

# European Court of Human Rights: Four Friendly Settlements in Cases on Freedom of Expression (Turkey and Austria)

**IRIS 2002-9:1/4**

*Dirk Voorhoof*

*Human Rights Centre, Ghent University and Legal Human Academy*

After the finding by the European Court of Human Rights of several violations of freedom of expression in Turkey, it seems that the Turkish Government has now become aware of the fact that some restrictions and penalties can manifestly no longer be tolerated from the perspective of Article 10 of the Convention. Shortly after the adoption of a friendly settlement in the case of Altan v. Turkey on 14 May 2002 (see IRIS 2002-7: 2-3), the Court again took note of the agreements reached between the parties in three different cases against Turkey.

In each of these cases, the Turkish Government promised that steps would be taken in order to guarantee the right to freedom of expression and information, including the offer to pay an amount of damages to the applicants. Before the Court, the Turkish Government made the following statement: "The Court's rulings against Turkey in cases involving prosecutions under Article 312 of the Criminal Code and under Article 8 para. 1 of the Prevention of Terrorism Act show that Turkish law and practice urgently need to be brought into line with the Convention's requirements under Article 10 of the Convention. This is also reflected in the interference underlying the facts of the present case. The Government undertake to this end to implement all necessary reform of domestic law and practice in this area, as already outlined in the National Programme of 24 March 2001. The Government refer also to the individual measures set out in Interim Resolution adopted by the Committee of Ministers of the Council of Europe on 23 July 2001 (ResDH (2001) 106), which they will apply to the circumstances of cases such as the instant one". While this statement was made in the Özler case, the essence of the statements delivered by the Turkish Government in the other cases was the same.

All applicants had been found guilty some years ago of dissemination of propaganda against the indivisibility of the State (Prevention of Terrorism Act) or incitement to hatred and hostility arising from a distinction based on race or religion (Article 312 of the Criminal Code). Ali Erol (a journalist), Sürek (a lawyer and publisher) and Özler (a human rights activist) had criticised the policy of the Turkish authorities on the Kurdish Question in newspapers or in public speeches. Each of them had initiated an application against Turkey, complaining, *inter alia*, of a violation of Article 10 of the Convention.

Referring to the commitments undertaken by the Turkish Government in each case and recognising that the friendly settlements are based on respect for human rights as defined by the European Convention, the Court has accordingly struck these cases out of the list.

Another friendly settlement was reached in the case of *Freiheitliche Landesgruppe Burgenland v. Austria* on 18 July 2002. In this case, the applicant (a periodical) had been convicted because of an insulting caricature under Section 115 of the Austrian Criminal Code. In order to reach a friendly settlement before the Court, the Austrian Government has promised to pay the applicant a sum of money as compensation in respect of any possible claims relating to the present application, including an amount for costs and expenses incurred both in the domestic proceedings and in the Convention proceedings. The applicant waives any further claims against Austria relating to the application concerned. Referring to the agreement reached between the parties and satisfied that the settlement is based on respect for human rights as defined by the Convention, the Court struck the case out of the list.

***Arrêt (règlement amiable) de la Cour européenne des Droits de l'Homme (première section), affaire Ali Erol c. Turquie, requête n° 35076/97 du 20 juin 2002***

*Judgment (Friendly settlement) by the European Court of Human Rights (First Section), case of Ali Erol v. Turkey, Application no. 35076/97 of 20 June 2002*

<https://hudoc.echr.coe.int/eng?i=001-60520>

***Judgment (Friendly settlement) by the European Court of Human Rights (Third Section), case of Özler v. Turkey, Application no. 25753/94 of 11 July 2002***

<https://hudoc.echr.coe.int/eng?i=001-60604>

***Arrêt (règlement amiable) de la Cour européenne des Droits de l'Homme (deuxième section), affaire Sürek (n° 5) c. Turquie, requêtes n° 26976/95, 28305/95 et 28307/95 du 16 juillet 2002***

*Judgment (Friendly settlement) by the European Court of Human Rights (Second Section), case of Sürek (n° 5) v. Turkey, Applications nos. 26976/95, 28305/95 and 28307/95 of 16 July 2002*

<https://hudoc.echr.coe.int/eng?i=001-60619>

***Judgment (Friendly settlement) by the European Court of Human Rights (First Section), case of Freiheitliche Landesgruppe Burgenland v. Austria, Application no. 34320/96 of 18 July 2002***

<https://hudoc.echr.coe.int/eng?i=001-60620>

