

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

KASIM KURD, et al.,)	
)	
Plaintiffs,)	Civil Action No. 1:18-1117-CKK
)	
v.)	
)	
THE REPUBLIC OF TURKEY, et al.,)	
)	
Defendants.)	
)	

AFFIDAVIT IN SUPPORT OF DEFAULT

1. My name is Agnieszka M. Fryszman. I am an attorney of record for the Plaintiffs in the above-captioned case.

2. The Republic of Turkey was served pursuant to 28 U.S.C. § 1608(a)(4) on February 11, 2019, when the United States Embassy in Ankara, Turkey, transmitted a copy of the summons, complaint, and notice of suit to the Ministry of Foreign Affairs of the Republic of Turkey. *See* Dkt. 49.

3. Turkey filed a motion to dismiss for lack of subject matter jurisdiction on June 4, 2019. Dkt. 90. This Court denied that motion on February 6, 2020. Dkt. 115. Turkey on February 19, 2020, filed an interlocutory appeal challenging the Court’s order denying its motion to dismiss. Dkt. 117. The D.C. Circuit issued an order on July 27, 2021, affirming the district court’s order, and it issued its mandate on October 25, 2021. Dkt. 138.

4. Turkey has not filed an answer, though the time for it to do so expired, at the latest, on November 8, 2021, which was 14 days after the D.C. Circuit issued its mandate. *See* Fed. R. Civ. P. 12(a)(4)(A). No extension has been granted for Turkey to file an answer, and my co-counsel and I have made multiple requests to Turkey’s counsel for an answer.

5. Turkey applied for a stay of proceedings in this Court on January 10, 2022, Dkt. 139, well after the deadline to file its answer. This Court denied the requested stay on September 21, 2022, Dkt 157, and ordered the parties to meet and confer under Fed. R. Civ. P. 26(f) by October 21, 2022.

6. Turkey did not authorize its counsel to participate in the Court-ordered Rule 26(f) Conference or to join in the parties' Court-ordered Joint Rule 26(f) statement. *See* Dkts. 164, 166. My co-counsel and I made multiple attempts to obtain Turkey's participation, but Turkey did not participate in the Rule 26(f) conference or join the Rule 26(f) statement. Dkt. 166.

7. On November 7, 2022, the district court inquired about counsel's availability for a status conference in this case. But that same day, Turkey's counsel filed renewed motions to withdraw from their representation of Turkey, explaining that they "are not authorized to participate in any further defense of the allegations in this lawsuit." Dkt. 167; *see also* Dkt. 168.

8. In their motion to withdraw as counsel, Turkey's counsel further explained that Turkey does not authorize any further defense of the allegations in this lawsuit "because Türkiye asserts that it is immune from the jurisdiction of U.S. courts and will not waive its sovereign immunity." This Court determined that Turkey was not immune from suit (Dkt. 115), a decision that was affirmed by the Court of Appeals (*supra* ¶ 3). The United States Supreme Court denied Turkey's petition for certiorari on October 31, 2022. *See Usoyan v. Turkey*, No 21-1013 (U.S. Oct. 31, 2022). The determination that Turkey is not immune from suit in this action is final.

9. Turkey has failed to file an answer as required by the rules, refused to follow this Court's orders to meet and confer, and evidenced an intent to refuse to participate in these proceedings. In particular, Defendant Republic of Turkey ("Turkey") has "failed to plead" pursuant to Fed. R. Civ. p. 55(a).

10. For the above reasons, entry of default is appropriate, and the Clerk is requested to enter default against the Republic of Turkey.

I declare under penalty of perjury under the laws of the District of Columbia that the foregoing is true and correct to the best of my knowledge.

November 9, 2022

/s/ Agnieszka M. Fryszman

Agnieszka M. Fryszman, DC Bar No.
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