

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

SECOND SECTION

CASE OF YALDIZ v. TÜRKİYE

(Application no. 9601/18)

JUDGMENT

STRASBOURG

17 June 2025

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



In the case of Yaldız v. Türkiye,

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

Jovan Ilievski*, President*,
Péter Paczolay,
Davor Derenčinović*, judges*,
and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to:

the application (no. 9601/18) 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 2 February 2018 by a Turkish national, Mr Vedat Yaldız ("the applicant"), who was born in 1985, is detained in Denizli and was represented by Ms Z. Özdoğan, a lawyer practising in İzmir;

the decision to give notice of the complaint concerning the alleged breach of the applicant's right to a reasoned judgment under Article 6 § 1 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 inadmissible the remainder of the application;

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 27 May 2025,

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

SUBJECT MATTER OF THE CASE

1. The application concerns an alleged breach of Article 6 § 1 of the Convention due to the domestic courts' failure to deliver a reasoned judgment in convicting the applicant of being a member of an armed terrorist organisation.

2. On 25 April 2008 the İzmir Chief Public Prosecutor's Office filed a bill of indictment against twenty-one individuals, including the applicant, charging him, *inter alia*, under Article 314 § 2 of the Criminal Code (the "CC") for being a member of an armed terrorist organisation, namely the PKK (the Workers' Party of Kurdistan) and under Section 7(2) of the Prevention of Terrorism Act ("Law no. 3713") for disseminating propaganda in favour of the said organisation (see for the full text of the said provisions *Selahattin Demirtaş v. Turkey (no. 2)* [GC], no. 14305/17, §§ 143 and 147, 22 December 2020). The prosecutor mainly referred to three different demonstrations where the applicant had also allegedly been present; the slogans chanted during those demonstrations; and the statements of R.S., a suspect in another set of criminal proceedings who showed effective remorse,

meaning that he had given information about the PKK and its members to the authorities in exchange for the prospect of a reduction in his sentence. R.S. had identified the applicant and forty-eight other individuals from the 268 photos shown to him, and stated that the applicant was one of the directors of the Uşak branch of the YDGH (Patriotic Democratic Youth), the youth wing of the armed terrorist organisation PKK/People's Congress of Kurdistan ("PKK/KONGRA-GEL"). The prosecutor then referred to certain phone conversations amongst the defendants without specifying their content, which were, in his view, of "an organisational nature".

3. The applicant was heard in person by the İzmir Tenth Assize Court ("the trial court") during the hearing of 21 July 2008. In his defence submissions, he briefly reiterated his earlier submissions and denied the allegations against him in an explicit manner.

4. On 13 December 2010 the trial court found the applicant guilty, under Article 314 § 2 of the CC, of being a member of an armed terrorist organisation and sentenced him to six years and three months' imprisonment, while acquitting him of the remainder of the charges. In its judgment, the trial court reproduced the public prosecutor's opinion on the merits of the case, the statements that the defendants had made during the investigation stage and at the trial, and merely listed the evidence before reaching its conclusion.

5. The part of the judgment concerning the convictions based on Article 314 § 2 of the CC under the heading "Assessment of evidence and reasons", which follows the list of evidence in the judgment with no further explanation, reads as follows:

> "Following the examination, evaluation, and deliberation of all the evidence in light of the ordinary course of life and relevant requirements, and upon consideration of the evidence detailed and explicated above, including intercepted communication records, reports prepared regarding the defendants, photographic and video recordings, documents and information of a criminal nature seized from the defendants, the testimony of witness R.S., and the entirety of the case file, it has been conclusively established that defendants A.M.Ö., Y.K., N.A., Vedat Yaldız [the applicant], S.B., S.B., R.S., F.D., O.T., S.A., M.H.S., N.Ö., M.A.Y. and A.K. are members of the terrorist organisation, namely the PKK. The actions display elements of continuity and persistence, and based on the items seized from the defendants and findings regarding them, their actions also display a degree of diversity. In light of these findings, it has been determined that each defendant shall be separately sentenced under Article 314 § 2 of the Criminal Code in accordance with the nature of their respective acts."

6. In the part of the judgment concerning the trial court's assessment of the evidence, no mention was made of any specific telephone calls, their content, or any specific image of the applicant.

7. On 11 November 2011 the applicant lodged an appeal, arguing in particular that the trial court had failed to establish a link between the pieces of evidence and the defendants, thereby falling short of providing relevant and sufficient reasons tailored to his individual circumstances.

8. On 28 April 2016 the Court of Cassation upheld the judgment, holding that the offence had been given the correct legal characterisation and proven in keeping with the nature of the incident and the results of the prosecution, and that the applicant's defence submissions had been dismissed on convincing grounds.

9. In a summary decision of 18 July 2017, the Constitutional Court dismissed the applicant's complaints concerning, *inter alia*, his right to a reasoned judgment as being manifestly ill-founded. The decision was notified to the applicant on 2 August 2017.

THE COURT'S ASSESSMENT

ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

A. Admissibility

10. The Government invited the Court to declare the complaint under Article 6 of the Convention inadmissible for being manifestly ill-founded on the grounds that it was of a fourth-instance nature, claiming that the essence of the applicant's complaints concerned the outcome of the proceedings.

11. The Court notes that the applicant's 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 must be dismissed.

12. The Court notes that 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

1. The parties' submissions

13. The applicant complained that the criminal proceedings had been unfair, due to the domestic courts' failure to indicate, with sufficient clarity, the grounds on which they had convicted him of being a member of an armed terrorist organisation. In particular, the applicant submitted that the trial court had failed to provide an individualised assessment of the evidence in respect of him and to establish a causal link between the evidence and its conclusion concerning him.

14. The Government asserted that the evidence in the case file was sufficient to warrant the applicant's conviction for being a member of an armed terrorist organisation, namely (i) the banned publications discovered in his house, (ii) the information given by R.S., naming the applicant as one of the executives of the YDGH in Uşak, (iii) intercepted telephone

conversations between the defendants, and (iv) evidence attesting that he had not only participated in but also organised demonstrations during which he had chanted slogans. In the Government's view, the trial court indicated those elements as evidence and discussed them in its reasoned judgment and had given sufficient reasons for convicting the applicant. Given the similarities in the defendants' acts, as well as the specific circumstances pertaining to each defendant, the trial court's assessment, which addressed multiple defendants within the same section, did not fall short of the requirements of Article 6 § 1 of the Convention. In any event, the applicant had merely contested the outcome of the criminal proceedings and failed to challenge the evidence against him despite being aware of it. Similarly, none of the applicant's significant arguments had been left unanswered by the domestic courts. Accordingly, the Government considered that the present case did not disclose a violation of Article 6 § 1 of the Convention.

2. The Court's assessment

15. The general principles concerning the right to a reasoned judgment under Article 6 § 1 of the Convention may be found in the cases of *Moreira Ferreira v. Portugal (no. 2)* ([GC], no. 19867/12, §§ 83-84, 11 July 2017), *Bochan v. Ukraine (no. 2)* ([GC], no. 22251/08, § 61, ECHR 2015) and *Ayetullah Ay v. Turkey* (nos. 29084/07 and 1191/08, § 128, 27 October 2020). In particular, according to its established case-law reflecting a principle linked to the proper administration of justice, judgments of courts 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, *inter alia*, *Moreira Ferreira*, cited above, § 84, and *García Ruiz v. Spain* [GC], no. 30544/96, § 26, ECHR 1999-I).

16. In the present case, the Court observes that in its reasoned judgment, the trial court summarised the public prosecutor's opinion on the merits of the case, the defence submissions of the defendants, and listed the available evidence, without indicating the content thereof or any conclusions to be drawn from it, before reaching a conclusion, which is a single paragraph in which fourteen defendants were found guilty of being a member of an armed terrorist organisation. The trial court does not seem to have undertaken an individualised assessment concerning the applicant in the paragraph in question (see paragraphs 4-5 above).

17. While Article 6 § 1 of the Convention does not prevent domestic courts from using the same line of reasoning in respect of a group of individuals who are in a factually and legally identical position, in cases where domestic courts are called upon to determine a criminal charge against several accused having carried out different acts, their duty to give reasons under Article 6 § 1 of the Convention for their decisions on the merits of a case necessarily implies that such reasons should be tailored to the particular

circumstances of each defendant. However, in the present case the trial court's reasoned judgment contains only very succinct and stereotypical reasons without establishing the individual link between the applicant and the evidence examined in court. The court did not clarify in its judgment on the basis of which concrete statements or on the basis of which content of recordings made or documents seized the applicant was found guilty of a particular act or acts which proved that he was a member of a terrorist organisation. The court merely listed all the evidence and concluded that an offence has been committed by the applicant, and also thirteen other defendants, without undertaking an individualised assessment to establish the necessary link between the applicant and the evidence – an essential element in any criminal trial.

18. Moreover, as regards the Government's assertion concerning the sufficiency of the evidence to convict the applicant under Article 314 § 2 of the CC (see paragraph 14 above), the Court reiterates that Article 6 § 1 of the Convention does not lay down any rules on the way in which evidence should be assessed, that being primarily a matter for regulation by national law and the national courts. The Court should not act as a fourth-instance body and will therefore not question under Article 6 § 1 the national courts' assessment, unless their findings can be regarded as arbitrary or manifestly unreasonable (see *Moreira Ferreira*, cited above, § 83, with further references therein).

19. Accordingly, it is not the role of the Court, under Article 6 § 1 of the Convention, to determine whether the evidence before the trial court was sufficient to warrant the applicant's conviction (compare also, *mutatis mutandis*, *Mehmet Zeki Doğan v. Türkiye (no. 2)*, no. 3324/19, § 98, 13 February 2024). Its findings are confined to the examination of the applicant's complaint that the domestic courts did not adequately state the reasons on which they based his conviction.

20. In view of the foregoing considerations, the Court considers that the trial court failed to sufficiently state the grounds which formed the basis of the applicant's conviction of being a member of an armed terrorist organisation and to provide an individualised assessment commensurate with the extremely serious nature of the offence and the impending sentence and its consequences.

21. Accordingly, there has been a violation of Article 6 § 1 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

22. The applicant claimed 23,348 euros (EUR) in respect of pecuniary damage, EUR 6,000 in respect of non-pecuniary damage and EUR 1,632 in respect of costs and expenses.

23. The Government contested those claims.

24. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, it awards the applicant EUR 6,000 in respect of non-pecuniary damage, plus any tax that may be chargeable. Notwithstanding that conclusion, the Court 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 *Süleyman v. Turkey*, no. 59453/10, § 110, 17 November 2020).

25. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court rejects this claim as the applicant failed to submit any supporting documents.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

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

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, EUR 6,000 (six thousand euros) in respect of non-pecuniary damage, plus any tax that may be chargeable, 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;

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

Done in English, and notified in writing on 17 June 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Dorothee von Arnim Deputy Registrar	Jovan Ilievski President