

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

SECOND SECTION

CASE OF DEMİRHAN v. TÜRKİYE

(Application no. 47065/15)

JUDGMENT

STRASBOURG

25 September 2025

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



In the case of Demirhan v. Türkiye,

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

Gediminas Sagatys*, President*,
Stéphane Pisani,
Juha Lavapuro*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 4 September 2025,

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

PROCEDURE

1. The case originated in an application against Türkiye lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 18 September 2015.

2. The applicant was represented by Mr E.E. Biçer, a lawyer practising in Istanbul.

3. The Turkish Government ("the Government") were given notice of the application.

THE FACTS

4. The applicant's details and information relevant to the application are set out in the appended table.

5. The applicant complained of the deficiencies in proceedings for review of the lawfulness of detention.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 5 § 4 OF THE CONVENTION

6. The applicant complained of the deficiencies in proceedings for review of the lawfulness of detention, and in particular, the lack of speediness of the review of detention by the Turkish Constitutional Court. He relied on Article 5 § 4 of the Convention.

7. The Court reiterates that where an individual's personal liberty is at stake, it has very strict standards concerning the State's compliance with the requirement of speedy review of the lawfulness of detention (see *Idalov v. Russia* [GC], no. 5826/03, § 157, 22 May 2012). That is especially true in the present case, where the proceedings before the Constitutional Court concerning the non-execution of the release orders issued by the Istanbul 32nd Criminal Court of First Instance lasted more than 3 years and 7 months, which is extremely long and cannot be described as speedy within the meaning of Article 5 § 4 of the Convention.

8. In the leading cases of *Baş v. Turkey,* (no. 49548/99, 24 June 2008), *Altınok v. Turkey,* (no. 31610/08, 29 November 2011), *Kavala v. Turkey,* (no. 28749/18, 10 December 2019), *Ragip Zarakolu v. Turkey,* (no. 15064/12, 15 September 2020) and *Khodorkovskiy v. Russia,* (no. 5829/04, 31 May 2011), the Court already found a violation in respect of issues similar to those in the present case.

9. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of these complaints. Having regard to its case-law on the subject, the Court considers that the proceedings by which the Turkish Constitutional Court ruled on the lawfulness of the applicant's pre-trial detention cannot be considered compatible with the "speediness" requirement of Article 5 § 4 of the Convention.

10. As regards the derogation by Türkiye, the Court notes that the applicant lodged his individual application with the Constitutional Court more than one year and two months before the declaration of the state of emergency, and that the Constitutional Court delivered its judgment approximately five months after the state of emergency was lifted on 18 July 2018. In consequence, the overall duration in question cannot in any way be justified by the special circumstances of the state of emergency (see *Kavala*, cited above, § 195).

11. Having regard to the above, the Court concludes that the applicant's complaint is admissible, and that there has been a breach of Article 5 § 4 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

12. Regard being had to the documents in its possession and to its case-law (see, in particular, *Oravec v. Croatia,* no. 51249/11, §§ 78-80, 11 July 2017, *Ayboğa and Others v. Turkey,* no. 35302/08, §§ 28-30, 21 June 2016, *Albrechtas v. Lithuania,* no. 1886/06, §§ 87-89, 19 January 2016, *Karaosmanoglu and Özden v. Turkey,* no. 4807/08, §§ 89-91, 17 June 2014 and *Ceviz v. Turkey,* no. 8140/08, § 64, 17 July 2012), the Court considers it reasonable to award the sums indicated in the appended table.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that this application discloses a breach of Article 5 § 4 of the Convention on account of the lack of a speedy review of the detention by the Constitutional Court;

3. *Holds*

(a) that the respondent State is to pay the applicant, within three months, the amount indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Done in English, and notified in writing on 25 September 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Gediminas Sagatys
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 5 § 4 of the Convention (deficiencies in proceedings for review of the lawfulness of detention)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Name of the first-instance court Date of detention order	Appeal court Date of decision	Other relevant dates	Procedural deficiencies	Amount awarded for non-pecuniary damage and costs and expenses per applicant (in euros)[1]
47065/15 18/09/2015	**Mustafa DEMİRHAN** 1984	Engin Emrah Biçer Istanbul	Istanbul 1st Magistrates Court 04/09/2014	no appeal court	Date of Constitutional application 11/05/2015 Date of the Constitutional Court decision 12/12/2018	lack of speediness of constitutional review (*Kavala v. Turkey*, no. 28749/18, § 196, 10 December 2019)	500

[1] Plus any tax that may be chargeable to the applicant.