



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

SECOND SECTION

CASE OF KASIM ÖZDEMİR AND MEHMET ÖZDEMİR v. TÜRKİYE

(Application no. 18980/20)

JUDGMENT

Art 3 (procedural and substantive) • Effective investigation into the shooting of a father and his son by a gendarmerie officer, during an incident in their village, resulting in serious injuries to their legs • Sufficient evidence for the Court to conclude that the gendarmerie officer had acted in self-defence to protect his life and physical integrity, and those of two other officers, against serious and imminent threat • Impugned use of force in case-circumstances indispensable and not excessive

Prepared by the Registry. Does not bind the Court.

STRASBOURG

3 December 2024

FINAL

28/04/2025

*This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.*

In the case of Kasım Özdemir and Mehmet Özdemir v. Türkiye,

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

Arnfinn Bårdsen, *President*,

Pauliine Koskelo,

Jovan Ilievski,

Saadet Yüksel,

Anja Seibert-Fohr,

Gediminas Sagatys,

Stéphane Pisani, *judges*,

and Hasan Bakırcı, *Section Registrar*,

Having regard to:

the application (no. 18980/20) 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 two Turkish nationals, Mr Kasım Özdemir and Mr Mehmet Özdemir (“the applicants”), on 22 April 2020;

the decision to give notice to the Turkish Government (“the Government”) of the complaint concerning the alleged ill-treatment inflicted on them;

the parties’ observations;

Having deliberated in private on 12 November 2024,

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

INTRODUCTION

1. The case concerns two applicants, a father and his son, who were shot by a gendarmerie officer during an incident in their village. The applicants mainly complained of a violation of their rights under Articles 2 and 3 of the Convention.

THE FACTS

2. The applicants were born in 1984 and 1956, respectively, and live in Kilis. The second applicant is the first applicant’s father. They were represented by Mr H. Sulu, a lawyer practising in Gaziantep.

3. The Government were represented by their then Agent, Mr Hacı Ali Açıkgül, former head of the Department of Human Rights of the Ministry of Justice of the Republic of Türkiye.

4. The facts of the case may be summarised as follows.

5. On 10 November 2014, at around 7.15 a.m., three gendarmerie officers from the İslahiye gendarmerie command in Gaziantep Province, who were carrying out a patrol to ensure road safety, warned the driver of an approaching vehicle to stop. The driver ignored the warning, so the officers pursued the vehicle. Following a hot pursuit that lasted for a short while, the

suspect vehicle entered Deliosman village, where the applicants resided, followed by the gendarmerie officers' vehicle.

I. EVENTS RESULTING IN THE APPLICANTS' INJURIES AND THE INITIAL STEPS TAKEN BY THE INVESTIGATING AUTHORITIES

6. According to the applicants, upon his arrival in the village, one of the officers, C.Ç., started to fire shots into the air with his rifle. They stated that the first applicant had warned him not to shoot in the village as that could scare the children, at which point C.Ç. had shot him in the leg. The officer then shot at the second applicant, the first applicant's father, who had arrived at the scene of the events after learning that his son had been shot.

7. According to the records drawn up immediately after the events by three gendarmerie officers from the Gaziantep gendarmerie command, the gendarmerie officers on duty that morning had followed a suspicious vehicle, whose driver had ignored their warning to stop, to Deliosman village. The individuals in the vehicle had run away, leaving the vehicle in a narrow alley in the village. As the gendarmerie officers had approached the vehicle and seen bags full of cigarettes in the boot, two unidentified individuals walked up to the vehicle and took its keys. The commanding officer, C.Ç., had asked them to hand over the keys, to which they had responded with profusive language. Subsequently, a number of villagers had arrived at the scene and had started throwing stones at the gendarmerie officers and their vehicle, to which C.Ç. had responded by firing a warning shot into the air. He had moved around 30 to 40 metres away from the vehicle, however the crowd had continued to follow him and the two other officers, resuming their attack, at which point C.Ç. had fired seven warning shots into the air. At that point, the first applicant and another villager had tried to take the officer's rifle from him, but had been unsuccessful. The records concluded that the actions of the first applicant and the other unidentified individuals constituted resistance in order to impede the officers from performing their duties.

8. Following the events, on the same morning, the Kilis public prosecutor initiated an investigation into both the shooting of the applicants and the attack on the gendarmerie officers. He instructed the Gaziantep gendarmerie command to draw up a scene-of-incident report, take witness statements, identify the suspects and take the statements of the gendarmerie officers concerned as victims. At 7.55 a.m. the public prosecutor also instructed the crime scene investigation unit of the İslahiye gendarmerie command to obtain all evidence relating to the shooting of the applicants, to use all forensic tools to secure the evidence obtained, to hand in the findings to the Kilis gendarmerie command and to submit the scene-of-incident report to the public prosecutor's office as soon as possible.

9. On the same day two scene-of-incident reports were drawn up. The first report drawn up by nine officers from the Gaziantep gendarmerie command

stated that after having been informed at 7.15 a.m. that two individuals had been shot in Deliosman village, another team of officers had gone to the village at around 7.30 a.m. to find a number of villagers gathered, as well as the gendarmerie vehicle which had been severely damaged. The report recounted the events as noted in the previous records and stated that as several individuals had not responded to the warning shots and had continued attacking the officers, C.Ç. had fired three shots close to their feet. When the applicants had continued to approach him, C.Ç. had eventually aimed at their feet, as a result of which two individuals had been wounded in their legs and feet. The three officers on duty, including C.Ç., had fled from the village in a civilian car, while the applicants had been taken to hospital in another car.

10. As for the findings of the investigation conducted at the scene, the report noted that there were blood stains around 30 metres away from the gendarmerie vehicle. During the course of the investigation, the village guard handed over a gendarmerie rifle that, according to him, had been given to him by one of the villagers. The gendarmerie vehicle had all its windows and seats broken, its tyres blown out and its two-way radio dismantled. There were six holes on the engine hood and several dents from stones on various parts of the vehicle. Lastly, in line with intelligence received from an informant during the investigation, the officers found 375 cartons of smuggled cigarettes near the first applicant's house.

11. The second scene-of-incident report drawn up by the crime scene investigation unit from the İslahiye gendarmerie command noted that the unit had arrived at the village at 8.30 a.m. It listed the technical details of the evidence secured, mainly the biological swabs taken from the blood stains and the bullets found around the scene. Seven bullets were missing from the cartridge of C.Ç.'s rifle. The gendarmerie vehicle had been severely damaged with blown-out tyres, broken windows, holes and dents on various parts, and there were a considerable number of stones of various sizes in and around the vehicle. The crime scene investigation unit also drew two sketches to reconstruct the events.

12. Meanwhile, swabs taken from the applicants and the three gendarmerie officers, gunshot residue taken from the officers' rifles and the clothes worn by the applicants at the material time were sent to the Gendarmerie General Command in Ankara for an expert examination.

13. On the same day, medical reports were drawn up concerning the three gendarmerie officers involved in the events. All three reports found that the officers had several haematomas and bruises on various parts of their heads and bodies, as well as lesions and scars on their hands and knees. The reports concluded that the officers' injuries could be treated by simple medical intervention and were not life threatening. They were all given ten days' medical leave.

14. On various dates between 10 November 2014 and 18 August 2015, medical reports concerning the applicants were issued by the Kilis State

Hospital and Hatay Mustafa Kemal University Hospital. The reports regarding the first applicant stated that he had suffered a fractured tibia and fibula, that his injuries could not be treated by simple medical intervention and might cause loss of function in the lower left extremity, and that the injuries were not life threatening. The reports regarding the second applicant found that he had several fractures to his tibia and fibula, that he later had an operation for shaft fracture pseudarthrosis, and that his injuries could not be treated by simple medical intervention and were of a nature that could seriously affect his everyday life, but were not life threatening.

15. On 25 December 2014 three reports including transcripts of telephone conversations between the driver of the suspect vehicle and other individuals were issued by the Kilis gendarmerie command. The reports noted that the tapes had been recorded following a prior decision of the Bursa Assize Court to allow the wiretapping of the driver's telephone between 28 October and 28 November 2014. According to the transcripts of those telephone conversations, on one of the tapes, the driver had called one of the villagers, H.D., and asked him to mobilise the other villagers in order to prevent the gendarmerie officers from confiscating the smuggled goods, specifying that there were only three officers. In another conversation with H.D., he said that the villagers had almost lynched the officer who had shot at the two villagers, and that it had been only H.D. and one of the wounded villagers who had fought with the officer. H.D. responded that had it been possible, they would have taken the rifle from the officer.

On the other tapes, the driver described the events to other individuals, stating that following the chase, he had entered the village and the villagers had gathered to stop the officers, telling the latter that they could not take the goods. When officer C.Ç. had threatened to shoot, the villagers had told him that he would not dare to do such a thing. A confrontation had occurred between the villagers and the officers, at which point C.Ç. had shot at two villagers. The driver said that they should have lynched the officer and not have let him get away with it.

II. INVESTIGATION INTO THE SHOOTING OF THE APPLICANTS

16. On 13 November 2014 three of the villagers gave their statements at the Kocabeyli gendarmerie command as witnesses to the shooting of the applicants. They all stated that when they had arrived at the scene of the events, after having heard the shots, they had found the first applicant lying on the ground, at which time the second applicant, who had been running towards the first applicant, had also been shot at by C.Ç. They argued that C.Ç. had threatened them when they had wanted to help the applicants and that he had only allowed the applicants to be taken to hospital after the villagers had pleaded with him.

17. On the same day, one of the gendarmerie officers involved in the events, a certain E.A., stated at the gendarmerie command that after he and the other two officers had chased the suspect vehicle into the village and had found that the vehicle had contained smuggled cigarettes, around fifteen villagers had surrounded them while pushing them and telling them to leave. The crowd had then grown to around fifty to sixty people, who had started a dispute with officer C.Ç. and had thrown stones at the officers, at which point C.Ç. had fired five warning shots into the air with his rifle. Someone from the crowd had tried to take E.A.'s rifle and he had been dragged to the ground and punched. When another individual from the crowd had attempted to grab his belt and threatened to shoot, C.Ç. had warned that person to stop and then shot at him, aiming for his feet because he had not stopped advancing. Subsequently, when another person had started to run in that direction, screaming "They shot my dad", and had attempted to draw the wounded man's weapon, C.Ç. had warned that person and then shot at him, as well, aiming for his feet. The crowd had continued to attack the officers, who had not been able to flee in their vehicle as it had been severely damaged. They had then escaped and returned to the gendarmerie command in another car.

18. Again, on the same day, C.Ç. gave a statement at the gendarmerie command as a suspect in relation to the shooting of the applicants. He gave a general account of the events as stated by E.A. He also specified that when they had exited their vehicle in the village, the villagers had immediately gathered around them, throwing stones, and that two other cars had blocked both ends of the street so that they could not escape. The villagers had continued to attack them, with some among them inciting the others to kill the officers. When he had seen that the other two officers had been dragged to the ground, he had fired six or seven warning shots into the air to no avail. He had seen that some of the villagers had been trying to take E.A.'s rifle and had fired another three warning shots. When one of the villagers had attempted to draw a gun, threatening to shoot, he had warned him several times to stop. Thinking that that person would shoot him, he had eventually shot at him, aiming for his feet from a 3-metre distance. Afterwards, another person had arrived, shouting "You shot my dad" and had tried to take the wounded man's gun, at which point C.Ç. had shot at him as well. He had then been pushed on the ground and hit with stones, but had managed to run away with the other officers as the crowd had started to disperse.

19. C.Ç. maintained that he had been obliged to shoot those individuals as they would have lynched him and the other officers if he had not done so; that he had done so in line with the directives given to gendarmerie officers, without aiming at their heads or chests; and that the shooting constituted self-defence.

20. On 14 November 2014 the first applicant stated at the gendarmerie command that on the morning of the events, he had seen the gendarmerie officer attempting to fire shots into the air and had warned him not to do so

as it would scare the children. However, the officer had shot at him, aiming for his foot. The second applicant noted that he had arrived at the scene of the incident after hearing shots and had yelled at the officer “What have you done?” At which point the latter had shot at him as well. Stating that they did not know why the officer had shot at them, as they had not resisted the officer, smuggled goods, or damaged public property, both applicants submitted that they wished to file a complaint against C.Ç.

21. On 16 January 2015 the Gendarmerie General Command in Ankara issued a report indicating the results of the gunshot residue and shooting-distance analyses. The report concluded that gunshot residue had been found in all the swabs obtained from C.Ç. and the applicants, whereas none had been found in the swabs from the other officers. After giving detailed technical information on the evidence submitted on 10 November 2014, the report noted that the shooting distance could not be determined.

22. On 13 February 2015 the Kilis public prosecutor delivered a decision not to prosecute C.Ç. for the offence of causing intentional bodily harm. On the basis of the tapes of the telephone conversations obtained during the investigation against certain individuals related to the events (see paragraph 15 above), the public prosecutor described the unfolding of events as noted in the scene-of-incident reports. That is to say, the gendarmerie officers had been ambushed by a group of individuals who had thrown stones and had tried to take their weapons. Consequently, all three officers had been injured. C.Ç. had first warned the villagers concerned, then had fired warning shots into the air. He had eventually shot at the applicants’ feet when they had continued to attack him and the other officers. With reference to section 16 of Law no. 2559 on the Duties and Powers of the Police, the public prosecutor found that both the conditions involving the use of a firearm and those of self-defence had been fulfilled (see paragraph 39 below).

23. The applicants objected to that decision, arguing that C.Ç. had started to shoot randomly when he had entered the village and that he had been warned not to do so by the villagers, as stated by all witnesses except for the gendarmerie officers. In addition, the public prosecutor had only relied on the officers’ submissions, disregarding all the other witness statements. He had also failed to note the discrepancy between the officers’ submissions as to whether the applicants had tried to shoot them or tried to grab their weapons. As demonstrated by the telephone conversations, they had not resisted the officers. They argued that the lack of resistance shown, in conjunction with the fact that being shot had caused serious injury, had required the instigation of criminal proceedings against C.Ç.

24. On 23 March 2015 the Kilis Magistrate’s Court dismissed the applicants’ objection, finding that C.Ç.’s actions had remained within the scope of self-defence. That decision was not served on the applicants, and they learned of it on 10 November 2015.

III. CRIMINAL PROCEEDINGS AGAINST THE APPLICANTS

25. On 11 November 2014 one of the villagers, Ö.Ö., who was a relative of the applicants, gave his statement at the gendarmerie command as a suspect. He stated that he had seen the gendarmerie vehicle chasing another vehicle early in the morning and when he had gone to the scene, two individuals unknown to him had been threatening and pushing the gendarmerie officers. Owing to the fact that one of them had continued to push officer C.Ç., the latter had loaded his rifle to fire shots into the air, at which point the first applicant had warned him not to do so as it would scare the children. Afterwards, the first applicant and another person had grabbed C.Ç.'s rifle to stop him and all three had moved down the street pushing each other. Ö.Ö. had then heard the first shot, after which the second applicant had run in that direction and had been shot as well.

26. On 12 November 2014 the brother of the first applicant stated that after the shooting, C.Ç. had threatened to shoot everyone who tried to help, and had escaped in the car of another villager, whom he had also threatened with his rifle.

27. On 13 November 2014 one of the gendarmerie officers involved in the events, A.C., gave his statement as a victim, mainly confirming the statements of the other officers. He noted that the villagers had thrown stones at them and that he had not witnessed the shooting as he had been pushed to the ground.

28. On 13 February 2015, relying on the police records, transcripts of telephone conversations, suspects' statements to the gendarmerie and the officers' medical reports, the Kilis public prosecutor issued an indictment, accusing the applicants, together with a number of villagers, of showing resistance by use of force in order to impede the public officers from performing their duties.

29. During the hearings before the Kilis Criminal Court of General Jurisdiction, the applicants and the gendarmerie officers confirmed their previous statements, while Ö.Ö. changed his. He noted that even though he had previously stated that he had seen the first applicant grab the gendarmerie officer's rifle, he did not actually remember that, and that the gendarmerie officers had been attacked by individuals that he had not recognised.

30. On 6 November 2018 the Criminal Court concluded that the events had unfolded as described by Ö.Ö. in his initial statements, which had been in line with the statements of the gendarmerie officers involved in the events (see paragraph 25 above). The domestic court concluded accordingly that while several other villagers had attacked and pushed the gendarmerie officers, the first applicant had grabbed one of the officers' rifles and had also attempted to grab his belt before threatening him, as a result of which the officer had shot at him. As the second applicant had approached and attempted to draw the first applicant's gun, the officer had shot at him as well.

The court then found the applicants guilty as charged and sentenced them to eight months and ten days' imprisonment. Taking into account their good behaviour during the trial and the lack of serious harm resulting from the offence at issue, it ordered the suspension of the pronouncement of the judgment upon the applicants' approval, on the condition that they did not commit another intentional offence for a period of five years, under Article 231 of the Code of Criminal Procedure.

31. The applicants lodged an objection against that decision, arguing that there was nothing to demonstrate that they had been among those who had injured the gendarmerie officers or damaged their vehicle. The scene-of-incident report and other records relied on by the domestic court had been based solely on the statements of the gendarmerie officers and had disregarded the witness statements. In particular, all of the witnesses had stated that the second applicant had been shot at random while trying to reach his son.

32. On 25 March 2019 the Kilis Assize Court dismissed the applicants' objection.

IV. PROCEEDINGS IN THE CONSTITUTIONAL COURT

A. Individual application concerning the applicants' rights under Article 3 of the Convention

33. On 10 November 2015 the applicants lodged an individual application with the Constitutional Court, claiming, *inter alia*, a violation of their right to life, right to a fair trial, right to liberty and security, and the prohibition of torture. They argued that they had been shot at random by the gendarmerie officer, despite the fact that the first applicant had simply warned the officer not to shoot and that the second applicant had arrived at the scene of events only after the shooting of the first applicant and had not made any attempts against the officer. The investigation into the events had been ineffective, as the public prosecutor had delivered a decision not to prosecute without any reasoning and had merely relied on the statements of the gendarmerie officers, without any mention of the several witness statements, all of which had confirmed their version of events. In addition, while it had been clear from the transcripts of the telephone conversations that the applicants had not been involved in the smuggling offences and that there had been no reason for them to act against the gendarmerie officers, the investigating authority had failed to clarify those points.

34. On 23 October 2019 the Constitutional Court requalified the applicants' complaints and assessed them from the standpoint of Article 17 of the Constitution regarding treatment contrary to human dignity, in particular, the prohibition of ill-treatment. It found that the applicants' complaints mainly concerned the use of force against them and the alleged

ineffectiveness of the investigation. It noted that the force used had not been potentially lethal. The Constitutional Court concluded that while the complaint had been admissible, there had been no violation of Article 17 of the Constitution.

35. With respect to the substantive aspect of the complaint, the Constitutional Court took into account the crowd's attack on the gendarmerie officers. It found that members of the crowd had thrown stones and caused damage to the gendarmerie vehicle. Moreover, certain individuals had attempted to take the rifles of officers C.Ç. and E.A. The use of force by C.Ç., after having previously fired warning shots that had been ignored by the crowd, had aimed to stop the assault against him and the other officers, and had therefore been necessary and proportionate. As for the procedural aspect, the Constitutional Court stated that the applicants had not specifically complained about any shortcomings regarding their inclusion in the investigation, the investigating authorities' collection of evidence, or the expediency and diligence of the investigation, which, in any event, had not raised any issue. The investigation had been carried out in an independent manner. In so far as the applicants complained about the lack of an adequate assessment of evidence and the lack of reasoning provided by the public prosecutor, the Constitutional Court noted that it could not replace its assessment with that made by the investigating and judicial authorities.

B. Individual application concerning the fairness of the criminal proceedings against the applicants

36. On 22 April 2019 the applicants lodged another individual application with the Constitutional Court, this time mainly complaining of the alleged unfairness of the criminal proceedings against them. They argued that the Criminal Court had failed to assess the witness statements in their favour and had found them guilty of showing resistance in order to impede the public officers from performing their duties, whilst no criminal proceedings had been brought against the gendarmerie officer who had shot them.

37. On 10 December 2019 the Constitutional Court rejected their application as being manifestly ill-founded, finding that the decision to suspend the pronouncement of the judgment had been delivered with their approval.

RELEVANT LEGAL FRAMEWORK

38. The relevant sections of Law no. 2803 on the Organisation, Duties and Powers of the Gendarmerie read as follows:

Section 7
General duties of the gendarmerie

“The duties of the gendarmerie in its areas of jurisdiction are as follows:

a) Civil duties:

To ensure, protect and maintain safety, security and public order; to prohibit, track and investigate smuggling; to implement necessary measures with a view to preventing crime.”

Section 11
Power to use arms

“During the performance of the duties entrusted to them, gendarmerie officers have the power to use firearms, as prescribed by law, in compliance with the nature of the service and the requirements of those duties.”

39. The relevant parts of section 16 of Law no. 2559 on the Duties and Powers of the Police read as follows:

“In the event of any resistance encountered while performing their duties, the police are empowered to use force with the aim of quelling that resistance and to the extent required to do so.

Within the scope of the power to use force – in view of the nature and degree of the resistance encountered and in order to neutralise those participating – bodily force, material force, and, when the legal conditions are satisfied, firearms may be used in a manner gradually increasing in severity.

...

Before the use of force, those concerned shall be warned that direct force shall be used if they continue to resist. However, taking account of the nature and degree of the resistance, force may be used without any warning.

...

In the face of an attack on them or others, the police shall defend themselves and others within the framework of the provisions of the Turkish Criminal Code (Law no. 5237) relating to self-defence, without being bound by the conditions regarding the use of force.

The police have the power to use firearms

(a) within the context of the right to self-defence;

(b) when faced with resistance which could not be quelled by the use of bodily or material force, and with the aim of quelling that resistance and to the extent required to do so; and

(c) against those who attack or attempt to attack them or other persons, buildings ... open or closed public spaces with Molotov cocktails, explosives, combustibles, asphyxiates, injury-inducing or similar weapons, with the aim of stopping the attack and to the extent required to do so.”

40. Article 25 of the Criminal Code (Law no. 5237) concerning the right to self-defence provides as follows:

“(1) No penalty shall be imposed on a perpetrator on account of acts committed out of a requirement to avert an unjust attack directed at the rights of the perpetrator or others, which either has occurred, or certainly will occur, provided that these acts are proportionate to the attack under the circumstances and the conditions at that moment.”

41. The relevant parts of the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials were set out in *Giuliani and Gaggio v. Italy* ([GC], no. 23458/02, § 154, ECHR 2011 (extracts)), and *Aydan v. Turkey* (no. 16281/10, § 47, 12 March 2013).

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 2 AND 3 OF THE CONVENTION

42. The applicants complained under Articles 2, 3, 8, 13 and 14 of the Convention that their right to life and the prohibition of ill-treatment had been violated owing to the fact that they had been seriously injured by the use of force by a gendarmerie officer and that the State authorities had failed to carry out an effective investigation into their shooting.

43. The Court considers that the applicants’ complaints should be examined from the standpoint of Articles 2 and 3, which read as follows:

Article 2

“1. Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

- (a) in defence of any person from unlawful violence;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) in action lawfully taken for the purpose of quelling a riot or insurrection.”

Article 3

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

A. Admissibility

1. Applicability of Articles 2 and 3 of the Convention

44. The applicants relied on Articles 2 and 3 of the Convention, arguing that their rights under both provisions had been breached on account of the arbitrary use of force by the gendarmerie officer who had shot them.

45. The Court has previously examined complaints under Articles 2 and/or 3 of the Convention where, as in the present case, the victim had not died as a result of the act in question. In that connection, it refers to the principles established in *Makaratzis v. Greece* ([GC], no. 50385/99, §§ 49-51, ECHR 2004-XI).

46. In particular, the Court reiterates that it is only in exceptional circumstances that physical ill-treatment by State agents which does not result in death may disclose a violation of Article 2 of the Convention. It is true that in proceedings brought under the Convention, the criminal responsibility of those concerned for the use of the impugned force is not in issue. Nonetheless, the degree and type of force used and the intention or aim behind the use of force may, among other factors, be relevant in assessing whether in a particular case the State agents' actions in inflicting injury short of death are such as to bring the facts within the scope of the safeguard afforded by Article 2 of the Convention, having regard to the object and purpose pursued by that Article. In almost all cases where a person is assaulted or ill-treated by the police or soldiers, their complaints will rather fall to be examined under Article 3 of the Convention (*ibid.*, § 51).

47. In the present case, it is not in dispute between the parties that the gendarmerie officer C.Ç. shot at both of the applicants, aiming close to their feet. The applicants did not claim that C.Ç. had fired towards them more than once or had aimed at other parts of their bodies or that they had been shot in the lower leg by chance. Nor did they argue, either in the domestic proceedings or in the proceedings before the Court, that the use of force against them had been potentially lethal or had been carried out with the intention to kill them. Taking into account the medical reports issued with respect to the applicants' injuries and both parties' accounts of the events, the Court considers that it was not by sheer chance that the applicants were shot in their legs, close to their feet but that the shots were administered in a controlled and calculated manner, specifically aiming at that area (contrast *Makaratzis*, cited above, § 54; *Evrin Öktem v. Turkey*, no. 9207/03, §§ 41-43, 4 November 2008; and *Trévalec v. Belgium*, no. 30812/07, § 60, 14 June 2011).

48. The Court also notes that despite the fact that the applicants both suffered from serious injuries to their legs, and, in particular, that the second applicant's injury was found to be of a nature that could seriously affect his everyday life, the medical reports concluded that the injuries had not been life threatening (see paragraph 14 above).

49. Whilst the lack of a clear intention by the security forces to kill the applicants or the fact that their injuries were not life threatening are not in themselves sufficient to reach a conclusion with regard to the applicability of Article 2 (see *Makaratzis*, cited above, §§ 54-55, and *Trévalec*, cited above, §§ 57-59), taking account of the circumstances as a whole, in particular the degree and type of force used, the Court concludes that the impugned use of

force cannot be considered potentially lethal (see *Parlak v. Turkey*, no. 22459/04, § 45, 19 July 2011).

50. Accordingly, the Court concludes that the applicants' complaints do not fall within the scope of Article 2 and must be examined only under Article 3 of the Convention, which is clearly applicable.

2. Other issues of admissibility

51. The Government invited the Court to declare the applicants' complaints regarding their alleged ill-treatment inadmissible as being manifestly ill-founded, arguing that their complaints had been duly examined by the domestic authorities and - in line with the principle of subsidiarity - there was no reason to deviate from the latter's conclusions.

52. The applicants did not respond to the specific argument raised by the Government regarding the admissibility of their application.

53. The Court observes that a similar objection by the Government was examined in *Demirtaş and Yüksekdağ Şenoğlu v. Türkiye* (nos. 10207/21 and 10209/21, §§ 77-78, 6 June 2023). In that case, the Court dismissed the objection raised by the Government, holding that it had both jurisdiction and a duty to examine substantive findings made at national level when applying the principles deriving from the Convention and its case-law and that the principle of subsidiarity could not be used to the detriment of the very spirit of the Convention. The Court sees no reason to depart from those findings in the present case and dismisses the Government's objection (see *Namık Yüksel v. Türkiye*, no. 28791/10, § 35, 27 August 2024).

54. The Court further notes that these complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits

55. The Court observes that the applicants' complaints concern both the substantive and procedural aspects of Article 3 of the Convention. Being sensitive to the subsidiary nature of its task and recognising that it must be cautious in taking on the role of a first-instance tribunal of fact where this is not rendered unavoidable by the circumstances of a particular case, the Court considers it appropriate to firstly examine whether the applicants' complaints of ill-treatment were adequately investigated by the authorities (see *Shmorgunov and Others v. Ukraine*, nos. 15367/14 and 13 others, § 326, 21 January 2021, with further references).

1. *Procedural aspect of Article 3 of the Convention*

(a) **The parties' submissions**

56. The applicants complained that the State authorities' failure to bring criminal proceedings against C.Ç., the gendarmerie officer who had shot them, had violated their rights under Article 3 of the Convention. They mainly argued that in its decision not to prosecute C.Ç., the public prosecutor had disregarded all the witness statements, had merely relied on the statements made by the suspect and the other two gendarmerie officers under his command and had failed to take account of the wrongful claims in the statements made by the latter, which had not been in line with the subsequent findings of the investigation.

57. The Government averred that the investigation into the shooting had been prompt, thorough and diligent and that the applicants had been involved at all stages of the investigation. The public prosecutor had immediately been informed of the incident and scene-of-incident reports had been drawn up on his instructions by officers independent of those involved in the events. The public prosecutor had also obtained the statements of everyone concerned and delivered his decision not to prosecute on the basis of a range of evidence, including witness statements. Relying on the principles established by the Court's case-law, the Government submitted that the investigation had been effective.

(b) **The Court's assessment**

(i) *General principles*

58. The obligation to carry out an effective official investigation into arguable allegations of treatment infringing Article 3 suffered at the hands of State agents is well established in the Court's case-law (see *El-Masri v. the former Yugoslav Republic of Macedonia* [GC], no. 39630/09, §§ 182-85, ECHR 2012; *Mocanu and Others v. Romania* [GC], nos. 10865/09 and 2 others, §§ 316-26, ECHR 2014 (extracts); and *Bouyid v. Belgium* [GC], no. 23380/09, §§ 114-23, ECHR 2015).

59. In order to be "effective", as this expression is also to be understood in the context of Article 2, such an investigation must be adequate. That is, it must be capable of leading to the establishment of the facts and to a determination of whether the force used was or was not justified in the circumstances, and of identifying and – if appropriate – punishing those responsible (see *Shmorgunov and Others*, cited above, § 328, with further references).

60. Generally speaking, for an investigation to be effective, the institutions and persons responsible for carrying it out must be independent from those targeted by it. This means not only a lack of hierarchical or institutional connection but also practical independence (see *Bouyid*, cited above, § 118).

61. Whatever mode is employed, the authorities must act of their own motion. The investigation should be broad enough to permit the investigating authorities to take into consideration not only the actions of the State agents who directly used force, but also all the surrounding circumstances (*ibid.*, § 119).

62. The investigation into serious allegations of ill-treatment must be both prompt and thorough. That means that the authorities must always make a serious attempt to find out what happened and should not rely on hasty or ill-founded conclusions to close their investigation or to use as the basis of their decisions. They must take all reasonable steps available to them to secure the evidence concerning the incident, including, *inter alia*, eyewitness testimony and forensic evidence (see *El-Masri*, cited above, § 183, with further references).

63. Although this is not an obligation of result, but one of means, any deficiency in the investigation which undermines its ability to establish the circumstances of the case or the person responsible will risk falling foul of the required standard of effectiveness (see *Bouyid*, cited above, § 120).

64. The victim should be able to participate effectively in the investigation (*ibid.*, § 122).

65. Lastly, the criteria that an investigation has to satisfy for the purposes of the procedural obligation under Articles 2 and 3 of the Convention are interrelated and each of them, taken separately, does not amount to an end in itself, as is the case in respect of the requirements for a fair trial under Article 6. They are criteria which, taken jointly, enable the degree of effectiveness of the investigation to be assessed. It is in relation to this purpose of an effective investigation that any issues must be assessed (see *Mustafa Tunç and Fecire Tunç v. Turkey* [GC], no. 24014/05, § 225, 14 April 2015, and *Nicolae Virgiliu Tănase v. Romania* [GC], no. 41720/13, § 171, 25 June 2019).

(ii) *Application of those principles to the present case*

66. The Court notes at the outset that on 10 November 2014, immediately after the events at issue, the Kilis public prosecutor initiated of his own motion investigations into both the shooting of the applicants and the attack on the gendarmerie officers. Within that context, he instructed the Gaziantep gendarmerie command and the crime scene investigation unit of the İslahiye gendarmerie command to obtain and secure all relevant evidence and to prepare scene-of-incident reports. Both teams arrived at the scene within an hour of the events and drew up the reports on the same day, as well as sketches reconstructing the events, as requested by the public prosecutor (see paragraphs 8-11 above).

67. Medical reports detailing the injuries sustained by the applicants and the gendarmerie officers were obtained on the day of the events. Moreover, the evidence collected at the scene of the incident, as well as the swabs

obtained from the applicants and officers, were submitted to the relevant authority for gunshot residue and shooting-distance assessments (see paragraphs 12-14 above).

68. During the days that followed, a number of people involved in the events submitted their statements, either as victims, suspects or witnesses in the course of the two simultaneous investigations. In particular, the gendarmerie officers' statements were obtained on 13 November and the applicants' statements on 14 November 2014, that is to say three and four days after the events respectively (compare *Aydan*, cited above, § 112, where the delay between the fatal shooting of the applicants' relative and the police officer's interrogation was seven days).

69. The accounts of the applicants and most of the villagers, in which they stressed that the commanding officer C.Ç. had started to shoot at random and that the applicants had merely been warning him not to do so, substantially differed from those of the gendarmerie officers involved, all three of whom maintained that they had been attacked with stones and pushed to the ground, with two of them noting that some of the villagers had tried to take their rifles. The Court notes in that connection that the submissions of Ö.Ö., who was interviewed one day after the incident as a suspect in the investigation into the resistance against the gendarmerie officers, corroborated the account of the officers as regards the confrontation and attack. In his statements Ö.Ö. confirmed, in particular, that the gendarmerie officers had been pushed around by several individuals and that the first applicant and C.Ç. had had a scuffle when the former had tried to grab the officer's rifle in an attempt, according to Ö.Ö., to stop him from firing shots into the air (see paragraph 25 above).

70. In addition to the above-mentioned evidence, transcripts of telephone conversations between the driver of the suspect vehicle and some of the villagers demonstrated that there had been an altercation between the gendarmerie officers and some of the villagers, and that the officers, C.Ç. in particular, had risked being lynched (see paragraph 15 above).

71. It is true that, as stated by the applicants, the Kilis public prosecutor's decision not to prosecute C.Ç., which was delivered promptly –three months after the events – did not contain a detailed description of the evidence relied on in reaching that decision, except for mentioning the transcripts of the telephone conversations as the basis for the establishment of the events. It also failed to make any reference to the statements given by the applicants and the villagers involved (see paragraph 22 above).

72. However, the Court cannot disregard the fact that, in addition to the transcripts of telephone conversations documenting the mobilisation of a number of villagers against the gendarmerie officers, the public prosecutor, who carried out two simultaneous investigations into two different facets of the events, had access to the detailed evidence in both files, which had been obtained on his instructions. In view of all the steps taken in order to

determine the necessity of the use of the impugned force, the Court considers that the public prosecutor cannot be reproached for merely having omitted to provide the reasons for not having relied on the witness statements, which, in any event, fell short of clarifying how the injuries to the gendarmerie officers and the damage to their vehicle might have occurred. Nor can it be argued that the public prosecutor did not take account of those statements, including that of Ö.Ö., and all the other evidence obtained during the course of the two investigations. The Court considers that, although not mentioned in the decision not to prosecute, that set of evidence was sufficient to reach a conclusion on whether C.Ç. had acted in self-defence (compare *Giuliani and Gaggio*, cited above, § 320).

73. In that context, although the applicants argued that the public prosecutor had failed to address the discrepancies in the gendarmerie officers' claims that the first applicant had attempted to grab his gun and that the second applicant had run towards him shouting "You shot my dad" – whereas he was actually the first applicant's father – the Court considers that those claims cannot be considered as having had a decisive effect on the conclusion of the investigation. Neither in the decision not to prosecute C.Ç., nor in the indictment against the applicants, did the public prosecutor mention the first applicant attempting to grab his gun. Instead, he mainly relied on the attack against the officers as a whole and the applicants' continued advance towards C.Ç., which, he argued, had forced him to shoot at them.

74. As regards the independence and impartiality of the investigation, the Court observes that, as noted above, the decision not to prosecute C.Ç. and the indictment against the applicants, charging them with resistance in order to impede the officers from performing their duties, were both delivered by the same public prosecutor on the same day. It considers that in view of the above-mentioned investigative steps taken by the public prosecutor, this fact is not in itself sufficient to call into question the independence of the investigation (compare and contrast *Boicenco v. Moldova*, no. 41088/05, §§ 124-26, 11 July 2006, where the Court found a violation of the procedural aspect, as the public prosecutor, who had previously filed criminal charges against the applicant, had failed to take any investigative measures or to examine the applicant's medical file).

75. The Court also notes that the main evidence – except for the initial statements of Ö.Ö. – allowing the public prosecutor to reach the conclusion that C.Ç. had acted in self-defence, namely, the scene-of-incident reports and telephone transcripts, was handled by different gendarmerie commands. In view of the technical and objective nature of those items of evidence, this fact cannot be said to have adversely affected the impartiality of the investigation. To hold otherwise would be to impose unacceptable restrictions in many cases on the ability of the investigating authorities to call on the expertise of law-enforcement agencies, which often have particular competence in such matters (see *Giuliani and Gaggio*, cited above, § 322).

76. The Court observes, in particular, that one of the two scene-of-incident reports was drawn up by the crime scene investigation unit of the İslahiye gendarmerie command, where C.Ç. worked. The other report also contained an account of the events by the Gaziantep gendarmerie command. Although the applicants had a different account as to the unfolding of the events, they did not question at any stage, the accuracy of the information in those reports regarding the scene of the incident, which pointed, in particular, to the damage caused to the gendarmerie vehicle and noted that one of the gendarmerie officers' rifles had been found in the village (see paragraphs 10-11 above). In addition, the facts of the present case do not at all indicate that C.Ç.'s branch was implicated in the events to a significant extent (see *Giuliani and Gaggio*, cited above, § 324).

77. Lastly, the Court notes that the applicants were involved in the investigation, were able to challenge the public prosecutor's decision before a judicial body and had their individual application examined by the Constitutional Court.

78. In view of the foregoing and being attentive to the seriousness that attaches to a ruling that a Contracting State has violated fundamental rights (*El-Masri*, cited above, § 151), the Court considers that the investigation into the shooting of the applicants by the gendarmerie officer was effective.

79. The Court concludes, therefore, that there has been no violation of Article 3 of the Convention in its procedural aspect.

2. *The substantive aspect of Article 3 of the Convention*

(a) *The parties' submissions*

80. The applicants submitted that when C.Ç. had started to fire shots into the air, the first applicant had warned him not to, but the officer had immediately shot at him. As also confirmed by the witness statements, the second applicant had simply tried to reach his wounded son, asking C.Ç. what he had done, at which point the officer had shot at him as well, without there being any threat or attack towards the officer which would have required him to protect himself. They argued that the unjustified use of force that had caused them serious injuries had violated their rights under Article 3 of the Convention.

81. The Government made reference to the principles established by the Court regarding the use of force by security forces. They argued that in the present case, the impugned force used by C.Ç. had been proportionate and necessary and that there had been no violation of Article 3 of the Convention under its substantive limb. Various evidence obtained during the course of the investigation, such as the damage to the gendarmerie vehicle, the finding of one of the officers' rifles in the village, the injuries caused to the officers, as well as the transcripts of the telephone conversations, had demonstrated that the gendarmerie officers had been faced with escalating resistance and

an imminent threat to their lives. The incidents had been sudden and unpredictable, and C.Ç. had acted in line with the detailed regulations governing the use of force by gendarmerie officers, aiming at parts of the body that were not of vital importance, after having made verbal warnings and firing warning shots.

(b) The Court's assessment

(i) General principles

82. The general principles regarding the substantive aspect of Article 3 are set out in *Bouyid* (cited above, §§ 81-88 and 100-101) and *Shmorgunov and Others* (cited above, §§ 359-63).

83. The Court reiterates that Article 3 of the Convention enshrines one of the most fundamental values of a democratic society. It prohibits in absolute terms torture and inhuman or degrading treatment or punishment, irrespective of the victim's conduct. In respect of a person who is deprived of his or her liberty, or, more generally, is confronted with law-enforcement officers, any recourse to physical force which has not been made strictly necessary by his or her own conduct diminishes human dignity and is an infringement of the right set forth in Article 3. In respect of recourse to physical force during an arrest, Article 3 does not prohibit the use of force for effecting a lawful arrest. However, such force may be used only if indispensable and must not be excessive. The burden to prove that this was the case rests on the Government (*ibid.*, § 359, with further references).

84. Allegations of ill-treatment contrary to Article 3 must be supported by appropriate evidence. To assess this evidence, the Court adopts the standard of proof "beyond reasonable doubt" but adds that such proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact (see *Bouyid*, cited above, § 82).

85. As the Court also pointed out in the *El-Masri* judgment (cited above, § 155), although it must be cautious in taking on the role of a first-instance tribunal of fact where this is not rendered unavoidable by the circumstances of a particular case, it has to apply "particularly thorough scrutiny" where allegations are made under Article 3 of the Convention, even if certain domestic proceedings and investigations have already taken place. In other words, in such a context the Court is prepared to conduct a thorough examination of the findings of the national courts. In examining them it may take account of the quality of the domestic proceedings and any possible flaws in the decision-making process (see *Bouyid*, cited above, § 85, and *Shmorgunov and Others*, cited above, § 362).

86. The Court reiterates that it is free to assess not only the admissibility and relevance but also the probative value of each item of evidence before it. When assessing evidence, it is not bound by formulae and adopts the conclusions supported by the free evaluation of all evidence, including such

inferences as may flow from the facts and the parties' submissions (*ibid.*, cited above, § 361).

87. The Court's reliance on evidence obtained as a result of the domestic investigation and on the facts established within the domestic proceedings will largely depend on the quality of the domestic investigative process, its thoroughness and its consistency (*ibid.*).

(ii) Application of those principles to the present case

88. The Court reiterates that it was not disputed by the parties that the gendarmerie officer, C.Ç., had shot at the applicants, causing them serious injuries which could not be treated by simple medical intervention. However, they did not agree on whether that use of force had been arbitrary, as submitted by the applicants, or indispensable and necessary owing to the applicants' own conduct, as argued by the Government.

89. The Court has concluded, from the standpoint of the procedural limb of Article 3, that the investigation carried out by the investigating authorities into the applicants' allegations of ill-treatment was effective (see paragraph 78 above). It considers that, taken as a whole, the evidence obtained during the course of the investigation into the shooting of the applicants, as well as during the investigation against the applicants, is sufficient for it to assess whether C.Ç. acted in self-defence in order to protect his life and physical integrity, and those of the other two officers, against a serious and imminent threat, as maintained by the Government (see *Giuliani and Gaggio*, cited above, § 308).

90. The scene-of-investigation reports drawn up immediately after the events at issue, the content of which was not disputed by the applicants, noted that the rifle of one of the gendarmerie officers had been found in the village, that the gendarmerie vehicle had been severely damaged and that the officers had been obliged to flee the village in the car of a villager. In view of these findings, as well as the medical reports issued with regard to the officers, which noted a number of injuries on their heads and bodies, it is clear that there was some sort of an attack on the gendarmerie officers, who had unexpectedly found their way to the village after chasing a suspect vehicle, in the usual performance of their duties.

91. In assessing the severity of that attack, which, in the Court's view, went beyond mere resistance against the orders of the law-enforcement officers, the Court firstly takes account of the intercepted telephone conversations that were submitted by the gendarmerie command to the public prosecutor during the course of the investigation into the shooting. The transcripts of the telephone conversations, between the driver of the suspect vehicle and a number of others, demonstrated that the driver had asked a third person to mobilise the villagers so as to prevent the gendarmerie officers from seizing the smuggled goods from his car and that some villagers had told the officers that they could not take the goods. A scuffle had broken out when

C.Ç. had threatened to fire shots into the air, and a group of villagers had almost lynched C.Ç, whose rifle they had tried to take. The driver had also told a third person that one of the wounded villagers – one of the applicants – had been among those who had fought with C.Ç (see paragraph 15 above).

92. In that connection, the Court also takes note of the degree of the damage caused to the gendarmerie vehicle, which, according to both scene-of-investigation reports, had various dents and holes, all its windows broken, its tyres blown out and its two-way radio dismantled, with stones inside and around it. The Court considers that those findings and the numerous small injuries caused to the gendarmerie officers confirm their submissions to the effect that they were attacked with stones. Besides, neither the witness statements, which mainly describe the events after the shooting, nor the applicants' submissions mention anything that might clarify the sequence of events which led to C.Ç.'s use of force or contradict the gendarmerie officers' version of the events, which was also confirmed by the findings noted above.

93. Accordingly, the Court finds it established that after following the suspect vehicle into the village, the gendarmerie officers unexpectedly found themselves in an ambush, faced with a group of people ready to attack them, to which they had to react without prior preparation. It is also evident from the findings of the scene-of-incident reports and the officers' injuries that the attackers outnumbered the three officers (contrast *Rehbock v. Slovenia*, no. 29462/95, § 72, ECHR 2000-XII, and *Necdet Bulut v. Turkey*, no. 77092/01, § 25, 20 November 2007).

94. In the face of that assault, C.Ç.'s first reaction was to warn the attackers that he would fire shots into the air, as confirmed by the telephone transcripts. It was also confirmed by the initial submissions of Ö.Ö., the number of bullet shells found at the scene, as well as by the applicants themselves, that C.Ç. went on to fire shots into the air to disperse the crowd (see paragraphs 25, 11, and 6, respectively) (contrast *Solomou and Others v. Turkey*, no. 36832/97, § 75, 24 June 2008, and *Aydan*, cited above, § 83).

95. As to what followed, the parties offered diverging accounts. Whilst the first applicant stated that he had merely warned C.Ç. not to fire shots into the air as that would scare the children, the Government argued that the applicants had attacked C.Ç. In that connection, the Court cannot give weight to the applicants' version of events, which was contradicted by the initial statement given by Ö.Ö., who noted that the first applicant, together with a third person, had grabbed C.Ç.'s rifle and that a scuffle had broken out with all three pushing each other. That statement, although retracted by Ö.Ö. during the course of the criminal proceedings against the applicants, is in line with not only the gendarmerie officers' submissions, but also with the intercepted telephone conversations, in which the driver had told a third person that one of the wounded villagers had been one of the two individuals fighting with C.Ç.

96. In view of the above, the Court concludes that after the scuffle during which two individuals, including the first applicant, grabbed C.Ç.'s rifle, trying to take it from him, the latter shot the first applicant in the leg. As the second applicant ran towards them screaming, an act which was also noted by the second applicant himself (see paragraph 20 above), C.Ç. went on to shoot at him as well, aiming again at his leg.

97. Although the second applicant's intention to attack C.Ç. cannot be clearly established in itself, in the light of the foregoing and bearing in mind the escalating nature of the confrontation faced by the officers, which was completely unpredictable, the Court considers that C.Ç. acted in the honest belief that his own life and physical integrity, and those of his colleagues, were in danger because of the unlawful attack to which they were being subjected (see *Giuliani and Gaggio*, § 189, and *Parlak*, § 54, both cited above). In that connection, the Court reiterates that being detached from the events at issue, it cannot substitute its own assessment of the situation for that of an officer who was required to react in the heat of the moment to avert an honestly perceived danger to his life (see *Bubbins v. the United Kingdom*, no. 50196/99, § 139, ECHR 2005-II, and *Giuliani and Gaggio*, cited above, § 179).

98. Accordingly, the Court cannot but conclude that, in the circumstances of the present case, the impugned use of force – which was preceded by prior warnings and used in a manner to minimise any risk to life – was indispensable and not excessive (see *Parlak*, cited above, § 53).

99. It follows that there has been no violation of Article 3 of the Convention in its substantive aspect.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 AND ARTICLE 13 OF THE CONVENTION

100. Relying on Articles 6 and 13 of the Convention, the applicants argued that the Criminal Court's decision finding them guilty of impeding the public officers from performing their duties had been based on the statements of the gendarmerie officers and that it had lacked adequate reasoning.

101. Having regard to all the materials in its possession, and in so far as these complaints fall within its competence, the Court finds that there is no appearance of a violation of the rights and freedoms set out in these provisions in that respect. It follows that this part of the application must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 1, 3 and 4 of the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints concerning Article 3 of the Convention admissible and the remainder of the application inadmissible;

2. *Holds* that there has been no violation of Article 3 of the Convention in its procedural aspect;
3. *Holds* that there has been no violation of Article 3 of the Convention in its substantive aspect.

Done in English, and notified in writing on 3 December 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı
Registrar

Arnfinn Bårdsen
President