



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

## SECOND SECTION

### **CASE OF OCAK AND OTHERS v. TÜRKİYE**

*(Applications nos. 54358/19 and 25 others –  
see appended list)*

JUDGMENT

STRASBOURG

13 October 2026

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



**In the case of Ocak and Others 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 applications 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”) by the Turkish nationals listed in the appended table (“the applicants”), on the various dates indicated therein;

the decision to give notice of the complaints under Article 5 of the Convention concerning the alleged lack of reasonable suspicion regarding the commission of an offence, the alleged lack of relevant and sufficient reasons when ordering and extending the applicants’ pre-trial detention, the length of the pre-trial detention and the alleged ineffectiveness of the judicial review of the lawfulness of 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 applications inadmissible;

the parties’ observations;

the decision to dismiss the Government’s objection to the examination of the applications by a Committee;

Having deliberated in private on 22 September 2026,

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

**SUBJECT MATTER OF THE CASE**

1. The present applications mainly concern the arrest and pre-trial detention of the applicants in the aftermath of the attempted *coup d’état* of 15 July 2016 on suspicion of their membership of an organisation described by the Turkish authorities as the “Fetullahist Terror Organisation/Parallel State Structure” (*Fetullahçı Terör Örgütü/Paralel Devlet Yapılanması*; hereinafter “FETÖ/PDY”), which was considered by the authorities to be behind the attempted *coup d’état* of 15 July 2016 (further information regarding the events that unfolded after the coup attempt, including the details of the state of emergency declared by the Turkish government between 21 July 2016 and 18 July 2018, and the ensuing notice of derogation given to the Secretary General of the Council of Europe, may be found in *Baş v. Turkey*, no. 66448/17, §§ 6-14 and 109-10, 3 March 2020).

2. On various dates the applicants were arrested and placed in pre-trial detention on suspicion of membership of FETÖ/PDY, an offence punishable

under Article 314 of the Criminal Code (see *Baş*, cited above, § 58). Challenges brought by them against their detention were dismissed, including by the Constitutional Court.

3. On various dates in the course of the ensuing criminal investigations and trials the competent judicial authorities ordered the applicants' continued detention. The applicants were held in custody for periods of up to 11 months and 10 days.

4. It is apparent from the information and documents in the case files that, when ordering and extending the applicants' pre-trial detention, the competent judicial authorities relied on various evidential grounds, including but not limited to: (a) witness statements alleging that the applicants had taken an active part in the hierarchical structure of the FETÖ/PDY; (b) possession of pro-FETÖ/PDY publications; (c) working in, or being a member of, institutions with ties to the organisation in question or an organisation shut down by the state-of-emergency legislative decrees; (d) provision of financial support to FETÖ/PDY or to institutions with ties to FETÖ/PDY; (e) attending or holding meetings (*sohbet*); (f) communication with senior members of the organisation; (g) ensuring communication among FETÖ/PDY members; (h) using the ByLock encrypted messaging application; (i) staying in FETÖ/PDY houses; and (j) carrying out various other activities on the orders of the organisation.

5. It is further apparent from material in the case files that, in accordance with Articles 100 and 101 of the Code of Criminal Procedure (for the text of those provisions, see *Kavala v. Turkey*, no. 28749/18, §§ 71-72, 10 December 2019), the competent judicial authorities mainly justified their decisions to deprive the applicants of their liberty not only on the basis of the existence of reasonable suspicion, but also on grounds of the nature and severity of the alleged offence of membership of an illegal armed organisation and the fact that that offence was among the "catalogue" offences listed in Article 100 § 3 of the Code of Criminal Procedure. Without making an individualised assessment, they also relied on the state of the evidence and the risk of the applicants' absconding and tampering with evidence, and considered that detention would be a proportionate measure in the circumstances. Moreover, in the later stages of the proceedings, the competent judges took into account the time spent by the applicants in pre-trial detention when deciding to extend their detention, without explaining the relevance of that factor to their decision.

6. The applicants' detention was periodically reviewed by the competent courts, either on requests for their release or during regular monthly reviews under Article 108 of the Code of Criminal Procedure. In their subsequent decisions extending the applicants' detention, the domestic courts largely reiterated the reasoning contained in the initial detention order. They considered that alternative measures would not be sufficient to ensure the proper conduct of the proceedings.

7. In the meantime, the applicants lodged one or more individual applications with the Constitutional Court in respect of the detention orders, complaining of, *inter alia*, an alleged lack of reasonable suspicion that they had committed an offence and an alleged lack of reasons to justify the decisions ordering and extending their pre-trial detention, which were declared inadmissible by the Constitutional Court in summary fashion.

8. According to the latest information provided by the parties, most of the applicants were convicted of membership of an illegal armed organisation by the courts of first instance on the basis of evidence that was present at the time of their detention or that appeared at a later stage in the proceedings. It is further apparent that some of the criminal proceedings are still pending before the appellate courts or the Constitutional Court.

## THE COURT'S ASSESSMENT

### I. JOINDER OF THE APPLICATIONS

9. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

### II. ALLEGED VIOLATION OF ARTICLE 5 §§ 1 AND 3 OF THE CONVENTION

10. The applicants complained that there had been no specific evidence giving rise to a reasonable suspicion that they had committed a criminal offence necessitating their pre-trial detention. They further argued that the domestic courts had not provided relevant and sufficient reasons in their decisions ordering their placement in detention and their continued detention. They also maintained that the domestic authorities had failed to consider alternative measures to detention. In that connection, they alleged that there had been a violation of Article 5 §§ 1 (c) and 3 of the Convention.

#### A. Admissibility

11. The Government urged the Court to declare these complaints inadmissible in respect of the applicants who had not made use of the compensatory remedy under Article 141 of the Code of Criminal Procedure, or whose compensation claims were still pending. The Government further submitted that the applicant in application no. 23120/20 had been granted compensation under Article 141 of the Code of Criminal Procedure and had therefore lost her victim status. In addition, they asked the Court to declare the applications inadmissible as being an abuse of the right of application, in so far as the applicants had not informed the Court of the developments in their cases following the lodging of their applications. The Government lastly

submitted that the applicants' initial and continued pre-trial detention had complied with domestic legislation and Article 5 §§ 1 (c) and 3 of the Convention.

12. 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; *Alparslan Altan v. Turkey*, no. 12778/17, §§ 84-85, 16 April 2019; *Baş*, cited above, §§ 118-21; and *Turan and Others v. Turkey*, nos. 75805/16 and 426 others, §§ 57-64, 23 November 2021), and sees no reason to depart from those findings in the present case. As for the Government's objection concerning the victim status of the applicant in application no. 23120/20, the Court observes that the compensation obtained by the applicant following the proceedings under Article 141 of the Code of Criminal Procedure did not relate to the criminal investigation which is the subject of the present application, but rather to an unrelated subsequent criminal investigation that had been discontinued. It therefore dismisses the Government's objections as regards all the applicants.

13. The Court therefore considers that the applicants' complaints under Article 5 §§ 1 (c) and 3 of the Convention are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor are they inadmissible on any other grounds. They must therefore be declared admissible.

## **B. Merits**

### *1. Alleged lack of reasoning in the decisions ordering the applicants' pre-trial detention (Article 5 § 3 of the Convention)*

14. As regards the merits, the Court reiterates that, according to its well-established case-law under Article 5 § 3 of the Convention, the persistence of a reasonable suspicion that a detainee has committed an offence is a condition *sine qua non* for the validity of his or her continued detention. The Court must further establish whether the national authorities gave relevant and sufficient reasons for the detention from the time of the first decision ordering the detention onwards. Those other grounds may be a risk of flight, 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 to public disorder and the related need to protect the detainee (see *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, §§ 87-88 and 101-02, 5 July 2016). Those risks must be duly substantiated, and the authorities' reasoning on those points cannot be abstract, general or stereotyped (see *Merabishvili v. Georgia* [GC], no. 72508/13, § 222, 28 November 2017).

15. The Court notes that when ordering the applicants' initial and continued pre-trial detention, the judicial authorities cited numerous pieces of evidence in support of their findings that there were concrete indications that

the applicants had committed an offence (see paragraphs 4 above). Irrespective of whether such evidence could be the basis of a reasonable suspicion that the applicants had committed the criminal offence in question, the Court reiterates that in addition to the existence of a “reasonable suspicion”, decisions ordering and prolonging pre-trial detention must contain relevant and sufficient reasons justifying the necessity of the detention. In that connection, the Court observes that in Türkiye, as required by the Convention, domestic law provides that the competent judicial authorities must put forward “relevant and sufficient” reasons when considering the need to place and keep a suspect in pre-trial detention. This is a procedural obligation laid down in Articles 100 and 101 of the Code of Criminal Procedure, which provide that decisions to place or keep a suspect in pre-trial detention must include legal and factual reasons (see *Tuncer Bakırhan v. Turkey*, no. 31417/19, §§ 23-24, 14 September 2021).

16. The Court notes in this connection that the competent courts in the present case referred to the following grounds for detention: the nature of the offence; the severity of the sentences prescribed by law for the offence concerned; the state of the evidence; the period spent in detention; the risk of the applicants’ absconding and tampering with evidence; and the finding that alternative measures to detention appeared insufficient (see paragraphs 5-6 above).

17. In so far as the detention was justified on the basis of the “nature of the offence”, the Court notes that the domestic courts ruling on the applicants’ detention considered that they were accused of offences listed in Article 100 § 3 of the Code of Criminal Procedure (also referred to as “catalogue” offences). As regards these “catalogue” offences, the Court observes that under Article 100 § 3 of the Code of Criminal Procedure, Turkish law provides that for certain offences there is a statutory presumption of the existence of grounds for detention (risk of absconding, tampering with evidence, or putting pressure on witnesses, victims and other persons). In this connection, the Court reaffirms that any system of mandatory pre-trial detention 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 (compare *Tuncer Bakırhan*, cited above, §§ 46-49). The Court therefore needs to examine whether the national courts carried out an individualised examination when ordering the applicants’ pre-trial detention.

18. As regards the other reasons given by the national courts for placing or keeping the applicants in pre-trial detention, the Court observes firstly that they entail an enumeration of the grounds for detention under domestic law

in a general and abstract manner, such as the state of the evidence, the period spent in detention and the risk of the applicants' absconding and tampering with evidence. In the Court's view, decisions worded in 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).

19. 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 *Tuncer Bakırhan*, cited above, §§ 40-58, and the cases cited therein; see also *Kolay and Others v. Türkiye* [Committee], nos. 15231/17 and 283 others, §§ 11-19, 12 December 2023, and *Taş and Others v. Türkiye* [Committee], nos. 41527/17 and 212 others, §§ 13-21, 17 December 2024). In the present case, having regard to the grounds provided by the national judicial authorities, the Court considers that they ordered and extended the applicants' pre-trial detention on grounds that, while "relevant", cannot be regarded as "sufficient" to justify the measure in issue.

20. The Court further considers that, since the applicants in the present case were detained – either entirely or predominantly – after the lifting of the state of emergency declared in the aftermath of the coup attempt of 15 July 2016, it has not been established that the failure to comply with the requirements described above could be justified by the derogation notified by the Government of Türkiye under Article 15 of the Convention and did not go beyond the "extent strictly required by the exigencies of the situation" (compare also *Baş*, cited above, § 224, and the references in *Kolay and Others*, cited above, § 18).

21. In the light of the foregoing, the Court concludes that there has been a violation of Article 5 § 3 of the Convention in respect of all the applicants.

*2. Alleged lack of reasonable suspicion that the applicants committed a criminal offence (Article 5 § 1 (c) of the Convention)*

22. Having regard to the particular circumstances of the present case (see paragraph 4 above) and its findings under Article 5 § 3 of the Convention (see paragraph 21 above), the Court considers that it is not necessary to determine whether there was any objective information showing that the suspicion against the applicants was "reasonable" at the time of their detention (for a similar approach, see *Tuncer Bakırhan*, cited above, §§ 36-39; see also *Kolay and Others*, cited above, § 20, and *Taş and Others*, cited above, § 22).

### III. OTHER COMPLAINTS

23. As regards any remaining complaints under Article 5 of the Convention, the Court decides not to examine the admissibility and merits of those complaints, in view of its findings under Article 5 § 3 above and its considerations in *Turan and Others* (cited above, § 98).

## APPLICATION OF ARTICLE 41 OF THE CONVENTION

24. All the applicants requested varying amounts in respect of non-pecuniary damage, submitting their claims within the time-limit allotted. The majority of them also claimed amounts in respect of pecuniary damage and legal costs and expenses incurred before the domestic courts and the Court.

25. The Government contested the applicants' claims as being unsubstantiated and excessive.

26. For the reasons set out in *Turan and Others* (cited above, §§ 102-07), and having regard to the relatively short duration of the applicants' pre-trial detention in the present cases compared to previous similar cases against Türkiye, the Court rejects any claims in respect of pecuniary damage and awards each of the applicants a lump sum of 1,500 euros (EUR) covering non-pecuniary damage and costs and expenses, plus any tax that may be chargeable on that amount.

## FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* admissible the complaints under Article 5 §§ 1 (c) and 3 of the Convention concerning the alleged lack of reasonable suspicion regarding the commission of an offence and the alleged lack of relevant and sufficient reasons when ordering and extending the pre-trial detention;
3. *Holds* that there has been a violation of Article 5 § 3 of the Convention on account of the absence of sufficient grounds for ordering and extending the applicants' pre-trial detention;
4. *Holds* that there is no need to examine separately the merits of the complaints under Article 5 § 1 (c) of the Convention;
5. *Holds* that there is no need to examine the admissibility and merits of the remaining complaints under Article 5 of the Convention;
6. *Holds*
  - (a) that the respondent State is to pay each of the applicants, within three months, EUR 1,500 (one thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage and costs and expenses, 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 amounts at a

rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

7. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 13 October 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Dorothee von Arnim  
Deputy Registrar

Péter Paczolay  
President

## APPENDIX

List of cases:

| No. | Application no. | Case name            | Lodged on  | Applicant<br>Year of Birth<br>Place of Residence         | Represented by             |
|-----|-----------------|----------------------|------------|----------------------------------------------------------|----------------------------|
| 1.  | 54358/19        | Ocak v. Türkiye      | 04/10/2019 | <b>Mehmet Osman OCAK</b><br>1986<br>Manisa               | Arife YÜKSEKDAĞ<br>ALTUNAY |
| 2.  | 56868/19        | Gümüş v. Türkiye     | 16/10/2019 | <b>Bayram GÜMÜŞ</b><br>1987<br>Samsun                    | İnan UZUN                  |
| 3.  | 7087/20         | Bora v. Türkiye      | 17/01/2020 | <b>Kayhan BORA</b><br>1977<br>Ankara                     | Ahmet Serdar GÜNEŞ         |
| 4.  | 14807/20        | Vehapoğlu v. Türkiye | 05/03/2020 | <b>Halil İbrahim VEHAPOĞLU</b><br>1988<br>Samsun         | İnan UZUN                  |
| 5.  | 15026/20        | Yıldırım v. Türkiye  | 05/03/2020 | <b>Ömür YILDIRIM</b><br>1990<br>Rize                     | Sümeyye KETHÜDA            |
| 6.  | 15638/20        | Kara v. Türkiye      | 17/03/2020 | <b>Tamer KARA</b><br>1991<br>Denizli                     | Ali AVCI                   |
| 7.  | 21219/20        | Çınar v. Türkiye     | 15/05/2020 | <b>Taner ÇINAR</b><br>1979<br>Ankara                     | Emine Pınar<br>TEKİNŞEN    |
| 8.  | 21239/20        | Yeşil v. Türkiye     | 28/04/2020 | <b>Hacı İbrahim YEŞİL</b><br>1983<br>Kandel /<br>Germany | Neşe ÖZKAN                 |
| 9.  | 23120/20        | Sağlam v. Türkiye    | 10/06/2020 | <b>Satı SAĞLAM</b><br>1975<br>Karabük                    | Adem UZAK                  |

## OCAK AND OTHERS v. TÜRKİYE JUDGMENT

| No. | Application no. | Case name           | Lodged on  | Applicant<br>Year of Birth<br>Place of Residence    | Represented by             |
|-----|-----------------|---------------------|------------|-----------------------------------------------------|----------------------------|
| 10. | 23376/20        | Ataş v. Türkiye     | 21/05/2020 | <b>Recep ATAŞ</b><br>1977<br>Samsun                 | İnan UZUN                  |
| 11. | 23619/20        | Özen v. Türkiye     | 22/05/2020 | <b>Mehmet ÖZEN</b><br>1956<br>Aydın / Efeler        | Emre AKARYILDIZ            |
| 12. | 25539/20        | Toprak v. Türkiye   | 05/06/2020 | <b>Zeynel TOPRAK</b><br>1975<br>Ankara              | Hakan Ecevit<br>GÜRÜNLÜ    |
| 13. | 25787/20        | Taşkın v. Türkiye   | 19/06/2020 | <b>Erdem TAŞKIN</b><br>1991<br>Ordu                 | Elvan BAĞ CANBAZ           |
| 14. | 33412/20        | Güler v. Türkiye    | 21/07/2020 | <b>Halil İbrahim GÜLER</b><br>1991<br>Kahramanmaraş | Cahit ÇİFTÇİ               |
| 15. | 33441/20        | Saray v. Türkiye    | 09/07/2020 | <b>Fatma SARAY</b><br>1971<br>Manisa                | Arife YÜKSEKDAĞ<br>ALTUNAY |
| 16. | 34888/20        | Yıldırım v. Türkiye | 17/07/2020 | <b>Tarık YILDIRIM</b><br>1981<br>İstanbul           | Emre AKARYILDIZ            |
| 17. | 39226/20        | Kaya v. Türkiye     | 25/08/2020 | <b>Günay KAYA</b><br>1989<br>Kocaeli                | Hanifi BAYRI               |
| 18. | 40911/20        | Aydın v. Türkiye    | 11/09/2020 | <b>Mustafa AYDIN</b><br>1994<br>Afyonkarahisar      | Muhammed Talha<br>AYTEKİN  |
| 19. | 44099/20        | Başak v. Türkiye    | 04/09/2020 | <b>Hasan BAŞAK</b><br>1985<br>Ankara                | Memnune Melike<br>AKYILDIZ |

## OCAK AND OTHERS v. TÜRKİYE JUDGMENT

| No. | Application no. | Case name          | Lodged on  | Applicant<br>Year of Birth<br>Place of Residence | Represented by        |
|-----|-----------------|--------------------|------------|--------------------------------------------------|-----------------------|
| 20. | 44213/20        | Soydaş v. Türkiye  | 10/09/2020 | <b>Okhan SOYDAŞ</b><br>1988<br>Ankara            | Ahmet CANBULAT        |
| 21. | 45821/20        | Güzel v. Türkiye   | 30/09/2020 | <b>Ramazan GÜZEL</b><br>1991<br>Diyarbakır       | Lezgin Ahmet BAYBAŞIN |
| 22. | 49538/20        | Korkmaz v. Türkiye | 21/10/2020 | <b>Tarık KORKMAZ</b><br>1989<br>İstanbul         | Emre AKARYILDIZ       |
| 23. | 51741/20        | İnan v. Türkiye    | 06/11/2020 | <b>Ali İNAN</b><br>1971<br>Çorum                 | Kübra KAZANCI TOSUN   |
| 24. | 52095/20        | Dökme v. Türkiye   | 16/11/2020 | <b>Ezka Turgut DÖKME</b><br>1993<br>İstanbul     | Muhammer DEMİR        |
| 25. | 40875/21        | Koşan v. Türkiye   | 06/08/2021 | <b>Şaban KOŞAN</b><br>1966<br>Kırşehir           | Arzu BEYAZIT          |
| 26. | 59143/21        | Fırat v. Türkiye   | 30/11/2021 | <b>Ümit FIRAT</b><br>1984<br>Erzurum             | Kadir ÖZTÜRK          |