



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

SECOND SECTION

CASE OF AKIN v. TURKEY

(Application no. 34688/97)

JUDGMENT
(Friendly settlement)

STRASBOURG

12 April 2001

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In the case of Akın v. Turkey,

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

Mr C.L. ROZAKIS, *President*,

Mr A.B. BAKA,

Mr P. LORENZEN,

Mrs M. TSATSA-NIKOLOVSKA,

Mr E. LEVITS,

Mr A. KOVLER, *judges*,

Mr F. GÖLCÜKLÜ, *ad hoc judge*,

and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 23 November 2000 and on 22 March 2001,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 34688/97) 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 a Turkish national, Mr Abdullah Akın (“the applicant”), on 21 August 1996.

2. The applicant was represented by Mr Mahmut Vefa, a lawyer practising in Diyarbakır (Turkey). The Turkish Government (“the Government”) did not designate an Agent for the purposes of the proceedings before the Court.

3. The applicant complained under Article 5 § 3 of the Convention about the length of his detention in police custody for 11 days without being brought before a judge or other officer authorised by law to exercise judicial power.

He alleged also that he was not informed promptly of the reasons for his arrest and that he was discriminated against on account of his Kurdish origin and his affiliation to a pro-Kurdish political party. In this respect, he invoked Articles 5 § 2 and 14 of the Convention.

4. Following communication of the complaints under Articles 5 and 14 of the Convention to the Government and rejection of the remainder of the application 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.

5. The application was allocated to the Second section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1 of the Rules of Court. Mr Rıza Türmen, the judge elected in respect of Turkey, withdrew from sitting in the case (Rule 28). The Government accordingly appointed Mr Feyyaz Gölcüklü to sit as an *ad hoc* judge in his place (Article 27 § 2 of the Convention).

6. On 23 November 2000, after obtaining the parties' observations, the Court declared the applicant's complaints under Articles 5 § 2 and 14 of the Convention inadmissible and retained his complaint under Article 5 § 3 for examination on the merits.

7. On 24 January 2001, after an exchange of correspondence, the 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. On 9 February 2001 the Government and on 28 February 2001 the applicant's representative, respectively, submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

8. The applicant is the provincial president of a political party, the Hadep, in Diyarbakır.

9. On 23 June 1996 the applicant participated in the annual congress of the Hadep in Ankara. During that congress, certain persons wearing masks took down a Turkish flag in the hall and replaced it by a PKK flag and a poster of Abdullah Öcalan. Slogans in favour of the PKK and Abdullah Öcalan were shouted by persons alleged to be militants of the PKK. Following this incident the Chief Public Prosecutor at the Ankara State Security Court instructed police officers from the anti-terrorist department of the Ankara Security Department to arrest the executive board members of the Hadep, the board president and members of the assembly, as well as those responsible for the impugned acts.

10. On 24 June 1996, at around 4 a.m., the applicant and the above-mentioned party members were arrested when they were about to leave the congress hall.

11. On 4 July 1996 the Ankara State Security Court ordered the applicant's detention on remand.

12. On 23 August 1996 the Chief Public Prosecutor filed an indictment with the Ankara State Security Court charging the applicant with membership of the PKK, contrary to Article 168 of the Turkish Criminal Code.

13. The parties did not submit any information concerning the outcome of the criminal proceedings against the applicant.

THE LAW

14. On 28 February 2001 the Court received the following declaration from the Government:

“I declare that the Government of Turkey offer to pay the amount of 30,000 French francs on an *ex gratia* basis to Mr Abdullah Akin with a view to securing a friendly settlement of the application registered under no. 34688/97. This sum shall cover any pecuniary and non-pecuniary damage as well as costs, and it will be payable immediately after the notification of the judgment delivered by the Court pursuant to the Article 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case.

The Government further undertake not to request the reference of the case to the Grand Chamber under Article 43 § 1 of the Convention.”

15. On 9 February 2001 the Court received the following declaration signed by the applicant’s representative:

“I note that the Government of Turkey are prepared to pay a sum totalling 30,000 French francs on an *ex gratia* basis covering both pecuniary and non-pecuniary damage and costs to Mr Abdullah Akin with a view to securing a friendly settlement of the application no. 34688/97 pending before the Court.

I accept the proposal and waive any further claims in respect of Turkey relating to the facts of this application. I declare that the case is definitely settled.

This declaration is made in the context of a friendly settlement which the Government and the applicant have reached.

I further undertake not to request the reference of the case to the Grand Chamber under Article 43 § 1 of the Convention after the delivery of the Court’s judgment.”

16. 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).

17. 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 12 April 2001, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President