



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

FIRST SECTION

CASE OF SATIK v. TURKEY

(Application no. 36961/97)

JUDGMENT
(Friendly settlement)

STRASBOURG

25 September 2003

This judgment is final but it may be subject to editorial revision.

In the case of Satık v. Turkey,

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

Mr C.L. ROZAKIS, *President*,

Mr P. LORENZEN,

Mrs F. TULKENS,

Mr E. LEVITS,

Mr A. KOVLER,

Mr V. ZAGREBELSKY, *judges*,

Mr F. GÖLCÜKLÜ, *ad hoc judge*,

and Mr S. NIELSEN, *Deputy Section Registrar*,

Having deliberated in private on 4 September 2003,

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

PROCEDURE

1. The case originated in an application (no. 36961/97) 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, Kadir Satık (“the applicant”), on 18 June 1997.

2. The applicant was represented by Mr İrfan Güler, 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 under Article 5 §§ 3 and 4 of the Convention that he was kept in police custody for an excessive period of time. He also argued that he was not able to take proceedings by which the lawfulness of his detention in police custody could be decided because he did not have legal assistance.

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 25 April 2002, having obtained the parties' observations, the Court declared the application admissible.

5. On 25 March 2003 and on 17 June 2003 the applicant and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant was born in 1966 and lives in Istanbul.

7. On 21 January 1997 the prison warders found three issues of a magazine titled “The Imperialist Capitalist System and the YPD” (*Emperyalist Kapitalist Sistem ve YPD Üzerine*) on Y.Ö. and S.Ö. who were paying a visit to N.Ö. and S.S. in the Gebze Prison. The magazines were published by the PKK (Worker's Party of Kurdistan) and the TRK/RIZGARI.

8. In their statements Y.Ö. and S.Ö. stated that they obtained the magazines from the applicant at the Komal Publication House in Istanbul.

9. On 23 January 1997 police officers from the Istanbul Security Directorate conducted a search at the premises of the Komal Publication House and subsequently arrested the applicant along with eight others.

10. On 24 January 1997 the Istanbul Security Directorate requested the public prosecutor attached to the Istanbul State Security Court to authorise an extension of the applicant's detention period. On the same day the public prosecutor authorised the Security Directorate to extend the detention period until 31 January 1997.

11. On 27 January 1997 the applicant's lawyer petitioned the public prosecutor attached to the Istanbul State Security Court and requested to see the applicant. The public prosecutor rejected this request without giving any reasons.

12. On 31 January 1997 the applicant was questioned by the public prosecutor and refused the accusations against him. The applicant was released on the same day.

13. On 3 February 1997 the public prosecutor decided not to commit the applicant for trial (*takipsizlik kararı*) on the grounds that there existed no evidence to substantiate his involvement in the activities of terrorist organisations.

THE LAW

14. On 17 June 2003 the Court received the following declaration from the Government:

“I declare that the Government of Turkey offer to pay the amount of EUR 4,000 (four thousand euros) to Mr Kadir Satık in respect of application no. 36961/97 on an *ex gratia* basis with a view to securing a friendly settlement of the application. This sum shall cover any pecuniary and non-pecuniary damage as well as legal costs connected to the case, and it will be payable, free of any taxes that may be applicable, within three months after 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 resolution of this case. In the event of failure to pay this sum

within the said three-month period, the Government undertake to pay, until settlement, simple interest on the amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

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

15. On 25 March 2003 the Court received the following declaration signed by the applicant's representative:

“I note that the Government of Turkey are prepared to pay, within three months after the notification of the judgment delivered by the Court pursuant to Article 39 of the European Convention on Human Rights, a total sum of EUR 4,000 (four thousand euros) to Mr Kadir Satık in respect of application no. 36961/97 on an *ex gratia* basis. This sum covers both pecuniary and non-pecuniary damage and legal costs connected with the case with a view to securing a friendly settlement of the application.

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 application 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 25 September 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Deputy Registrar

Christos ROZAKIS
President