

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

SECOND SECTION

CASE OF TURAN v. TÜRKİYE

(Application no. 10178/18)

JUDGMENT

STRASBOURG

9 December 2025

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



In the case of Turan v. Türkiye,

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

Péter Paczolay*, President*,
Gediminas Sagatys,
Stéphane Pisani*, judges*,

and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to:

the application (no. 10178/18) 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 25 January 2018 by a Turkish national, Mr Özgür Turan ("the applicant"), who was born in 1992, was detained in İzmir at the time of lodging the present application with the Court and was represented by Ms N.T. Aslan, a lawyer practising in İzmir;

the decision to give notice of the complaint under Article 6 §§ 1 and 3 (d) of the Convention concerning the lack of sufficient reasoning in the domestic courts' judgments and the applicant's alleged inability to examine two witnesses in person before the trial court and the complaint under Article 7 of the Convention 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 reject the Government's objection to the examination of the application by a Committee;

Having deliberated in private on 18 November 2025,

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

SUBJECT MATTER OF THE CASE

1. The application concerns the alleged unfairness of criminal proceedings owing to the domestic courts' failure to deliver a reasoned judgment in respect of the applicant's conviction for committing an offence on behalf of an armed terrorist organisation, the PKK (the Workers' Party of Kurdistan), without being a member of it and for disseminating propaganda in its favour. The application further pertains to an alleged breach of Article 6 § 3 (d) of the Convention on account of the applicant's inability to question two witnesses. Lastly, the application also concerns an alleged breach of Article 7 of the Convention owing to the allegedly unforeseeable manner in which the applicant was found guilty of committing an offence on behalf of the PKK without being a member of it.

2. On 4 August 2011 the İzmir Public Prosecutor's Office lodged a bill of indictment against the applicant, charging him with various offences (details of which may be found below) based on his acts during a demonstration held

on 23 June 2011. In that regard, the public prosecutor stated that on 23 June 2011 at around 10 p.m. a group of 150-200 PKK supporters had gathered on a street in Manisa to protest against the decision of the High Electoral Board to terminate the term of office of H.D., Member of Parliament for the Labour, Democracy and Freedom Bloc (a coalition between the pro-Kurdish Peace and Democracy Party (BDP) and several smaller left-wing parties and political groups). When the group had attempted to damage a CCTV camera mounted on a pole, two police officers had tried to intervene, but the demonstrators had started chanting slogans such as "Long live President Öcalan" ("*Biji Serok Apo*") and had attacked the officers by throwing stones and Molotov cocktails, inflicting minor injuries as a result. When the demonstrators had attacked the police vehicle, the officers had fired shots in the air and dispersed the group. At around 10.55 p.m. the applicant had been arrested after the police officers had received information that a member of the group had run in the direction of Yeni Harmandalı.

3. The public prosecutor further stated that the two police officers had identified the applicant in person and that the video footage obtained revealed that the applicant had thrown a Molotov cocktail at the police and had helped a minor who had been holding a Molotov cocktail in his hand to damage the CCTV camera. According to the prosecutor, the clothes on the applicant at the time of his arrest and those in the video footage were the same.

4. On 4 April 2012 the Tenth Division of the İzmir Assize Court ("the trial court") delivered its reasoned judgment. It convicted the applicant of the following offences and sentenced him as indicated:

(i) six years and three months' imprisonment for committing an offence on behalf of the PKK without being a member of it, under Article 220 § 6 of the Criminal Code taken in conjunction with Article 314 § 2 of the same Code;

(ii) nine years, five months and fifteen days' imprisonment for criminal damage under Article 152 of the Criminal Code, on the basis that he had attempted to damage the CCTV camera and the police vehicle by throwing stones and a Molotov cocktail;

(iii) two years and six months' imprisonment for using force to obstruct a public officer in the execution of his duties, contrary to Article 265 of the Criminal Code;

(iv) four years and two months' imprisonment and a fine of 2,500 Turkish liras (TRY) for illegal possession of dangerous materials under Article 174 of the Criminal Code, on the basis that he had had a Molotov cocktail in his possession.

5. However, the trial court decided not to impose a penalty on the applicant in respect of the offence of disseminating propaganda in favour of the PKK, holding that his actions had given rise, as a whole, to the offence proscribed under Article 220 § 6 of the Criminal Code.

6. On 2 November 2012 the Court of Cassation upheld the trial court's judgment in respect of the convictions and sentences set out in points (ii), (iii) and (iv) mentioned above (see paragraph 4) but quashed it in respect of the offence of disseminating propaganda in favour of the PKK and the offence mentioned in (i), holding that the legal situation of the applicant should be reviewed in the light of the changes introduced to Article 220 § 6 of the Criminal Code by Law no. 6352 as of 2 July 2012 (for this change see *Gülcü v. Turkey*, no. 17526/10, § 43, 19 January 2016).

7. On 6 May 2013 the Tenth Division of the İzmir Assize Court convicted the applicant of the following offences and sentenced him as indicated:

(i) six years and three months' imprisonment for committing an offence on behalf of the PKK without being a member of it, under Article 220 § 6 of the Criminal Code taken in conjunction with Article 314 § 2 of the same Code (for the text of these provisions, as applicable at the relevant time, see *Işıkırık v. Turkey*, no. 41226/09, §§ 30-31, 14 November 2017);

(ii) ten months' imprisonment for disseminating propaganda of the PKK under section 7(2)(a) of the Prevention of Terrorism Act.

8. As for item (i), the trial court's reasoning was as follows:

> "... In addition, taking into account the defendant's actions for which he was sentenced in our court's file no. 2011/56 [its judgment dated 4 April 2012] and which were finalised by [the Court of Cassation's decision of] approval, it has been assessed that it would be appropriate to decide that the provision for the reduction of sentence in Article 220 § 6 (last sentence) [as applicable at the material time] of the Turkish Criminal Code should not be applied in a discretionary manner, taking into account the nature and purpose of the crimes committed by the defendant on behalf of the armed criminal organisation and the way in which the crimes were committed, in accordance with the amendment made by Law no. 6352 to Article 220 § 6 of the Turkish Criminal Code, and the following judgment has been issued, explaining the reasons for this individualisation ..."

9. As for item (ii), the trial court held that the fact that the applicant had covered his face in order to conceal his identity during the demonstration on 23 June 2011, which had turned into a form of propaganda in support of the PKK, had given rise to the offence of disseminating propaganda in favour of the PKK.

10. On 25 February 2014 the Court of Cassation upheld the applicant's conviction.

11. On 18 July 2017 the Constitutional Court declared the applicant's application inadmissible, finding, among other things, his complaint concerning a breach of the right to a reasoned judgment to be manifestly ill-founded. The Constitutional Court found that the trial court's decision to convict the applicant had contained sufficient reasoning and had been delivered after a discussion of all the accusations and defence submissions that could have had an impact on the outcome of the case. Since the trial court's judgment and its reasons had been upheld on appeal, there had clearly been no violation of the right to a reasoned judgment.

12. The applicant complained that the criminal proceedings against him were unfair, as the domestic courts had failed to deliver a reasoned judgment in respect of his conviction for committing an offence on behalf of an armed terrorist organisation without being a member of it, and for disseminating propaganda in its favour. The applicant further complained of a violation of Article 6 § 3 (d) of the Convention, alleging that he had not been afforded the opportunity to question two key witnesses against him (the two police officers indicated in paragraph 2 above). Lastly, the applicant complained of a breach of Article 7 of the Convention, maintaining that his conviction for committing an offence on behalf of the PKK without being a member of it, resulted from an unforeseeable interpretation of the applicable law.

THE COURT'S ASSESSMENT

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

A. Admissibility

13. The Government invited the Court to declare the complaint inadmissible as being manifestly ill-founded, arguing that it concerned the domestic courts' failure to deliver a reasoned judgment essentially owing to their evaluation of the facts, admissibility and assessment of evidence and application of domestic law. The complaint was therefore of a fourth-instance nature, because the domestic courts had properly examined the applicant's case in detail at three levels of jurisdiction and their findings could not be considered arbitrary.

14. The applicant contested that claim.

15. The Court notes that the complaint relates to a distinct procedural safeguard, namely the right to a reasoned judgment under Article 6 § 1 of the Convention. It cannot thus be regarded as a complaint of a fourth-instance nature. On that basis, the Government's objection is dismissed. The application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

16. The general principles concerning the right to a reasoned judgment under Article 6 § 1 of the Convention have been summarised in *Moreira Ferreira v. Portugal (no. 2)* ([GC], no. 19867/12, § 84, 11 July 2017) and *Ayetullah Ay v. Turkey* (nos. 29084/07 and 1191/08, § 128, 27 October 2020). The Court reiterates that according to its established case-law reflecting a principle linked to the proper administration of justice, judgments of courts and tribunals should adequately state the reasons on which they are based.

The extent to which this duty to give reasons applies may vary according to the nature of the decision and must be determined in the light of the circumstances of the case (see *García Ruiz v. Spain* [GC], no. 30544/96, § 26, ECHR 1999-I). It must be clear from the decision that the essential issues of the case have been addressed (see *Taxquet v. Belgium* [GC], no. 926/05, § 91, ECHR 2010).

17. The Court is called upon to assess whether the domestic courts discharged their duty, under Article 6 § 1 of the Convention, to deliver a reasoned judgment, including their duty to properly state the grounds on which they convicted the applicant, under Article 220 § 6 of the Criminal Code (taken in conjunction with Article 314 § 2), of having committed an offence on behalf of the PKK without being a member of it.

18. At this point, the Court reiterates that, in deciding whether an applicant has received a fair hearing, it does not take the place of the domestic courts, which are in the best position to assess the evidence before them, establish facts and interpret domestic law (see *Ayetullah Ay*, cited above, § 123, with further references). Furthermore, it is not the Court's task to rule on whether the available evidence was sufficient for an applicant's conviction or whether or not he or she was in fact guilty. These matters, in line with the principle of subsidiarity, are the province of the domestic courts (compare *Karpenko v. Russia*, no. 5605/04, § 80, 13 March 2012, and *Mehmet Zeki Çelebi v. Turkey*, no. 27582/07, § 50, 28 January 2020). That being said, and even though domestic courts have a certain discretion when choosing arguments in a particular case and admitting evidence in support of the parties' submissions, an authority is obliged to justify its activities by giving reasons for its decisions (see, in the context of forensic evidence, *Ayetullah Ay*, cited above, § 155).

19. In the present case, the Court is aware that the applicant's actions involved an element of violence, namely throwing stones and Molotov cocktails at the police and helping another demonstrator to damage a CCTV camera mounted on a pole. That being said, the trial court had already convicted him, on the basis of those violent elements, of illegally possessing dangerous materials, of damaging property and of obstructing a public officer in the execution of his duties and sentenced him to a total of sixteen years, one month and fifteen days' imprisonment. More importantly, those convictions became final with the decision of the Court of Cassation dated 2 November 2012 and they therefore do not form part of the Court's examination in the present case (see paragraphs 4 and 6 above). The Court will thus seek to establish whether the domestic courts' finding that the applicant acted "on behalf of the PKK" was supported by reasons that are commensurate with the guarantees of Article 6 § 1 of the Convention.

20. On that point, the Court notes that the trial court did not seem to indicate, in its reasoned judgment dated 6 May 2013, with sufficient clarity the reasons why it found that the applicant had committed an offence "on

behalf of the PKK". Indeed, the relevant part of its judgment which reads: "... taking into account the nature and purpose of the crimes committed by the defendant on behalf of the armed criminal organisation and the way in which the crimes were committed ... the following judgment has been issued ..." does not enable the Court to discern on what basis the trial court concluded that the applicant had acted "on behalf of the PKK without being member of it". Moreover, the impugned reasoned judgment contains no explanation as to why "the nature and purpose of the crimes" or "the manner in which they were committed" led the trial court to conclude that the applicant committed the offences imputed to him on behalf of the PKK without being its member. Accordingly, and bearing in mind that the demonstration during which the applicant committed the acts leading to his conviction was held, according to the bill of indictment, to protest against the decision of the High Electoral Board to terminate the term of office of H.D., Member of Parliament for the Labour, Democracy and Freedom Bloc, the Court considers that the trial court failed to provide a sufficient explanation as to how it related the applicant's actions to the offence of committing an offence on behalf of the PKK without being a member of it.

21. In view of the above, the Court finds that when convicting the applicant for committing an offence on behalf of the PKK without being a member of it, the trial court did not provide reasons commensurate with the seriousness and the importance of the offence in question, which resulted in the applicant being sentenced to six years and three months' imprisonment, (compare also *Gülcü*, cited above, §§ 112 and 114). Accordingly, the Court concludes that the trial court failed to discharge its duty under Article 6 § 1 of the Convention to deliver a reasoned judgment with regard to the applicant's conviction for committing an offence on behalf of the PKK without being a member.

22. There has therefore been a violation of Article 6 § 1 of the Convention.

II. REMAINING COMPLAINTS

23. Having regard to the facts of the case, the submissions of the parties and its findings above, the Court considers that it has dealt with the main legal questions raised by the case and that there is no need to examine the remaining complaints under Article 6 §§ 1 and 3 (d) and Article 7 of the Convention (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

APPLICATION OF ARTICLE 41 OF THE CONVENTION

24. The applicant claimed 35,000 euros (EUR) in respect of non-pecuniary damage and 7,000 Turkish Liras (TRY) (approximately EUR 462 according to the exchange rate applicable at the time) for legal fees

which corresponded to fifty hours of legal work concerning the preparation of the application form and the observations prepared in response to those of the Government.

25. The Government contested those claims.

26. As for non-pecuniary damage, the Court considers that, having regard to the particular circumstances of the case, its finding of a violation of Article 6 § 1 of the Convention constitutes in itself sufficient just satisfaction and makes no award under this head. It reiterates that the most appropriate form of redress would be a retrial in accordance with the requirements of Article 6 of the Convention, should the applicant so request (see also *Ayetullah Ay*, cited above, § 203). Thus, the Court makes no award under this head.

27. Having regard to the documents in its possession, the Court considers it reasonable to award the amount claimed in full for costs and expenses for the proceedings before the Court, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* admissible the complaint under Article 6 § 1 of the Convention concerning the domestic courts' failure to deliver a reasoned judgment in respect of the applicant's conviction for committing an offence on behalf of the PKK without being a member of it;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds* that there is no need to examine the admissibility and merits of the remaining complaints under Article 6 §§ 1 and 3 (d) and Article 7 of the Convention;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the following amount, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      EUR 462 (four hundred and sixty-two euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (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;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 9 December 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Dorothee von Arnim Deputy Registrar	Péter Paczolay President