



## Judgments of 31 January 2023

The European Court of Human Rights has today notified in writing 19 judgments<sup>1</sup>;

One Chamber judgment is summarised below;

separate press releases have been issued for two other Chamber judgments in the cases of: *Y v. France* (application no. 76888/17) and *Kreyndlin and Others v. Russia* (no. 33470/18);

16 Committee judgments, concerning issues which have already been examined by the Court, can be consulted on [Hudoc](#) and do not appear in this press release.

*The judgment summarised below is available only in French.*

### Abdullah Kılıç v. Türkiye (application no. 43979/17)

The applicant, Abdullah Kılıç, is a Turkish national who was born in 1972.

The case concerns the pre-trial detention of a journalist on suspicion of belonging to a terrorist organisation.

Mr Kılıç was placed in pre-trial detention on 29 July 2016. In January 2017 the Istanbul prosecutor's office filed an indictment accusing him of belonging to the FETÖ/PDY (an organisation described by the Turkish authorities as the "Fetullahist Terror Organisation/Parallel State Structure"). In support of its allegations, the prosecutor's office submitted, in particular, six articles written by the applicant and published in the *Meydan* daily newspaper between October 2015 and February 2016; seven tweets published between July 2013 and July 2016 on the applicant's Twitter account; the fact that he had a bank account with the *BankAsya*; and a tweet published on the "Fuatavni" account, purportedly controlled by one of the leaders of the FETÖ/PDY.

In March 2017 the Istanbul 25th Assize Court ordered the applicant's release. However, he was not released since, a few hours after that decision was adopted, the Istanbul prosecutor's office opened a new investigation against him. Mr Kılıç was therefore placed in police custody again. Then, in April 2017, a magistrate ordered his return to pre-trial detention.

In June 2017 the Istanbul prosecutor's office filed a new bill of indictment against the applicant, seeking the imposition of an aggravated life sentence for attempting to overthrow the constitutional order and the government by force and violence. In August 2017 the Istanbul Assize Court, considering that there were factual and legal links between these proceedings and the previous case, decided to join the two sets of criminal proceedings.

In March 2018 the Istanbul Assize Court sentenced the applicant to six years and three months' imprisonment for membership of a terrorist organisation, and the court of appeal upheld that judgment in October 2018. The criminal proceedings are pending before the Court of Cassation.

In September 2016 and in April 2018 the applicant lodged two individual applications with the Constitutional Court. The Constitutional Court examined the applications together.

<sup>1</sup> Under Articles 43 and 44 of the Convention, Chamber judgments are not final. During the three-month period following a judgment's delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Under Article 28 of the Convention, judgments delivered by a Committee are final.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution)

With regard to the “first period of pre-trial detention”, the Constitutional Court found that there was sufficient evidence to justify the strong suspicion that a criminal offence had been committed and held that the applicant’s placement in pre-trial detention pursued a legitimate aim and had been proportionate to that aim. With regard to the “second period of pre-trial detention” (from April 2017), the Constitutional Court held that, although the legal classification of the offences was different, the two periods of detention concerned the same criminal offence. It held that the decision regarding the “second period of pre-trial detention” had not explained why it was necessary to place the applicant in pre-trial detention and how that measure was proportionate in respect of an offence for which he had previously been released. It held that the applicant’s right to liberty and security, as protected by the Constitution, had been breached. It also held that it was not necessary to examine the complaint concerning the applicant’s freedom of expression and freedom of the press, and it awarded him about 3,725 euros (EUR) in respect of non-pecuniary damage and EUR 535 in respect of costs and expenses.

Before the European Court, Mr Kılıç relies on Article 5 §§ 1, 3, 4 and 5 (right to liberty and security) of the European Convention on Human Rights. He alleges, in particular, that there was no evidence giving rise to a reasonable suspicion that he had committed a criminal offence necessitating his pre-trial detention. He complains about the duration of his pre-trial detention and alleges that insufficient reasons were given for the judicial decisions ordering and extending that detention. He complains about the length of the proceedings before the Constitutional Court. He also alleges that no remedy was available to him that would have been effective in obtaining compensation for the damage he suffered as a result of his pre-trial detention.

The applicant also alleges a violation of his right to freedom of expression, under Article 10 of the European Convention, on account of his initial and continued pre-trial detention.

He also relies on Article 18 (limitation on use of restrictions on rights) taken together with Articles 5 and 10 of the Convention, and alleges that he was detained for having expressed critical opinions.

[Violation of Article 5 § 1](#)

[Violation of Article 5 § 3](#)

[Violation of Article 5 § 4](#)

[Violation of Article 5 § 5](#)

[Violation of Article 10](#)

**Just satisfaction:**

non-pecuniary damage: 12,275 euros (EUR)

costs and expenses: EUR 1,100

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**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.