the Law numbered 657 and that for the necessary action taken, the copies of this decision should be sent to the General Directorate of Primary Education together with the file.

President Prof.Dr. İsmail BİRCAN Undersecretary	Member Cevdet CENGİZ President of Inspection Committee	Member Osman ÇELİK 1. Law Consultant
	Member Güngör KILINÇ General Director of Personnel	Member Süheyla AKPINAR General Director of Girls Technical Education

"CORRESPONDING TO THE ORIGINAL" 05/07/2002

Phone : +90 212 532 26 67
Fax : +90 212 533 69 48
Web : www.hukukcularder.org
E-mail : hukuk@hukukcularder.org
Address : Savaklar Cd.No:1 Eminbaba
Köşkü Edirnekapı - Eyüp/ İSTANBUL

ANNEX 12

T.R.
CITY OF SAKARYA
2nd ADMINISTRATIVE COURT
FILE NO : 2001/14
DECISION NO : 2001/2854

THE PLAINTIFF : Kevser Sönmez
THE REPRESENTATIVE : Fatma Benli (Attorney at Law)
Millet Cd.. No:21 Gülşen Ap, K.6/14
Aksaray- ISTANBUL
THE RESPONDENT : Ministry of National Education

SUMMARY OF THE CLAIM : The action was brought to the court by the plaintiff who is a teacher at the Gebze 60.Yıl İlköğretim Okulu with the claim of annulment of the transaction made by the Board of High Discipline date of 27.09.2000 number of 404.1 and the case number of 2000/931 which concluded the removal of the office of the plaintiff due to the Article 125 E/a of the State Officials Act number 657. In addition, the plaintiff claimed her fiscal damages to be compensated with the legal interests from the beginning of the case.

SUMMARY OF THE PLAINTIFF: It has been claimed by the representative of the plaintiff that the plaintiff had obeyed the regulations concerning the dress and it had been determined with the regular records that the plaintiff had obeyed these rules. The administrative transaction was implemented without any giving right to the plaintiff within the context of Article 129 of the Act number of 657, and the transaction in question violates her rights and therefore it must be annulled.

SUMMARY OF DEFENCE : It has been defended that the transaction has been implemented due to the reports prepared according to the results of the investigation about the plaintiff and because there is no violation in the case, the action must be rejected.

ON THE BEHALF OF THE NATION OF TURKEY

The decision maker Sakarya 2th Administrative Tribunal has considered the issue:

It has been stated in the Article additional 19 of the State Officials Act number 657 that state officials are obliged to obey the rules regulating dress. On the other hand, with the Article 3/b of the regulation about the dress of the Personnel working in Public Institutions issued in the Official Gazette number of 17849 and date of 25.10.1982 according to the decision of the Council of Ministers dated 16.07.1982 number of 8/5105, it has been decided that the term “official” covers the people who are working within the meaning of Article 36 of the Act number of 657, including subsidiary serving division. With the Article 5/a of the same regulation , it has been stated that the female officials always have to be without headscarves and be combed in official duty places.

Phone : +90 212 532 26 67
Fax : +90 212 533 69 48
Web : www.hukukcularder.org
E-mail : hukuk@hukukcularder.org
Address : Savaklar Cd.No:1 Eminbaba
Köşkü Edirnekapı - Eyüp/ İSTANBUL

In addition, with the article 125 E/a of the State Officials Act number 657, it has been stated that disturbing the order of the public institutions with ideological and political aims, taking part in actions such as delaying working, boycott or strike or not to come to the work because of such aims or inciting and provoking or encouraging and helping these people will be punished with the discharge of office and not to become an official anymore.

After examining the documents in the case with the report prepared according to the results of the investigation made about the personnel including the plaintiff, it was understood by the court that the plaintiff had been punished with disciplinary punishments because by wearing a headscarf, she violates the dress regulation, that she continued to serve as a teacher by wearing a wig on her headscarf, and that their headscarves appear under their wigs, that they did not take off it and therefore the court holds that they are not sincere on obeying the rules concerning dress and that they are determined and constant to insist on their such behaviours. The investigators proposed for them to be dismissed from office within the meaning of article 125 E/a of the State Officials Act and at last the transaction based on the report abovementioned was implemented.

In the light of the findings and documents additional to the inquiry report, it was concluded that the plaintiff conducted so not because of the unawareness about the regulations or the absence of any warning against her but because she did not accept to be without headscarf and she didn't appropriate the rules on the subject. Finally it was held that she is not sincere to obey the rules governing dress of the officials.

According to the court, although she knew the rules that she had to obey, she insisted on continuing to behave as disturbing the ease and order of the institution and therefore the court held that there is no violation on the punishment of the plaintiff with the discharge of office according to the Article 125 E /a of the State Officials Act number 657.

President
İsmet TURKEL
27251

Member
Associate Selami DEMIRKOL
33781

Member
Yılmaz Acer
37810

“CORRESPONDING TO THE ORIGINAL”

ANNEX 13

NET HABER
www.nethaber.com
 24/05/2004

THE ARGUMENTATION OF PUBLIC AREA LEAPED TO THE COURTS **The judge expelled the suspect with headscarf from the court room**

Expelling the suspect with headscarf from the room by the Supreme Court Judge of Appeals 4. Criminal Department has moved the controversial issue that caused the tension among the top political figures to a new stage

Headline of Radikal newspaper: “The headscarf ban” that has escalated to the top by President Ahmet Necdet Sezer who held the Republican Day Reception on October 29 and did not invite the wives with headscarves, spread to the Court Of Appeal interestingly. **The Supreme Court Judge of Appeals 4. Criminal Department** adopted a position on headscarf case in which Melih Gokcek, Mayor of Ankara, is among the suspects. Suspect Hatice Hasdemir who attended the hearing with her headscarf in court expelled from the court room, consequently the suspect couldn't exercise her defense right.

Regarding 43 suspects who are along with Gokcek , the city counsel member and some Belko executives, the file that sued with the demand of 3 years jail sentence for ‘using the duty in a bad way’ crime was continued at the Supreme Court of Appeals 4. Criminal Department.

One of the suspects Hatice Hasdemir, who is the member of Belko Limited Company Tender Commission took place in the court as being her head with turban and this created problem. The Chief of Department, Fadil Inan intervened in this situation.

Inan, as implying Hasdemir that can be entered into the court only as being uncovered head, required her to leave the court room. Hereupon Hasdemir reminded that she has been the suspect. But Inan carried on abandonment warning with the words ‘it does not matter ’. After that Hasdemir leaved from the room instead of taking off her turban. When her departure from the building of Supreme Court of Appeal was understood, expelling her from the court room by the reason of her turban was recorded also in the minute; whereas she can be accepted into the case, if she uncovers her head.

Phone : +90 212 532 26 67
 Fax : +90 212 533 69 48
 Web : www.hukukcularder.org
 E-mail : hukuk@hukukcularder.org
 Address : Savaklar Cd.No:1 Eminbaba
 Köşkü Edirnekapı - Eyüp/ İSTANBUL

Among other things one of the suspects is a Parliamentary. The suspect Atilla Koc' s file has been separated because that he has won the parliamentary election from Aydin province on November 3; it is decided to send writ to Turkish National Assembly for revoking his legislative immunity. The Department adjourned the case after he has listened to the suspects.

Authorization is the chief' s

The 'Even the suspect can not be with turban' attitude of the Supreme Court of Appeal has been the controversial issue.

Code of Criminal Procedure (CMUK), gives authority of maintaining the discipline of the hearing to the chief of the court. Accordingly, it is possible that Chief Inan' s taking decision in this way by only his self. But basing the practice on clearly which law, whether turban disturbs the discipline or does not have remained unanswered because of not recording in this way in the minute. The veto to the suspect with turban, - if the samples to the contrary has been taken into consideration- leded the question 'at that time which one is correct'. Because, particularly the students who were let as suspect with the reason of freedom to turban actions went as being with turban also before the court and this did not lead a problem.

The gown ban to Aczmendis

The suspects' outward appearance, -even it was not similar to the sample at yesterday- had been argued in Aczmendis Case. Ankara State Security Court (DGM) determined that the suspects can not join to the court with their gowns-turbans, the suspects' beards had been cut off forcibly, and the ones who insisted on their attitude had been judged.

Is ban at everywhere?

It is spoken that generalizing this attitude into whole public area (tax department, register of land offices, public registration offices, etc.) which determined as 'In public area there can not be headscarf' taking force from Judiciary and yesterday the Supreme Court of Appeal has reflected to the hearings could lead an interesting image.

Jurists spoke differential

Lawyer Kezban Hatemi: "There is no clause as 'Person with turban can not enter into the court room.' in any law. The judges do not have like this authority. Till he/she does not disturb his/her conveyances, no one can be dismissed from the hearing room. The judge has to examine and record of his/her testimony. The defense right of the suspect is holly and can not be hindered."

Prof. Dr. Bakir Caglar: "There is public area, private area separation. The judiciary places are public areas. There can not be used any symbol that can have ideological meaning. The person who does not obey the rules is counted as he/she renounced the defense right. After Cankaya Crisis, there is an effective climate at also judiciary places. Since the time that public area dispute moved to the agenda judiciary places must be sensitive, too."

Phone : +90 212 532 26 67

Fax : +90 212 533 69 48

Web : www.hukukcularder.org

E-mail : hukuk@hukukcularder.org

Address : Savaklar Cd.No:1 Eminbaba

Köşkü Edirnekapı - Eyüp/ İSTANBUL

News: ADNAN KESKİN

07/11/2003 08:19

http://www.nethaber.com/haber/haberler/0,1082,104322_3,00.html

24.05.2004

ANNEX 14

NTV MS NBC

Dismissal for the judges who gave visa for turban

The Supreme Board of Judges and Public Prosecutors (HSYK) removed 2 judges that are on duty in Kastamonu “because of the investigations that are continuing about them” and changed the post of 5 judges who are members of Administrative Court of Samsun.

It has been informed that the judges in Samsun were appointed to other cities because of their decision that gave visa for turban. In meeting of yesterday of HSYK, the status of 7 judges about whom investigation is made were evaluated. HSYK that expel Kastamonu judges Mehmet Şeran and Birol Er from duty, gave the following decision about % judges who were appointed to other cities because of turban:

“It has been resolved that members of Administrative Court of Samsun Sıtkı Keleş, Hasan Önal, Recep Taş, Resul Çomoğlu and Fatih Terzi shall be removed from their real post and shall be assigned as authority to another place.”

Phone : +90 212 532 26 67
Fax : +90 212 533 69 48
Web : www.hukukcularder.org
E-mail : hukuk@hukukcularder.org
Address : Savaklar Cd.No:1 Eminbaba
Köşkü Edirnekapı - Eyüp/ İSTANBUL

ANNEX 14

Radikal Newspaper www.radikal.com.tr

12/12/1998

“Turban” surprise in justice

Head Public Prosecutor of Yozgat, Reşat PETEK who has filed a suit against the rector and dean that do not let the students with turban into courses, has been appointed as normal prosecutor to Istanbul. And Head Public Prosecutor of Bursa and Head Public Prosecutor of Diyarbakır have been appointed as normal prosecutor.

ADNAN KESKİN

ANKARA – Surprises of last minute. Head Public Prosecutor of Yozgat, Reşat PETEK who had filed a suit against the Rector of Erciyes University with the reason that he prevented the entry of students with turban into courses has been sent exile to Istanbul. The surprises of last minute come from the decree that were accepted in Supreme Board of Judges and public Prosecutors (HSYK). In the last phase some head public prosecutors that were shown in an Islamic trend were included in the decree. According to this firstly Head public Prosecutor of Yozgat about whom an investigation is started

ANNEX 15

T.C.
MINISTRY OF JUSTICE
DEPARTMENT OF SUPERVISOR

No: 152 Ankara, 3.10.2000
Subject:

Plea

Dear
Musa ALBAYRAK
The Member of the Istanbul 2nd Administrative Tribunal

Because of the clothes of your wife which are not modern, an opinion came into being that you are closer to thoughts against secularism.

We kindly request you to send your plea in 3(three) days after the writing has been serviced to you to the address (Ismail TURGUT, Chief Supervisor of Justice, Presidency of Supervision Board of Ministry of Justice - Ankara) according to the 84th article of Law for Judges and Public Prosecutors code number 2802, and to know that if you did not send your answer in the requested time, you will be accepted as giving up your right.

Chief Supervisor of Justice
Ismail TURGUT

Chief Supervisor of Justice
Mustafa KILIÇHAN

Phone : +90 212 532 26 67
Fax : +90 212 533 69 48
Web : www.hukukcularder.org
E-mail : hukuk@hukukcularder.org
Address : Savaklar Cd.No:1 Eminbaba
Köşkü Edirnekapı - Eyüp/ İSTANBUL

ANNEX 16

T.C.
MINISTRY OF JUSTICE
DEPARTMENT OF SUPERVISOR

No: 149 Ankara, 3.10.2000
Subject: Plea

Dear
Ahmet GÜLER
The Member of the Istanbul 8th Tax Court

Because of the clothes of your wife which are not modern, an opinion came into being that you are closer to thoughts against secularism; and because you sit in two groups when you have visitors and it is said that in your room in the office you listen to religious broadcasts and religious songs.

We kindly request you to send your plea in 3(three) days after the writing has been serviced to you to the address (Ismail TURGUT, Chief Supervisor of Justice, Presidency of Supervision Board of Ministry of Justice - Ankara) according to the 84th article of Law for Judges and Public Prosecutors code number 2802, and to know that if you did not send your answer in the requested time, you will be accepted as giving up your right.

Chief Supervisor of Justice
Ismail TURGUT

Chief Supervisor of Justice
Mustafa KILIÇHAN

Phone : +90 212 532 26 67
Fax : +90 212 533 69 48
Web : www.hukukcularder.org
E-mail : hukuk@hukukcularder.org
Address : Savaklar Cd.No:1 Eminbaba
Köşkü Edirnekapı - Eyüp/ İSTANBUL

Phone : +90 212 532 26 67
Fax : +90 212 533 69 48
Web : www.hukukcularder.org
E-mail : hukuk@hukukcularder.org
Address : Savaklar Cd.No:1 Eminbaba
Köşkü Edirnekapı - Eyüp/ İSTANBUL