

MIDDLE EAST TECHNICAL UNIVERSITY  
DEPT OF INTERNATIONAL RELATIONS  
FALL 2004  
IR 555: TURKEY AND THE EUROPEAN COURT OF HUMAN RIGHTS  
FRIDAY, 14:40-17:30  
INSTRUCTOR: N. POLAT

This course aims to introduce the student to the Turkish experience as a participant in the human rights protection system created by the European Convention on Human Rights, arguably the most effective regional instrument for the protection of human rights. In so doing, the course probes into the case law of the European Court of Human Rights, with specific emphasis on cases involving Turkey.

The Convention entered into force in 1953 and Turkey has been a party since 1954. A number of new rights have been added to the Convention system through additional protocols (13 in total), subsequently adopted by the states parties. Protocol 11, in force since November 1998, has restructured the control mechanism of the Convention, replacing the previous machinery (formed by a Commission *plus* a Court) with a new permanent Court as the *sole* control organ of the system.

In 1987, Turkey recognized, initially with reservations, the competence of the Commission, at the time part of the control machinery of the system, to receive individual applications alleging violations of the Convention rights by the Turkish government. The jurisdiction of the Court, again, as part of the previous machinery, was recognized by Turkey in 1989. Within the newly restructured system, the jurisdiction of the Court has become *compulsory* for States parties to the Convention, which currently number 45, including the post-Cold War accessions of Serbia and Montenegro (2004), Armenia, Azerbaijan, and Bosnia-Herzegovina (2002), Georgia (1999), Russia (1998), Ukraine, Moldova, Macedonia, and Croatia (1997), the Baltic States (1996-7), Albania and Andorra (1996), Slovenia and Romania (1994), Czech Republic, Slovakia and Poland (1993), and Hungary and Bulgaria (1992). Currently in progress is the accession process by Monaco.

The course discusses the case law of the Court, with specific reference to Turkey, through some of the hallmark cases. The headings in the outline below indicate the issues covered by the course. The arabic numerals preceding the headings indicate the weeks.

## COURSE MATERIAL

The essential course material, namely the case files, is provided by the instructor. Material for further reading, that is to say the theoretical work, such as scholarly commentaries on the interpretation and scope of the Convention rights, may also be obtained from the instructor.

## COURSE REQUIREMENTS

Specific requirements expected of the participants in the course are to be discussed and fixed by the participants themselves in the introductory session.

## THE OUTLINE OF THE COURSE

### 1. *Introduction*

### 2. *Right to Life (Article 2)*

- Gulec v Turkey, 1998
- Kaya v Turkey, 1998
- Tanli v Turkey, 2001
- Buldan v Turkey, 2004

### 3. *Freedom from Torture, Inhuman and Degrading Treatment (Article 3)*

- Ireland v UK, 1978
- Tekin v Turkey, 1998
- Cicek v Turkey, 2001
- Dulas v Turkey, 2001
- Mehmet Emin Yuksel v Turkey, 2004

### 4. *Right to Personal Liberty and Security (Article 5)*

- Brogan and Others v UK, 1988
- Mansur v Turkey, 1995
- Scott v Spain, 1996
- Sakik and Others v Turkey, 1997
- Kurt v Turkey, 1998
- Akdeniz and Others v Turkey, 2001

### 5. *Right to Fair Trial (Article 6)*

- Mitap and Muftuoglu v Turkey, 1996
- Incal v Turkey, 1998
- Zana v Turkey, 2001
- Cankocak v Turkey, 2001

### 6. *Right to Privacy and Family Life (Article 8)*

- Akdivar v Turkey, 1996
- Dulas v Turkey, 2001

### 7. *Freedom of Thought, Conscience, and Religion (Article 9)*

- Kalac v Turkey, 1997
- Leyla Sahin v Turkey, 2004

### 8-9. *Freedom of Expression (Article 10)*

- Handyside v UK, 1976
- Otto-Preminger Institute v Austria, 1994
- Vogt v Germany, 1995
- Goodwin v UK, 1996
- Lehideux and Isorni v France, 1998
- Zana v Turkey, 1997
- Incal v Turkey, 1998
- Ceylan v Turkey, 1999
- Arslan v Turkey, 1999
- Gerger v Turkey, 1999

*10. Freedom of Assembly and Association (Article 11)*

- United Communist Party of Turkey and Others v Turkey, 1998
- OZDEP v Turkey, 1999
- Refah and Others v Turkey, 2001
- Refah and Others v Turkey, Grand Chamber, 2003
- Yazar and Others v Turkey, 2002

*11. Right to Property (Article 1 of Protocol 1)*

- Akkus v Turkey, 1997
- Aka v Turkey, 1998
- Ipek v Turkey, 2004

*12. Restrictions Imposed on Rights and Freedoms in the Convention (Second Paragraphs of Articles 8-11 and Article 17)*

- Material used in weeks 6-10

*13. Right to an Effective National Remedy (Article 13)*

- Ergi v Turkey, 1998
- Gundem v Turkey, 1998
- Sarli v Turkey, 2001

*14. Cyprus Question*

- Loizidou v Turkey, 1997
- Cyprus v Turkey, 2001