

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

SECOND SECTION

CASE OF ÇETİN v. TÜRKİYE

(Application no. 35454/19)

JUDGMENT

STRASBOURG

23 June 2026

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Çetin v. Türkiye,

The European Court of Human Rights (Second Section), sitting as a Committee composed of:

Péter Paczolay*, President*,
Oddný Mjöll Arnardóttir,
Hugh Mercer*, judges*,
and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to:

the application (no. 35454/19) against the Republic of Türkiye lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 28 May 2019 by a Turkish national, Mr Emre Çetin ("the applicant"), who was born in 2002, lives in Istanbul and was represented by Mr A. Samsum, a lawyer practising in İzmir;

the decision to give notice of the complaints concerning the alleged lack of relevant and sufficient reasons when ordering and extending pre-trial detention and the length of pre-trial detention to the Turkish Government ("the Government"), represented by their Agent at the time, Mr Hacı Ali Açıkgül, former Head of the Department of Human Rights of the Ministry of Justice of the Republic of Türkiye, and to declare the remainder of the application inadmissible;

the parties' observations;

the decision to dismiss the Government's objection to the examination of the application by a Committee;

Having deliberated in private on 2 June 2026,

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

SUBJECT MATTER OF THE CASE

1. The application concerns the pre-trial detention of the applicant on suspicion of having committed an armed robbery. The applicant was 14 years old at the material time.

2. On 2 December 2016 the applicant, together with his co-accused M.Ş., were placed in pre-trial detention on charges of armed robbery. The applicant's lawyer's request for the imposition of child-specific alternative measures was not mentioned in that decision.

3. The applicant was released on 17 October 2017. Throughout his pre-trial detention, objections lodged by the applicant to his initial and continued detention were dismissed by the competent courts. In so doing, the judicial authorities referred, in a general manner, to the following factors: (i) the strong suspicion that the applicant had committed the offence; (ii) the nature of the offence; (iii) the fact that it was among the "catalogue" offences listed in Article 100 § 3 of the Code of Criminal Procedure; (iv) the severity of the sentence prescribed by law for the offence concerned; (v) the state of

the evidence; (vi) the risk of the applicant's absconding and putting pressure on witnesses; and (vii) the finding that alternative measures to detention appeared insufficient.

4. On 8 February 2017 the applicant lodged an individual application with the Constitutional Court. On 20 November 2018 the Constitutional Court declared his application inadmissible. With regard to his complaints concerning the length of his pre-trial detention and the alleged lack of relevant and sufficient grounds in the decisions ordering and extending his pre-trial detention, the Constitutional Court stated that it was unable to conclude that the applicant's detention had been disproportionate and arbitrary, notably in view of the domestic courts' reasoning. On 28 November 2018 the decision of the Constitutional Court was served on the applicant.

5. Relying on Article 5 § 3 of the Convention, the applicant complained in particular about the length of his pre-trial detention, the lack of relevant and sufficient reasons to justify his pre-trial detention, and the fact that no alternative measures had been taken, despite his being a minor.

THE COURT'S ASSESSMENT

ALLEGED VIOLATION OF ARTICLE 5 § 3 OF THE CONVENTION

6. The applicant complained that the decisions of the domestic courts ordering his initial and continued pre-trial detention had been taken without the courts having given relevant and sufficient reasons for the detention.

A. Admissibility

7. The Government raised a plea of non-exhaustion of domestic remedies, arguing that the applicant had failed to make use of the compensatory remedy under Article 141 of the Code of Criminal Procedure. They further submitted that the applicant had failed to comply with the six-month time-limit. They submitted that the applicant's representative had lodged the present application in the absence of the clear will of the applicant to lodge an application, given that the authority section of the application form had been signed subsequently by his lawyer and his father, but not by the applicant himself.

8. In respect of the first objection, the Court notes that similar objections raised by the Government have already been dismissed in other cases against Türkiye (see, for instance, *Selahattin Demirtaş v. Turkey (no. 2)* [GC], no. 14305/17, §§ 212-14, 22 December 2020, and *Baş v. Turkey*, no. 66448/17, §§ 118-24, 3 March 2020), and sees no reason to depart from those findings in the present case.

9. As regards the remaining objections, the Court observes at the outset that the applicant complied with the six-month time-limit in so far as the

present application was lodged on 28 May 2019 – that is, within six months from the final decision of the Constitutional Court, which was served on him on 28 November 2018 (see paragraph 4 above). The Court also reiterates that, according to its case-law, minors are represented before the Court by their parents (compare, *a fortiori*, *Iosub Caras v. Romania*, no. 7198/04, § 21, 27 July 2006). In the present case, it was apparently owing to an error that the authority section of the application form had been signed only by the applicant's lawyer. That error was later rectified when the applicant's lawyer sent, in response to the Registry's letter, a new authority form signed by both him and the applicant's father, who had standing to act on his son's behalf before the Court.

10. The Court cannot but conclude that the applicant intended to authorise his lawyer to lodge an application on his behalf and that he took the measures necessary in that regard. Accordingly, the Court finds that the application has been validly submitted on behalf of the applicant and dismisses the Government's objection in that regard (see *Iosub Caras*, cited above, § 23, and, *mutatis mutandis*, *Zikatanova and Others v. Bulgaria*, no. 45806/11, §§ 70-71, 12 December 2019).

11. The Court lastly considers that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

12. The applicant alleged that the competent courts had not provided sufficient reasons in the decisions ordering and extending his pre-trial detention. He further complained of the allegedly excessive length of his pre-trial detention.

13. The Government submitted that the applicant's initial and continued pre-trial detention had complied with the domestic legislation and Article 5 § 3 of the Convention.

14. The general principles concerning the domestic courts' duty to give relevant and sufficient reasons in ordering and extending pre-trial detention may be found in *Buzadji v. the Republic of Moldova* ([GC], no. 23755/07, §§ 87-89 and 102, 5 July 2016), *Merabishvili v. Georgia* ([GC], no. 72508/13, §§ 222-25, 28 November 2017) and *Karaca v. Türkiye* (no. 25285/15, §§ 137-40, 20 June 2023).

15. In accordance with the Court's established case-law under Article 5 § 3, decisions ordering and extending pre-trial detention must contain relevant and sufficient reasons justifying the necessity of the detention. Those reasons may be a risk of absconding, a risk of pressure being brought to bear on witnesses or of evidence being tampered with, a risk of collusion, a risk of reoffending, or a risk of public disorder and the related need to protect the

detainee (see *Buzadji*, cited above, §§ 87-88 and 101-02). Those risks must be duly substantiated, and the authorities' reasoning on those points cannot be abstract, general or stereotyped (see *Merabishvili*, cited above, § 222).

16. Turning to the present case, the Court observes that the applicant was placed in pre-trial detention on 2 December 2016 and was released on 17 October 2017. Accordingly, the detention period to be taken into account is 10 months and 15 days.

17. The Court further observes that when ordering the applicant's initial and continued pre-trial detention, the competent judicial authorities relied on the following grounds: (i) the nature of the offence and the fact that the offence of armed robbery was among the "catalogue offences" listed in Article 100 § 3 of the Code of Criminal Procedure; (ii) the severity of the sentence prescribed by law for the offence concerned; (iii) the state of the evidence; (iv) the risk of the applicant's absconding and putting pressure on witnesses; and (v) the finding that alternative measures to detention appeared insufficient (see paragraph 3 above).

18. In respect of the first ground relied on by the domestic courts, namely the nature of the offence attributed to the applicant and the fact that it was among the so-called "catalogue" offences, the Court reaffirms that any system of mandatory detention on remand is *per se* incompatible with Article 5 § 3 of the Convention. Where the law provides for a presumption concerning the grounds for pre-trial detention, it must nevertheless be convincingly demonstrated that there are concrete facts warranting a departure from the rule of respect for individual liberty. This is also the case where the judicial authorities justify the detention of a suspect by the nature of the offence in question or the severity of the potential sentence prescribed by law (see *Tuncer Bakırhan v. Turkey*, no. 31417/19, §§ 46-49, 14 September 2021). The Court therefore needs to examine whether the national courts carried out an individualised assessment as to the above-mentioned grounds for detention.

19. As regards the reasons given by the national courts for placing or maintaining the applicant in pre-trial detention, the Court observes, however, firstly that they entail a formulaic enumeration of the grounds for detention under domestic law in a general and abstract manner, such as the state of the evidence and the risk of putting pressure on witnesses. Moreover, the domestic courts gave no explanation as to why any alternative measures to detention were insufficient. It notes in that connection that neither the initial decision ordering the applicant's pre-trial detention, nor the subsequent decisions extending his detention, contained an individualised analysis as to the above-mentioned detention grounds.

20. In the Court's view, decisions worded in formulaic and stereotyped terms, as in the present case, can on no account be regarded as sufficient to justify a person's continued pre-trial detention (see, *mutatis mutandis*, *Şık*

v. Turkey, no. 53413/11, § 62, 8 July 2014). This is particularly so given that the applicant was remanded in pre-trial detention for 10 months and 15 days.

21. The Court also considers that it is necessary to point out the fact that the applicant was a 14-year-old child at the material time and reiterates that, according to its case-law, an applicant's age is a very important factor in assessing the existence of relevant and sufficient grounds. Accordingly, the domestic courts must advance comprehensive reasoning for imposing a custodial measure on minors (see, among other authorities, *Korneykova v. Ukraine*, no. 39884/05, §§ 44 and 48, 19 January 2012). Furthermore, the pre-trial detention of minors should be used only as a measure of last resort and it should be as short as possible (see *Selçuk v. Turkey*, no. 21768/02, §§ 35-36, 10 January 2006, and *Nart v. Turkey*, no. 20817/04, §§ 31 and 33, 6 May 2008). The Court notes in that connection that this is equally in line with Article 37 of the United Nations Convention on the Rights of the Child and section 20 of Law no. 5395 on protection of children – both under these international and domestic standards, detention of a child should have been used only as a measure of last resort.

22. In that connection, the Court cannot overlook the fact that, in the present case, the domestic courts completely disregarded the applicant's age when ordering his pre-trial detention, even though the applicant's lawyer had brought to their attention the availability of child-specific alternative measures which could have been imposed on the applicant (see paragraph 2 above). They also subsequently did not elaborate in their decisions on why the exceptional measure of pre-trial detention had to be upheld in respect of the applicant (compare also *Azizov and Novruzlu v. Azerbaijan*, nos. 65583/13 and 70106/13, § 60, 18 February 2021).

23. Lastly, the Court notes that it has already examined many cases in which it has found a violation of Article 5 § 3 of the Convention for similar reasons (see, among other authorities, *Tuncer Bakırhan*, cited above, §§ 40-58, and the cases cited therein). In the present case, having regard to the grounds provided by the national judicial authorities, the Court considers that they ordered and extended the applicant's pre-trial detention, which covered a period of 10 months and 15 days, on grounds that cannot be regarded as "sufficient" to justify the measure in issue.

24. In the light of the foregoing, the Court concludes that there has been a violation of Article 5 § 3 of the Convention on account of the lack of "sufficient" reasons to justify the applicant's pre-trial detention.

25. In view of this finding, it is not necessary to examine whether the duration of the applicant's detention has complied with the requirements of Article 5 § 3 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

26. The applicant failed to submit, within the allotted time-limit, a claim for just satisfaction. Accordingly, the Court considers that there is no call to award him any sum on that account.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 5 § 3 of the Convention.

Done in English, and notified in writing on 23 June 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Dorothee von Arnim Deputy Registrar	Péter Paczolay President