

Press release issued by the Registrar

CHAMBER JUDGMENT
URCAN AND OTHERS v. TURKEY

The European Court of Human Rights has today notified in writing its Chamber judgment¹ in the case of *Urcan and Others v. Turkey* (applications nos. 23018/04, 23034/04, 23042/04, 23071/04, 23073/04, 23081/04, 23086/04, 23091/04, 23094/04, 23444/04 and 23676/04).

The Court held unanimously that there had been a **violation of Article 11** of the European Convention on Human Rights (freedom of assembly and association).

Under Article 41 of the Convention (just satisfaction), the Court awarded each applicant 500 euros (EUR) in respect of non-pecuniary damage. (The judgment is available only in French.)

1. Principal facts

The applicants, Aysun Urcan, Bircan Tamburacı, Günay Tomba, Şehriye Arslan, Oya Güneş (Başaran), Gülümser Berber, Leyla Doğan, Meral Yaman, Birgül Üçüncü, H. Şahika Türkkan and Zerrin Kiraz, are 11 Turkish nationals living in Izmir. They were born in 1969, 1960, 1961, 1963, 1965, 1956, 1951, 1955, 1968, 1961 and 1959 respectively.

The case concerned the applicants' criminal conviction for taking part in a demonstration organised by the trade union Eğitim-Sen, of which they were all members, except for H. Şahika Türkkan.

On 1 December 2000 the applicants took part in a national one-day strike called to secure an improvement in the working conditions of secondary-school teachers in the public sector.

On an unspecified date the public prosecution service instituted criminal proceedings against the applicants for collectively abandoning their work posts.

In January 2002 the Karşıyaka Criminal Court sentenced each of the applicants to three months and ten days' imprisonment, fined them and excluded them from the civil service for three months. The court then commuted the prison sentence to a fine and suspended the

¹ Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

sentence. The Court of Cassation upheld the judgment but reduced the applicants' exclusion from the civil service to two months and 15 days.

2. Procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 31 May 2004.

Judgment was given by a Chamber of seven judges, composed as follows:

Françoise **Tulkens** (Belgian), *President*,
Antonella **Mularoni** (San Marinese),
Ireneu **Cabral Barreto** (Portuguese),
Vladimiro **Zagrebelky** (Italian),
Danutė **Jočienė** (Lithuanian),
András **Sajó** (Hungarian),
Işıl **Karakaş** (Turkish), *judges*,

and also Sally **Dollé**, *Section Registrar*.

3. Summary of the judgment¹

Complaint

Relying on Article 11 (freedom of assembly and association), the applicants complained that they had been convicted of a criminal offence for taking part in a national one-day strike.

Decision of the Court

Article 11

The Court noted that the national authorities had been notified of the one-day strike in advance.

In the absence of acts of violence by the participants it was important for the public authorities to show a degree of tolerance towards peaceful assemblies, so that the freedom of assembly as guaranteed by the Convention was not made completely nugatory.

The Court noted that the penalties imposed on the applicants, although they had made use of their freedom of peaceful assembly, were likely to dissuade trade unionists and any other person wishing to participate legitimately in such a strike or in actions to defend their members' interests.

The Court therefore concluded that the applicants' convictions had not been "necessary in a democratic society" and accordingly held unanimously that there had been a violation of Article 11.

Judge Mularoni expressed a concurring opinion, which is annexed to the judgment.

¹ This summary by the Registry does not bind the Court.

The Court's judgments are accessible on its Internet site (<http://www.echr.coe.int>).

Press contacts

Adrien Meyer (telephone: 00 33 (0)3 88 41 33 37)

Tracey Turner-Tretz (telephone: 00 33 (0)3 88 41 35 30)

Sania Ivedi (telephone: 00 33 (0)3 90 21 59 45)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.