



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

FOURTH SECTION

**CASE OF YOLCU v. TURKEY**

*(Application no. 34684/97)*

JUDGMENT  
(Friendly settlement)

STRASBOURG

5 February 2002

This judgment may be subject to editorial revision.



**In the case of Yolcu v. Turkey,**

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

Sir Nicolas BRATZA, *President*,

Mr J. MAKARCZYK,

Mrs V. STRÁŽNICKÁ,

Mr M. FISCHBACH,

Mr J. CASADEVALL,

Mr R. MARUSTE, *judges*,

Mr F. GÖLCÜKLÜ, *ad hoc judge*,

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

Having deliberated in private on 3 May 2001 and on 15 January 2002,

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

**PROCEDURE**

1. The case originated in an application (no. 34684/97) 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, Vahdettin Yolcu ("the applicant"), on 19 December 1996.

2. The applicant was represented before the Court by Mr Mehmet Arslanargın, a lawyer practising in Istanbul. The Turkish Government ("the Government") did not designate an Agent for the purposes of the proceedings before the Court.

3. The applicant complained, *inter alia*, under Article 5 § 3 of the Convention that he was kept in police custody for twelve days without being brought before a judge and that he had been a victim of a violation of Article 6 § 3 (c) of the Convention in that he was not permitted the assistance of a lawyer during questioning by the police, the public prosecutor and the investigating judge.

4. Following communication of the application to the Government, 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 3 May 2001, having obtained the parties' observations, the Court declared the application admissible. The applicant's further complaints were declared inadmissible.

5. On 19 July 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 31 July 2001 and on 20 August 2001 the applicant's representative and the

Government respectively submitted formal declarations accepting a friendly settlement of the case.

## THE FACTS

6. On 24 July 1996 police officers from the Istanbul Security Directorate arrested the applicant in his house and placed him in custody in the course of an investigation conducted against the members of the PKK.

7. In a letter dated 25 July 1996 the Istanbul Security Directorate informed the office of the public prosecutor at the Istanbul State Security Court that on account of the applicant's confessions the police officers had conducted a search in the applicant's house and found several explosives. In the same letter the Istanbul Security Directorate requested the Istanbul State Security public prosecutor to authorise the extension of the applicant's detention period. On the same date the Istanbul State Security Court public prosecutor authorised the Istanbul Security Directorate to extend the detention period until 5 August 1996.

8. On 5 August 1996 the applicant was questioned by the public prosecutor at the Istanbul State Security Court. During his questioning the applicant partly confirmed the veracity of his statement he gave in police custody on account of his involvement in the PKK.

9. On 5 August 1996 the applicant was questioned by the investigating judge at the Istanbul State Security Court. The applicant rejected his involvement in the PKK and the accusations mentioned in the statement he gave in police custody. On the same date the investigating judge ordered the applicant's detention on remand.

10. At a hearing on 18 October 1996 before the Istanbul State Security Court the applicant rejected the allegations against him and stated that he had been forced to sign a statement without having read it. The applicant confirmed the veracity of the statements he gave before the public prosecutor and the investigating judge.

11. At two hearings on 18 October 1996 and 9 December 1996 the Istanbul State Security Court rejected the applicant's requests for release pending trial.

12. On 23 May 1997 the Istanbul State Security Court convicted the applicant of aiding and abetting the PKK pursuant to Article 169 of the Turkish Criminal Code and Article 5 of Law No. 3713. It sentenced the applicant to five years' imprisonment and debarred him from employment in public service.

13. On 20 June 1997 the applicant lodged an appeal with the Court of Cassation against the decision of the Istanbul State Security Court.

14. On 12 March 1998 the Court of Cassation upheld the decision of the Istanbul State Security Court.

## THE LAW

15. On 21 August 2001 the Court received the following declaration from the Government:

“I declare that the Government of the Republic of Turkey offer to pay *ex gratia* to the applicants an all-inclusive amount of 40,000 (forty thousand) French francs with a view to securing a friendly settlement of his application registered under no. 34684/97. This sum, which also covers legal expenses connected with the case, shall be free of any tax that may be applicable and be paid in French francs to a bank account named by the applicant and/or his duly authorised representative. This sum shall be payable within three months from the date of the notification of the judgment delivered by the Court pursuant to Article 39 of the European Convention on Human Rights. This payment will constitute the final settlement of the case.

Finally, the Government undertake not to request the reference of the case to the Grand Chamber pursuant to Article 43 § 1 of the Convention after the delivery of the Court’s judgment.”

16. On 7 August 2001 the Court received the following declaration signed by the applicant’s representative:

“In my capacity as the representative of the applicant, Mr Vahdettin Yolcu, I have taken cognizance of the declaration of the Government of the Republic of Turkey that they are prepared to make an *ex gratia* all-inclusive payment of 40,000 (forty thousand) French francs with a view to concluding a friendly settlement of the case that originated in application no. 34684/97. This sum, which also covers the costs and expenses related to the case, will be paid in accordance with the terms stipulated in the said declaration within three months after notification of the Court’s decision delivered pursuant to Article 39 of the European Convention on Human Rights.

Having duly consulted the applicant, I accept that offer and he, in consequence, waives all other claims against Turkey in respect of the matters that were at the origin of the application. We declare that the case has been settled finally and we undertake not to request the reference of the case to the Grand Chamber pursuant to Article 43 § 1 of the Convention after the delivery of the Court’s judgment.

This declaration is made within the scope of the friendly settlement which the Government and I, in agreement with the applicant, have reached.”

17. 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).

18. 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 5 February 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE  
Registrar

Nicolas BRATZA  
President