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### NEWS REPORT

<b>Country:</b>	Turkey
<b>Title:</b>	ECtHR find Turkey to have discriminated the right to education of a person with disability
<b>Date:</b>	5 February 2018
<b>Expert:</b>	Dilek Kurban
<b>Issue at stake:</b>	Access to education of persons with disability in Turkey
<b>Ground of discrimination:</b>	Disability
<b>Source:</b>	ECtHR, <i>Enver Şahin v. Turkey</i> , Application no. 23065/12, 30 January 2018
<b>Field:</b>	Education
<b>Applicable law:</b>	European Convention on Human Rights, Article 2 of Protocol no. 1 (right to education) and Article 14 (non-discrimination)

### Content

**Case:** The applicant was a first-year mechanics student in the technical faculty of a public university, when he was seriously injured in an accident which left him with a disability. Two years later, upon having sufficiently recovered from his paralysis, he requested the authorities to adapt the university premises so that he could resume his studies. The rector's office refused, citing budgetary reasons and time constraints, and instead offered to appoint someone to assist the applicant on the premises. The applicant refused on the grounds, among others, of his right to privacy. The administrative courts rejected his appeal. Relying on Article 14 (prohibition of discrimination) in conjunction with Article 8 (the right to private life) and Article 2 of Protocol no. 1 (right to education), he applied to the ECtHR.

**Decision of the Court:** The ECtHR concluded that the national judicial and university authorities failed to show the required diligence to ensure that the applicant could continue to enjoy his right to education on equal terms with other students. The Court noted that the administrative courts did not engage in any effort to ascertain whether there were possible solutions that would have enabled the applicant to resume his studies as close as possible to those provided to students with no disability, without imposing an undue burden on the university administration. The ECtHR found that instead of examining whether a fair balance had been struck between the applicant's interest to continue his education and the administration's financial and logistic capacities, the national judicial authorities simply deemed it sufficient for someone to assist the applicant on the premises, without showing how such a solution would be satisfactory. Therefore, the Court found a violation of Article 14 read in conjunction with Article 2 of Protocol no. 1.

The ECtHR did not deem it necessary to examine separately the applicant's complaints under Article 14 in conjunction with Article 8.

**Key points of analysis:** Turkey's Law on Persons with Disabilities requires services available to the public, buildings and infrastructure to be designed and built in a disability-accessible way and adopts a concept of disability in accordance with the UN Convention. However, these legal requirements are not being abided by and the administrative and judicial authorities tasked with enforcing the law have been extremely lenient.

**Internet link source:** ECtHR, *Enver Şahin v. Turkey*, Application no. 23065/12, 30 January 2018, available at:

[https://hudoc.echr.coe.int/eng#{\"itemid\":\[\"001-180642\"\]}](https://hudoc.echr.coe.int/eng#{\) (the judgment in French);

[https://hudoc.echr.coe.int/eng-press#{\"fulltext\":\[\"23065/12\"\]}](https://hudoc.echr.coe.int/eng-press#{\) (press release in English).