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NEWS REPORT

Country:	Turkey
Title:	Lower court, which on 23 December 2015 had issued unprecedentedly high sentences for hate crimes against the Roma, published its judgment
Date:	30 May 2016
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Update of flash report nr:	59
<u>Context</u>	
Issue at stake:	The forced displacement of a Roma community who had been subject to hate-driven mob attacks by their neighbours
Ground of discrimination:	Race/ethnic origin
Source:	National court decision (2 nd Criminal Court of First Instance in Usak)
Field:	Housing
Applicable law:	Turkish Penal Code, Articles 151, 152 and 216

Content

Case:

On 5 January 2010, a crowd of more than 1 000 locals in the district of Selendi in the Manisa province attacked the town's Roma residents. The crowd threw stones at the Roma residents and set their houses on fire, chanting slogans such as 'Get the Gypsies out'. The local police could not control the situation and sought reinforcements to assist. The pretext for the attack was a fight between a Roma man and the owner of a coffee house on 31 September 2009 over the former's refusal to abide by the smoking ban. It became clear after the incidents that the attack was planned, systematic and the outcome of long-term tensions between Roma and other residents of Selendi. Instead of providing the Roma families with protection, the Governor of Manisa forcibly relocated the victims to the district of Gördes and subsequently to the district of Salihli on the ground that local authorities would not be able to ensure their security in Selendi. The displaced Roma continue to live in exile in Salihli. Having lost their houses, furniture, businesses and savings, they live in economic hardship. After some delay, a criminal case was launched against the perpetrators.

On 23 December 2015, five years after the first hearing was held on 16 December 2010, the court delivered its judgment. The court convicted 38 of the 80 defendants for incitement to enmity or hatred and denigration under Article 216¹ and for property damages under Articles 151 and 152 of the Turkish Penal Code, acquitting the rest. The

¹ Article 216 of the Turkish Penal Code criminalises, *inter alia*, (1) incitement to enmity or hatred on grounds, *inter alia*, of race, religion or denomination in a manner which may present a clear and imminent danger to public safety, and (2) open denigration of a section of the population on grounds, *inter alia*, of race, religion or denomination.

court sentenced the convicted defendants to between 8 months and 45 years of imprisonment, using its discretion to issue the upper limits of available sentences.² The defendants appealed to the Court of Cassation, which is expected to issue a judgment sometime in 2017. Pending that, the judgment is not final.

Decision of the Court:

According to news reports on 9 May 2016, the court published the judgment containing its reasoning.³ The Court held that defendants were part of a concerted action of around 150 individuals who had raided the Roma neighbourhood with stones, bats and rifles, had thrown Molotov cocktail and tried to burn the Roma residents' houses, tents and cars. Some of the defendants openly incited the public to hatred and enmity by chanting slogans such as "they will leave here or else we will do what is necessary", "Selendi is ours and will remain so", "the Gypsies are swearing our mosques, religions, wives and daughters", "we do not want them here", "let's kill them, let's burn their houses", "these are Gypsies, let's give them a lesson", "we have had enough of the Roma, who are stealing and bothering us". The Court found that the defendants had also attacked the law enforcement officers who tried to prevent them from burning down the Roma residents' houses and offices.

Key points of analysis:

The judgment constitutes a very important precedent for the Turkish courts' handling of lynch attempts against ethnic and racial minorities. This is the first time that a Turkish Court convicts perpetrators of hate crimes under Article 216 of the Turkish Penal Code, which had so far been used to protect individuals engaged in hate speech or acts against minorities rather than victims who had been subject to such crimes.

Internet link source:

The judgment is not publicly available.

² Information received from the victims' lawyer Necati Özmedir, 19 January 2016.

³ İsmail Saymaz, "Selendi kararı: Saldırı, Romanlara karşı birlik içinde yapıldı", *Hürriyet*, 9 May 2016, available at: <http://www.hurriyet.com.tr/selendi-karari-saldiri-romanlara-karsi-birlik-icinde-yapildi-40101577>.