



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

THIRD SECTION

CASE OF AHMET TURAN DEMİR v. TURKEY

(Application no. 72071/01)

JUDGMENT
(Friendly settlement)

STRASBOURG

22 December 2005

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

In the case of Ahmet Turan Demir v. Turkey,

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

Mr B.M. ZUPANČIČ, *President*,

Mr J. HEDIGAN,

Mr L. CAFLISCH,

Mr R. TÜRMEŒ,

Mr C. BİRSAN,

Mrs M. TSATSA-NIKOLOVSKA,

Mrs R. JAEGER, *judges*,

and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 1 December 2005,

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

PROCEDURE

1. The case originated in an application (no. 72071/01) against the Republic of Turkey lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Turkish national, Mr Ahmet Turan Demir (“the applicant”, on 16 May 2001.

2. The applicant was represented by Ms B. Boran and Mr M.N. Özmen, lawyers practising in Ankara. 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 Articles 9 and 10 of the Convention that his conviction on account of the speech he made at a party meeting constituted an interference with his right to freedom of expression.

4. On 24 March 2005, after obtaining the parties’ observations, the Court declared the application partially admissible in so far as this complaint is concerned and decided to examine it under Article 10 of the Convention. Further complaints of the applicant were declared inadmissible on the same date.

5. On 11 July 2005, 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 29 August and 14 September 2005 the Government and the applicant respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant was born in 1949 and lives in Ankara.

7. At the material time the applicant was the leader of the People's Democratic Party (HADEP). At a party meeting in Ankara in October 1999 he made a speech, which was recorded and scripted by the police officers of the Ankara Security Directorate.

8. In an indictment dated 8 February 2000 the public prosecutor's office at the Ankara State Security Court, on account of this speech, instituted criminal proceedings against the applicant on the ground of disseminating propaganda against the indivisible unity of the state with its territory and nation, contrary to Section 8 of the Prevention of Terrorism Act (Law no. 3713).

9. In the proceedings before the Ankara State Security Court the applicant pleaded not guilty and maintained that he had never intended to promote separatism. He argued that he expressed his opinion on the country's important questions as the leader of a political party, which is essential in a democratic society, criticised the existing practice and offered their solution to these problems. He further stated that his speech should be assessed within the scope of freedom of expression.

10. On 1 June 2000 the Ankara State Security Court found the applicant guilty as charged by the public prosecutor. It ruled that the speech amounted to dissemination of separatist propaganda against the indivisible unity of the Turkish State with its territory and the nation. He was fined the amount of 800,000,000 Turkish liras and sentenced to one-year term of imprisonment.

11. The applicant appealed against the conviction to the Court of Cassation. On 15 January 2001 the Court of Cassation dismissed the appeal, upholding the State Security Court's assessment under Section 8 of the Prevention of Terrorism Act.

THE LAW

12. On 29 August 2005 the Court received the following declaration from the Government:

"The Government note in the first place that the Turkish law and practice has been brought into line with the Convention's requirements under Article 10 of the Convention with the guidance provided by the Court's ruling against Turkey.

I declare that the Government of Turkey offer to pay *ex gratia* to the applicant an all-inclusive amount of EUR 5,500 (five thousand five hundred euros) with a view to securing a friendly settlement of the above-mentioned application pending before the European Court of Human Rights.

This sum, which is to cover any damages as well as costs and expenses connected with the case, shall be free of any tax that may be applicable and be paid in euros, to be converted into Turkish liras at the rate applicable at the date of payment, 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 notification of the Court's judgment delivered pursuant to Article 39 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case.

The Government further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention."

13. On 14 September 2005 the Court received the following declaration signed by the applicant's representative:

"I note that the Government of Turkey are prepared to pay *ex gratia* to the applicant the sum of EUR 5,500 (five thousand five hundred euros) with a view to securing a friendly settlement of the above-mentioned application pending before the European Court of Human Rights.

This sum, which is to cover any damages as well as costs and expenses connected with the case, shall be free of any tax that may be applicable and be paid in euros, to be converted into Turkish liras at the rate applicable at the date of payment, to a bank account named by us. This sum shall be payable within three months from the date of notification of the Court's judgment delivered pursuant to Article 39 of the European Convention on Human Rights.

I accept the proposal and waive any further claims against Turkey in respect of the facts of this application. I declare that this constitutes a final settlement of the case.

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 that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention after delivery of the Court's judgment."

14. 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).

15. 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 22 December 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER
Registrar

Boštjan M. ZUPANČIČ
President