



COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

FIRST SECTION

CASE OF KARATAŞ AND BOĀA v. TURKEY

(Application no. 24669/94)

JUDGMENT
(Friendly settlement)

STRASBOURG

17 October 2000

In the case of Karataş and Boğa v. Turkey,

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Mrs E. PALM, *President*,
Mr L. FERRARI BRAVO,
Mr GAUKUR JÖRUNDSSON,
Mr R. TÜRMEŒ,
Mr B. ZUPANČIČ,
Mr T. PANŒIRU,
Mr R. MARUSTE, *judges*,

and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 26 September 2000,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 24669/94) against the Republic of Turkey lodged with the European Commission of Human Rights ("the Commission") under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by two Turkish nationals, Ms Seher Karataş and Mr Güven Boğa ("the applicants"), on 11 July 1994.

2. The applicants were represented by Mr Kamil Tekin Sürek, a lawyer practising in Istanbul, Turkey. The Turkish Government ("the Government") were represented by their Agent.

3. The applicants complained that they had been victims of a violation of Article 3 of the Convention in that they were ill-treated by police both at the time of their arrest on 5 February 1994 and whilst they were being held in police custody.

4. Following communication of the application to the Government by the Commission, the case was transferred to the Court on 1 November 1998 by virtue of Article 5 § 2 of Protocol No. 11 to the Convention. On 14 September 1999, having obtained the parties' observations, the Court declared the application admissible.

5. On 5 July 2000, after an exchange of correspondence, the Section Registrar suggested to the parties that they should attempt to reach a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention and he proposed certain terms on which such a settlement might be envisaged. On 24 July 2000 and on 25 August 2000 the Agent of the Government and the applicants' representative respectively informed the Court that they agreed to the proposed terms.

THE FACTS

6. Both applicants are journalists with “Gençliğin Sesi Dergisi” (*The Voice of Youth Magazine*), the first applicant being the editor and owner of this publication.

7. On 5 February 1994 the applicants went to the Kocatepe Cemetery in Ümraniye, Istanbul, in order to report on and to take photographs of the funeral of a member of the “Türkiye Devrimci Komünist Partisi” (*Revolutionary Communist Party of Turkey*; TDKP). During the funeral some attendants began demonstrations. The police intervened and the demonstrators resisted this police intervention. The applicants, who had been taking photographs of the incident, were arrested and taken into police custody at Ümraniye central police station. In their application they claimed that they were beaten by the police at the funeral, in the police car on the way to the police station and while they had been kept in police custody.

8. After midnight on the same day the applicants were taken to Haydarpasa Numune Hospital for a medical examination. The preliminary medical reports mentioned the presence of various lesions on their bodies.

9. The applicants were released on 6 February 1994 after having been questioned by a public prosecutor.

10. On 15 February 1994 the Forensic Medical Institute issued the final medical reports on the bases of the preliminary examinations. The medical report concerning the first applicant indicated that bilateral peri-orbital ecchymotic lesions existed on her body and ecchymotic lesions on the front part of her right shoulder. The medical report concerning the second applicant mentioned the presence of a cut of one centimetre on his nose, a superficial abrasion of two centimetres on the back of his left ear, a haematoma three by three centimetres in size on his occipital region and an ecchymosis on his left scapular region. Both reports concluded that these injuries did not constitute a danger to life but prevented the applicant from working for one week.

11. On 16 February 1994 a public prosecutor decided that no prosecution should be instituted against the police officers of Ümraniye central police station. According to the public prosecutor, a group of people, including the applicants, had placed a flag of the TDKP on the coffin during the funeral and had demonstrated against the Turkish republic and the police by displaying banners and chanting slogans. When the police had tried to intervene, the group had thrown stones and had attacked the police. When the demonstrators had resisted their arrest, the police had used force resulting in the wounds indicated in the medical reports. The public prosecutor concluded that the use of force had been lawful under the provisions of the Law on the Duties and Responsibilities of the Police (*Polis Vazifeleri ve Selâhiyetleri Kanunu*).

12. The applicants lodged an objection against the public prosecutor's decision. This was rejected on 21 April 1994 by the Kadıköy Assize Court (*Ağır Ceza Mahkemesi*).

13. Criminal proceedings, in which the applicants are charged with the offence of contumacy, are, as far as the Court has been informed, still pending before the Üsküdar Criminal Court (*Asliye Ceza Mahkemesi*).

THE LAW

14. On 24 July and 25 August 2000 the Court was informed by the agent of the Government and the applicants' representative respectively that they accepted the following terms of settlement:

(1) payment by the respondent Government to each of the applicants the equivalent of 85,000 French francs (FRF) - which amount includes reimbursement of FRF 10,000 for costs and fees - within three months from the date of delivery of the Court's judgment, it being understood that these sums are to be paid net of any direct or indirect tax charge or other deductions and in Turkish lira at the exchange rate applicable on the date of payment;

(2) simple interest payable at an annual rate of 2.74% from the expiry of the above-mentioned three months until settlement;

(3) an undertaking by both parties that they will not seek the referral of the case to the Grand Chamber under Article 43 § 1 of the Convention after delivery of the Court's judgment.

15. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). It is satisfied that the settlement is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

16. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the case out of the list;
2. *Takes note* of the parties' undertaking not to request a rehearing of the case before the Grand Chamber.

Done in English, and notified in writing on 17 October 2000, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Elisabeth PALM
President