



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

FOURTH SECTION

CASE OF ULAŞ ÇELİK v. TURKEY

(Application no. 47115/99)

JUDGMENT

STRASBOURG

24 July 2007

FINAL

24/10/2007

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Ulaş Çelik v. Turkey,

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

Sir Nicolas BRATZA, *President*,

Mr J. CASADEVALL,

Mr G. BONELLO,

Mr R. TÜRMEŒ,

Mr K. TRAJA,

Mr S. PAVLOVSCHI,

Mr L. GARLICKI, *judges*,

and Mrs F. ARACI, *Deputy Section Registrar*,

Having deliberated in private on 3 July 2007,

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

PROCEDURE

1. The case originated in an application (no. 47115/99) 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 Ulaş Çelik (“the applicant”), on 21 October 1998.

2. The applicant was represented by Mr H. Atmaz, a lawyer practising in Ankara. The Turkish Government did not designate an Agent for the purposes of the proceedings before the Court.

3. On 4 October 2005 the Court declared the application partly inadmissible and decided to communicate the complaint concerning the alleged unfairness of the proceedings against the applicant on account of the lack of independence and impartiality of the Ankara State Security Court to the Government. Under the provisions of Article 29 § 3 of the Convention, it further decided to examine the merits of the application at the same time as its admissibility.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1979 and lives in Ankara.

5. On 19 July 1995 the applicant was taken into police custody by officers from the anti-terror branch of the Ankara Security Directorate in the course of an operation carried out against an illegal organisation, namely the DHKP/C (Revolutionary People's Liberation Party-Front).

6. On 31 July 1995 the applicant was brought before a judge who ordered his detention on remand.

7. On 16 August 1995 the public prosecutor at the Ankara State Security Court filed a bill of indictment charging the applicant as well as twelve other persons with membership of an illegal organisation, an offence defined in Article 168 § 2 of the Turkish Criminal Code.

8. On 5 June 1997 the Ankara State Security Court convicted the applicant of aiding and abetting the members of the DHKP/C, an offence defined in Article 169 of the Criminal Code, and sentenced him to two years and six months' imprisonment.

9. The applicant appealed against the judgment.

10. On 17 April 1998 the Court of Cassation upheld the Ankara State Security Court's judgment.

11. On an unspecified date the applicant was released from detention.

II. RELEVANT DOMESTIC LAW AND PRACTICE

12. The relevant domestic law and practice in force at the material time are outlined in *Özel v. Turkey* (no. 42739/98, §§ 20-21, 7 November 2002) and *Gençel v. Turkey* (no. 53431/99, §§ 11-12, 23 October 2003).

13. By Law no. 5190 of 16 June 2004, published in the official journal on 30 June 2004, the State Security Courts were abolished.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

14. The applicant submitted that he had been denied a fair hearing by an independent and impartial tribunal on account of the presence of a military judge on the bench of the Ankara State Security Court which tried and convicted him. The applicant relied on Article 6 § 1 of the Convention, which in so far as relevant reads as follows:

“1. In the determination of ... any criminal charge against him, everyone is entitled to a fair and public hearing ... by an independent and impartial tribunal established by law.”

A. Admissibility

15. The Court notes that this part of the application is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

16. The Government maintained that the State Security Courts had been established by law to deal with threats to the security and integrity of the State. They submitted that, in the instant case, there was no basis on which to find that the applicant could have had any legitimate doubts about the independence of the Ankara State Security Court. The Government further referred to the abolition of the State Security Courts in 2004.

17. The Court has examined a large number of cases raising similar issues to those in the present case and in which it found a violation of Article 6 § 1 of the Convention (see *Özel*, cited above, §§ 33-34; *Özdemir v. Turkey*, no. 59659/00, §§ 35-36, 6 February 2003).

18. The Court finds no reason to reach a different conclusion in the instant case. Accordingly, there has been a violation of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

19. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

20. The applicant did not submit any claim for just satisfaction under Article 41 of the Convention taken together with Rule 60 of the Rules of Court. In these circumstances, the Court considers that there is no reason to award any sum under Article 41 of the Convention (see *Ciucci v. Italy*, no. 68345/01, § 33, 1 June 2006).

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the remainder of the application admissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention on account of the Ankara State Security Court's lack of independence and impartiality.

Done in English, and notified in writing on 24 July 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş ARACI
Deputy Registrar

Nicolas BRATZA
President