



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

SECOND SECTION

CASE OF CANGI AND OTHERS v. TÜRKİYE (No. 2)

(Application no. 65087/19)

JUDGMENT

Art 6 § 1 (civil) • Applicability • Administrative court proceedings assessing environmental impact of mine • Art 6 § 1 applicable only in respect of applicants that lived in close proximity to the mine as *prima facie* case made out that they would be affected should environmental risks materialise • Incompatibility *ratione materiae* in respect of remaining applicants • Argument that the environmental impact radius of the mine and its polluting activities also affected them not substantiated • High threshold with regard to victim status of natural persons under Art 6 and 8 set out in *Verein KlimaSeniorinnen and Others v. Switzerland* [GC] confined to cases concerning climate change
Art 6 § 1 (civil) • Fair hearing • Insufficient reasoning of administrative court dismissing the applicants' challenge to decision approving environmental impact assessment report • Failure to provide sufficient reasoning not remedied by appellate court • Constitutional Court's failure to examine admissibility and merits of applicants' Art 6 complaint resulting in a lack of effective review

Prepared by the Registry. Does not bind the Court.

STRASBOURG

8 July 2025

FINAL

03/11/2025

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

In the case of Cangı and Others v. Türkiye (no. 2),

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

Arnfinn Bårdsen, *President*,

Saadet Yüksel,

Tim Eicke,

Jovan Ilievski,

Oddný Mjöll Arnardóttir,

Stéphane Pisani,

Juha Lavapuro, *judges*,

and Hasan Bakırcı, *Section Registrar*,

Having regard to:

the application (no. 65087/19) 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 seven Turkish nationals (“the applicants”) indicated in the appended table, on 20 November 2019;

the decision to give notice to the Turkish Government (“the Government”) of the complaint concerning Article 6 § 1 of the Convention, and to declare inadmissible the remainder of the application;

the observations submitted by the respondent Government and the observations in reply submitted by the applicants;

the comments submitted by the International Commission of Jurists, which was granted leave to intervene by the President of the Section;

Having deliberated in private on 17 June 2025,

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

INTRODUCTION

1. The case concerns the applicants’ complaint under Article 6 § 1 of the Convention about the reasoning of the domestic courts with respect to their objections concerning the assessment of the court-appointed expert panel and the Constitutional Court’s approach in examining the applicants’ individual application.

THE FACTS

2. The applicants, whose details are set out in the appendix, were represented by Mr A. Cangı, the first applicant and a lawyer practising in İzmir.

3. The Government were 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.

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

5. On 19 January 2006 the Ministry of the Environment and Forestry (“the Ministry”) issued a private commercial company (“the developer”) with a decision approving the environmental impact assessment report (“the EIA report”) concerning the extraction of nickel at a mine situated in the district of Turgutlu in the city of Manisa (“the Çaldağ mine”).

6. The second, fourth and fifth applicants live in Turgutlu approximately in a range of 10 to 14 km away from the Çaldağ mine whereas the remaining applicants live in İzmir, that is to say, approximately 85 km away from it.

7. On 12 December 2007 the applicants along with other litigants applied to the Manisa Administrative Court for the annulment of the Ministry’s decision. They raised the following points in their petition: a) the EIA estimated the cutting down of approximately 300,000 trees on and around the mine site. According to the applicants, this type of deforestation of the area would lead to landslides, erosions and flooding of the nearby villages and would ultimately also lead to the depletion of groundwater resources b) the calculations in the EIA regarding the water consumption for the activities of the mine appeared unrealistic and, in any event, would lead to the depletion and pollution of the above and groundwater, despite those resources being the major source of water for human and agricultural consumption c) the water and air pollution would harm the local agriculture that the local population relied on for their livelihood d) the atmospheric leach method of the processing of nickel by using sulphuric acid would have harmful effects on humans, plants and agricultural produce due to the emission of sulphur oxides, nitrogen oxides and other acidic gases into the environment which would also cause acid mist e) the Minister had not correctly weighed up the public interest in the project as the economic gains to be made were not significant enough to justify the environmental degradation f) the local population had not been adequately informed of the project and the public meeting set up for this purpose had remained limited to the residents of nearby villages.

8. On an unspecified date the developer also intervened in the administrative court proceedings on behalf of the Ministry.

9. The Manisa Administrative Court decided that an on-site inspection and expert assessment were necessary in order to resolve the technical issues in the dispute. Accordingly, the court appointed a panel of three experts in the fields of geology, mining and environment engineering. All experts were professors in those fields, working at the Dokuz Eylül University in İzmir. The Manisa Administrative Court notified the parties of the composition of the expert panel, noting that any objections should be submitted within three days of the notification.

10. The applicants did not object to the experts’ expertise or impartiality but submitted to the court that the panel should also include experts from the fields of agriculture, water and chemistry engineering otherwise determination of the issues raised by the case would be incomplete.

11. On 17 July 2008 the Manisa Administrative Court dismissed the objection in question noting that it did not warrant an expert change. It further notified the experts on 5 May 2008 of the questions it wanted the experts to answer in their assessment. In particular, the court instructed the experts to give a summary of the EIA report and to determine whether there existed any inconsistencies with respect to the actual situation on the mining site and the information provided in the EIA report as far the condition of the soil, the land, vegetation, archaeological assets, settlement areas and agricultural activities were concerned. Moreover, the court required the experts to observe whether outside the health protection zone of the mine, any wide and intensive agricultural activity, such as olive cultivation was being carried out. The court also wanted the experts to explain briefly the process of obtaining sulphuric acid and the effects of such processing on the environment. In that connection, the experts were required to assess whether sufficient safeguards were provided for in the EIA report to prevent such effects on the environment, and whether in their opinion, this processing should have been the subject of a separate EIA. The court requested the experts to determine whether the preventive measures in this respect were adequate in the event of the worst-case rainfall scenario at the heap leach and tailings site taking into account the meteorological characteristics and rainfall averages of the region. The experts were also asked to clarify whether the acidic solution evaporated, and if so, which gas or gases were released into the atmosphere from both the heap leach and tailings sites, as well as from the facility where sulphuric acid would be produced: the rate at which these gases dispersed into the air; the effects of the dispersion on the surrounding areas and whether the safety measures provided for in the EIA report were adequate in this respect.

As regards ground and aboveground water resources, the court wanted to know how they would be affected by the daily operations of the mine. In particular, it wanted the experts to assess the current situation of the ground water resources in view of the already existing needs for activities related to household, industrial and agricultural consumption and whether the ground water would be able to replenish its reserves sufficiently to accommodate the proposed mining operations, including after the closure of the mine. The court also requested the experts to list the potential negative effects of open-pit mining activities that could arise from the interaction of the soil exposed on a piece of land of that scale – given that the topsoil layer would have been removed – with rain and surface waters. In connection with that question, the court asked the experts whether the EIA report's projections concerning the mine's daily operational capacity and methodology would have detrimental effects on the environment. Furthermore, the experts were required to mention the strategies that could be employed to mitigate or eliminate acid rock drainage in open-pit mining, and evaluate the extent to which these considerations were addressed in the EIA report. Lastly, in view of the fact that the proposed mine would be constructed in what was now a forest, the

court wanted to know whether there were any measures to be taken by the developer for the future reforestation of the area in question.

12. On 21 July 2008 the court held an on-site inspection in the presence of the experts and the parties. According to the minutes of the on-site inspection, the members of the court, the parties and the experts participated in the on-site inspection, and the questions were handed out to the experts who would be expected to prepare their report in line with those questions within thirty days.

13. On 18 September 2008 the experts submitted their report to the court, which was also notified to the parties in the proceedings. The report started out by summarising the EIA report's main sections. The experts then continued with the question concerning the inconsistencies with respect to the actual situation on the mining site and the information provided in the EIA report as far the condition of the soil, the land, vegetation, archaeological assets, settlement areas and agricultural activities were concerned. The experts noted that their areas of expertise did not cover all the issues that were raised by that question so their findings were limited to general observations and to those that were covered by their field of expertise. They referenced the observations in the EIA report regarding the region's soil, land, vegetation, and geological and hydrogeological features of the region. They also noted that they could not observe any archaeological assets during the on-site inspection. As regards agricultural activities, they relied on the findings of the EIA report, which had reported 54% of the land use to be agricultural. The experts observed that agricultural activities consisted mainly of viticulture, tomato and corn farming. As regards olive cultivation, they noted that some young olive trees had been spotted near the mining site but otherwise they had not encountered ancient olive trees or permanent olive groves.

14. The experts then explained that the extraction and processing of nickel from the laterite ores would be done by atmospheric heap leaching where the ore would be mined from a series of open pits, and transported to the process site to be crushed, before being stacked on the leach pad. It would then be irrigated with sulphuric acid, to dissolve the metals. The sulphuric acid solution would percolate through the heap and leach out the metals until it reached the liner at the bottom of the heap where it would drain into a storage pond. The experts noted that the EIA envisaged several measures to prevent the toxic contents of the leach and pond from interacting with the environment. Those included setting up the heap leach on a layer of 300 mm thick clay to ensure impermeability, followed by the installation of a synthetic liner made of high-density polyethylene with a thickness of 1.5 mm. To prevent damage to this liner, a geotextile layer would be spread over it. On top of those layers, a solution collection system consisting of perforated pipes embedded within a 500 mm thick gravel layer would be set up. Furthermore, the EIA provided for a leak detection system which would be placed

underneath the constructed soil layers. The EIA further provided for a zero discharge process, where all the solutions draining from the leach and washing processing would be collected in ponds to be re-used. The experts noted that the planning and the capacity of the zero discharge operations appeared to take into account emergency situations such as overflows and heavy rains and that therefore the projections made in the EIA in that regard appeared accurate. The pilot plant operations which they had observed during the on-site inspection had been working in line with those principles and appeared to operate without any concerns.

15. As regards the questions concerning polluting effects of the mining operations on water resources, the experts considered the preventive measures set out in the EIA to be adequate. In the light of the methodology chosen by the developer and the tests previously made, the experts evaluated the probability of acid rock drainage and determined it to be negligible, regard being had to the neutralising characteristics of the ore and the laterites which consumed rather than drained acid. As regards the potential emissions of concern to air, the experts pointed out that they would be relevant during the process of production of sulphuric acid on site. They observed that the sulphuric acid plant would emit sulphur oxide, oxides of nitrogen and other acid gases, and that the EIA guaranteed that the plant would be equipped with industry-standard filters, feature an emergency shut down mechanism and would have in place a constant monitoring of the emissions and alarm levels. Having regard to the explanations and the projections set out in the EIA report, the experts considered that emissions would remain at permitted levels of the relevant regulations. They also noted that a separate EIA was not necessary for the sulphuric acid production process. Lastly, they noted that sulphuric acid could not evaporate from the leach or from the pond due to its inability to evaporate when it is in a solution form. As regards the potential concern to water resources, the experts explained that processes that concerned water consumption were the sulphuric acid plant, heap leach, crushing site, leap pad and administrative premises. Accordingly, all of those activities were projected to consume 135 litres of water per second. The EIA had noted that the water required for all those operations would be pumped out from the Gediz River and, when necessary, from the groundwater, the latter limited to 35 litres per second. According to the EIA, and on the basis of the rainfall and drought periods observed in the past six years, during the rainy seasons concerning October to May, all water would be pumped from the Gediz River and would not have a significant depleting effect on the river itself. During dry seasons, the EIA noted that water would be used from ground water and a collection pond which would be stocked with rainwater and water from the Gediz river during the rainy season. Based on the figures set out in the EIA report the experts considered that water consumption of the mine from the Gediz River would not have a significant effect and was

projected to result in a withdrawal of 2,67% in rainy season and 5,02% in dry season, respectively.

16. On 29 December 2008 the applicants submitted their objections concerning the expert report in question to the Manisa Administrative Court. They argued, *inter alia*, that the expert report did not go beyond repeating the conclusions made in the EIA report itself and therefore failed to provide the court with an objective and critical assessment of the project. The applicants stated that even though the experts themselves had attested to the fact that not all questions addressed by the court to them corresponded to their fields of expertise; they had nevertheless given their opinion on matters outside their competence. For instance, the hydrogeological assessment of the operations and in particular water consumption of the proposed activities had been areas that were not within the competence of any of the experts in the expert panel. In this respect, the experts had simply reiterated the projections made in the EIA about water consumption for the activities of the mine and had not questioned where and how water would realistically be supplied for the operations during the drought months, which amounted to four months of the year, when the groundwater use was limited to 35 litres per second and the required amount of water was projected at 135 litres per second. The applicants argued that the relevant administrative authority's opinion on the groundwater use had not been sought and that it was very unlikely that the operations would be limited to 35 litres per second during those months. The applicants also contested the opinion of the experts that there existed no olive cultivation to the significant degree in the vicinity of the mine. They had ignored the existence of thousands of olive orchards within 3 km of the mine and dismissed the agricultural activity by using non-scientific denominations such as "young olive trees" or "ancient olive trees" or "permanent olive groves". Lastly, the applicants argued that the issue of sulphuric acid mist had been largely ignored by the experts. While the experts had noted that sulphuric acid plant would be equipped with air filters, they had not discussed possible harmful effects of sulphuric acid mist which would inevitably occur during the process of atmospheric heap leaching where the leach was irrigated by sulphuric acid. The applicants noted that sulphuric acid mist had to be distinguished from the non-evaporative quality of sulphuric acid itself since when sulphuric acid reacted with water in the atmosphere it formed clouds which in turn could harm the environment. According to the applicants, the experts had ignored that aspect completely and had replied to the question about the dangers of sulphuric acid during the heap leach process by submitting that the only possible source of air pollution would be the sulphuric acid production since sulphuric acid could not evaporate when reacted with water.

17. On 31 December 2008 the Manisa Administrative Court dismissed the case relying on the findings of the experts, and noting that the content of the EIA report had conformed to the requirements set out in the EIA regulations

and that projections had been based on the existing conditions of the mining site. According to the court's reasoning, the main purpose of the precautionary measures in the EIA concerning water resources, water quality and deforestation, which had been the main complaint of the litigants, was not to guarantee the operation of the mine in all circumstances. Rather, it was a commitment on the part of the developer that the operation of the mine or its capacity could be modified depending on the conditions observed in the future. The court went on to observe that scenarios based on what would happen in the case of negligence by the developer could not be the subject-matter of its judicial review regarding the case before it. Those issues were within the responsibility of the relevant administrative authorities who were going to supervise the industrial activity in question. As regards the olive cultivation, the court noted that the olive trees had been recently planted and because of this, they did not present an obstacle to the authorisation of a mining activity. Lastly, the court dismissed the applicants' claim that the public consultation process had not been adequate as manifestly ill-founded, noting that the announcement and the public meeting had complied with the domestic regulations.

18. The Supreme Administrative Court rejected the applicants' subsequent appeals on 21 May 2013 and 10 November 2015 without addressing their arguments which had concerned the alleged insufficient reasoning of the trial court.

19. On 20 December 2015 the applicants lodged an application with the Constitutional Court, arguing that their rights under Articles 2, 6 § 1 and 8 of the Convention had been violated on account of the proceedings before the Manisa Administrative Court. The applicants submitted that they were concerned citizens residing in İzmir and Turgutlu and that they had participated in the proceedings before the administrative courts, acting as public watch dogs to prevent dangers to the environment. In respect of their grievances under Article 6 § 1, they submitted, *inter alia*, that the administrative courts had decided the case on the basis of the conclusions of the experts who had not critically analysed the EIA and who had expressed opinions on matters outside of their fields of expertise; and that their objections with respect to the expert report in question had been dismissed by those courts without adequate reasoning; and that, moreover, the length of the proceedings had been excessive. Under Articles 2 and 8 of the Convention, the applicants argued, *inter alia*, that the operation of the mine would lead to severe depletion of water resources and the acid mist caused by the sulphuric acid plant would endanger human health as well as wildlife, livestock and crops.

20. In a decision of 8 May 2019, the Constitutional Court declared the applicants' complaint with respect to length of proceedings inadmissible for non-compliance with the non-exhaustion of remedies as the applicants had failed to make an application to the Compensation Commission in that regard.

It decided to examine the applicants' remaining complaints solely under the right to respect for their private lives and homes as provided in Article 8 of the Convention, and as such it declared the complaints inadmissible *ratione personae* on account of the applicants' failure to demonstrate how the proposed mining operation affected them, their homes or their health personally. The Constitutional Court noted that the applicants regarded themselves as public watchdogs and that some applicants did not even reside in Turgutlu. As for those applicants who resided there, they had not explained whether they had immovable property or engaged in agricultural activities in the vicinity of the mine, which was about 11 km away from Turgutlu.

RELEVANT LEGAL FRAMEWORK

21. The relevant legal framework and the domestic jurisprudence can found in *Cangi and Others v. Türkiye* (no. 48173/18, §§ 22-24, 14 November 2023).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

22. The applicants complained under Article 6 § 1 of the Convention that the decisions given by the domestic courts, including the Constitutional Court, were not adequately reasoned in that none of their objections concerning the assessment of the expert panel were duly taken into account. Article 6 § 1 of the Convention, in so far as relevant, provides as follows:

“In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ...”

A. Admissibility

1. *Compatibility* *ratione personae* and *ratione materiae*

(a) The parties' submissions

23. The Government first contested the applicants' victim status, arguing that the proceedings before the Manisa Administrative Court had not related to direct and personal rights of the applicants and that their action had taken the form of an *actio popularis*, which fell outside the scope of the Convention guarantees. They submitted in that connection that, in accordance with the practice of the Turkish administrative courts, an action for annulment could be lodged by anyone with a sufficient interest with the purpose of challenging the alleged unlawfulness of an administrative act and without having to prove that his or her rights were directly affected by it. The Government noted that the applicants had stated that they had participated in the proceedings as

“public watchdogs”, which in the Government’s view, attested to the fact that they had not been invested in the proceedings on account of an actual or potential harm from the proposed operations of the mine. The Government submitted in that connection that except for the second, fourth and fifth applicants, all the applicants had lived some 80 km away from the plant. As regards the applicants who lived in a range of 10 to 14 km from the mine, the Government noted that they too had failed to demonstrate that they would be significantly affected by the mine.

24. In the Government’s view the application was also not compatible *ratione materiae* with the provisions of the Convention inasmuch as Article 6 § 1 of the Convention only applied to “disputes”, whereas in the present case the procedure for appointing the experts had been a non-contentious procedure. The Government further argued that the fact that the applicants had subsequently accepted the competence of the experts and signed the on-site inspection report without any reservations attested to the absence of a real dispute concerning the subject matter of their application before the Court.

25. The applicants contended that they all had victim status with regard to the proceedings before the Manisa Administrative Court and that Article 6 § 1 applied *ratione materiae* to the subject-matter of those proceedings. They added that there was no question that the second, fourth and fifth applicants had victim status given that they lived close to the mine in question. The remaining applicants did not dispute that their participation in the proceedings were partly motivated by their intention to act as public watchdogs. They however went on to argue that they had also been personally and directly affected by the mine’s operations because the environmental impact radius of the mine was 80 km and not limited to the nearby villages. The mine would be using the Gediz River and groundwater resources, on which the city of İzmir depended. Any pollution or depletion would therefore have an effect on the residents of İzmir, including themselves, as well.

The applicants further argued that the dispute before the Manisa Administrative Court had been genuine and serious within the meaning of Article 6 of the Convention and that unlike what the Government argued they had voiced their concerns about the composition of the expert panel during the appointment of the experts and later about the content of their report in their relevant petitions to the domestic courts.

(b) Submissions of the third-party intervener

26. The International Commission of Jurists (ICJ) submitted that fair procedures and effective legal remedies in the conduct of EIAs were crucial in effective access to justice in environmental cases, which had been underlined by the UN Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment. Concerning the Turkish Constitutional Court’s approach with respect to victim status concerning environment-related rights, the intervener

submitted that only those constitutional rights that were also within the scope of the Convention could be the subject of that court's review in individual applications. In applications relating to the protection of life, health, family and private life, physical integrity and private property of persons, the Constitutional Court required the applicants to demonstrate that they were directly and personally affected by the administration's acts, the concept of legal interest as understood in Turkish administrative law or being granted standing in courts not being sufficient for this assessment. In that connection, the Constitutional Court rejected as inadmissible applications lodged by those who did not own property or lived in very close vicinity to the project in question.¹ The intervener submitted examples from the Constitutional Court's case-law in which that court, while declaring the applicants' Article 2, Article 8 or Article 1 of Protocol No. 1 complaints inadmissible for lack of victim status, did not examine separately the admissibility or merits of Article 6 complaints despite the fact that those applicants had been granted standing in annulment actions before the administrative courts.² According to the intervener, the Constitutional Court's restrictive approach in terms of only analysing applications through the substantive articles and its strict criteria for victimhood were insufficient to meet the Contracting State's obligations under Article 6 § 1 of the Convention.

(c) The Court's assessment

27. In order to claim to be a "victim" in the context of an alleged violation of Article 6 of the Convention, and to complain of alleged procedural shortcomings under that provision, it is normally sufficient that the applicant was affected as a party to the proceedings brought by him or her before the domestic courts (see *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], no. 53600/20, § 590, 9 April 2024). The Court notes that the applicants were party to the proceedings before the Manisa Administrative Court, and as such they were directly affected by the alleged shortcomings complained of in those proceedings. Therefore, their complaint under Article 6 § 1 of the Convention cannot be declared inadmissible on the

¹ The intervener referred, *inter alia*, to a decision no. 2015/19256 of 8 May 2019 in *Ahmet Ayan and Others* where an application concerning the Çaldağ mine was rejected for lack of victim status on account of the fact that the applicants failed to demonstrate that they resided or owned property in the region. In cases concerning a base telecommunications station and high voltage electric lines, the court noted that the applicants could claim to be a victim given that they resided six meters away from the said station and the electrical lines passed through the street where they resided (decisions in the cases of *Hüseyin Tunç Karlık and Zahide Şahan* and *Ahmet İsmail Onat* no. 2013/6587 of 24 March 2016 and no. 2013/6714 of 21 April 2016 respectively).

² In particular, the intervener referred to decision no. 2014/5809 of 10 December 2014 in *Tezcan Karakuş Candan and Others*; judgment no. 2014/1767 of 6 December 2017 in *Arif Ali Cangı and Others*; and decision no. 2015/19256 of 8 May 2019 in *Adnan Ayan and Others*.

ground of incompatibility *ratione personae* (see for a similar conclusion, *Cangı and Others v. Türkiye*, no. 48173/18, § 33, 14 November 2023).

28. As for the compatibility *ratione materiae* of the applicants' complaint with Article 6 § 1 of the Convention under its civil limb, the Court reiterates that there must be a "dispute" ("*contestation*" in French) over a right which can be said, at least on arguable grounds, to be recognised under domestic law, irrespective of whether that right is protected under the Convention. The provision does not in itself guarantee any particular content for (civil) "rights and obligations" in the substantive law of the Contracting States. The dispute must be genuine and serious; it may relate not only to the actual existence of a right but also to its scope and the manner of its exercise; and, finally, the result of the proceedings must be directly decisive for the right in question, mere tenuous connections or remote consequences not being sufficient to bring Article 6 § 1 into play. Lastly, the right must be a "civil" right (see *Verein KlimaSeniorinnen Schweiz and Others*, cited above, § 595 with further references).

29. Turning to the present case, the Court notes that there is no dispute between the parties that the proceedings before the Manisa Administrative Court concerned a genuine and serious dispute with respect to the lawfulness of the Ministry's decision to approve the EIA of the Çaldağ mine, which is supported by the fact that the Manisa Administrative Court examined the case on the merits. The Government also agreed that the right relied on by the applicants in the domestic proceedings was the applicants' constitutional right to live in a healthy environment. In the environmental context, the Court has recognised the existence of a civil right where the domestic law recognises an individual right to environmental protection where the rights to life, to physical integrity and of property are at stake (*Verein KlimaSeniorinnen Schweiz and Others*, cited above, § 600). Moreover, the Court has regarded the right to live in a healthy environment secured by the Turkish Constitution to be a civil right for the purposes of Article 6 § 1 of the Convention (see *Cangı and Others*, cited above, § 35 with further references).

30. It therefore remains to be seen whether the outcome of the proceedings in question can be considered directly decisive for the applicants' right to live in a healthy environment. In deciding this question, the Court has to take into account the nature of the right relied on as well as the object of the proceedings. In most of the environmental cases examined by the Court so far, the proceedings have concerned issues relating to the operating permits for specific facilities, or the conditions for their operation. In such circumstances, where the harmful operation or its continuation depends on the outcome of the proceedings, it may often be clear that the outcome of the proceedings would be directly decisive for the rights relied on by the affected individuals who have victim status (*Verein KlimaSeniorinnen Schweiz and Others*, cited above, § 613, with further references). Where the adverse environmental effects on an applicant's rights are immediate and certain, the

dispute concerning the matter falls under Article 6 § 1. By contrast, Article 6 § 1 does not apply to proceedings in which an applicant complains of a hypothetical environmental impact rather than a specific infringement of, or an adverse impact on, their rights (*ibid.*, §§ 605-607).

31. In a recent case concerning a large-scale environmental pollution stemming from the dumping and burial of hazardous and other waste, where a number of associations and individuals invoked Articles 2 and 8 of the Convention, the Court confirmed that the principles established in the *Verein KlimaSeniorinnen Schweiz and Others* judgment (cited above) in so far as it concerns the victim status/*locus standi* of associations and natural persons were limited to climate change (*Cannavacciuolo and Others v. Italy*, nos. 51567/14 and 3 others, 30 January 2025). Accordingly, the Court rejected the *locus standi* of associations whereas it granted victim status to those individual applicants who had resided or whose relatives had resided in areas affected by the pollution in question (*ibid.*, §§ 220-221 and 248-249). Having regard to the foregoing, the Court considers that the high threshold set out in the *Verein KlimaSeniorinnen Schweiz and Others* judgment with regard to the victim status of natural persons under Articles 6 and 8 of the Convention is confined to cases concerned with the issue of climate change and that the Court's established case-law with respect to classic environmental disputes remains in place.

32. In the case of *Cangi and Others* (cited above), which involved a similar dispute about an EIA decision concerning a gold mine, the Court concluded that some applicants had failed to demonstrate that the object of the domestic proceedings in question had been directly decisive for their own right to live in a healthy environment even though they had been granted standing in the domestic proceedings. The Court noted that those applicants were not residents of the area in question, and that their self-proclaimed status as "public watchdogs" for the protection of the environment was not sufficient for Article 6 § 1 of the Convention to apply under its civil limb to their complaint. However, the Court accepted that the domestic proceedings in question were directly decisive for the remaining two applicants' right to live in a healthy environment, given that they lived or owned property in close proximity to the mine (*ibid.*, § 30 and § 36).

33. The Court considers the same considerations to be applicable to the present dispute. It notes that the first, third, sixth and seventh applicants do not live in close proximity to the Çaldağ mine and they have failed to demonstrate that the domestic proceedings in question had been directly decisive for their right to live in a healthy environment. In that connection, although those applicants argued that environmental impact radius of the mine was 80 km, and that, as persons residing in İzmir and falling within that radius, they too would eventually be affected by the mine's polluting activities, the Court finds that this argument is not substantiated. In particular, neither the expert report nor the administrative court's decision specifies the

environmental impact radius of the mine, and the adverse effects that the applicants claim that they are likely to suffer in the future are too tenuous and remote to establish a sufficient degree of personal impact. Therefore, the application brought by those applicants is incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 and must be rejected in accordance with Article 35 § 4.

34. The Court further notes that the remaining three applicants – the second, fourth and fifth – are local residents living in the district where the mine is to be operated and in close proximity to it, at a distance ranging from of 10-14 km. Their complaints before the domestic courts were related, among other things, to the adverse environmental effects of nickel production on water resources and air quality as well as certain risks that deforestation entailed for the local population. They have therefore made out a *prima facie* case that they would be among the affected persons should those risks materialise. The Court further considers that the dispute did not concern the hypothetical risks posed by nickel mining in general but rather whether the likely adverse effects on the local environment, had been sufficiently taken into account and the measures proposed by the developer in the EIA were appropriate (see *Bursa Barosu Başkanlığı and Others v. Turkey*, no. 25680/05, §§ 127-128, 19 June 2018).

The Court therefore concludes that Article 6 § 1 applies to the complaint in so far as it is brought by the second, fourth and fifth applicants. Accordingly, for the purposes of the following analysis, the Court will refer to these three applicants collectively as “the applicants.”

2. *Non-exhaustion of domestic remedies*

35. The Government argued that the applicants had failed to exhaust domestic remedies as they had not maintained their objections to the experts during the on-site inspection and had, moreover, explicitly accepted the competence of those experts by signing the minutes of the on-site inspection.

36. The applicants disagreed with the Government and argued that they had not only objected to the composition of the panel of experts at the appropriate stage in the proceedings but they had also objected to the content of the expert reports after receiving them, yet the courts had disregarded their objections in that regard. Moreover, they noted that the on-site inspection document, confirming the presence of the parties was prepared in advance and had contained generic statements and did not note their objections they had made during the course of the on-site inspection.

37. The Court notes that the applicants’ complaints, as communicated to the Government, concern the allegedly insufficient reasoning of the domestic courts regarding the applicants’ objections to the findings made by the experts in the proceedings, in connection with the fact that the expert panel did not include experts in the fields of water, agriculture and chemistry engineering. The Court notes in this connection that the applicants requested the

appointment of additional experts to the panel (see paragraph 10 above) and subsequently submitted objections to the report, which had been prepared by the experts after the on-site inspection (see paragraph 16 above). In their objections, the applicants drew the courts' attention to the experts' own statements to the effect that some of the issues addressed in the report were not within their area of expertise.

It therefore follows that the Government's objection on the non-exhaustion of domestic remedies must be dismissed.

3. Other grounds of inadmissibility

38. The Government further submitted that the applicants' complaints were manifestly ill-founded and should therefore be declared inadmissible.

39. The Court is of the opinion that the second, fourth and fifth applicants' complaints raise complex issues of fact and law, so that they cannot be rejected as manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It is further satisfied that they are not inadmissible on any other ground. They must therefore be declared admissible.

B. Merits

1. Parties' submissions

40. The applicants maintained their arguments.

41. The Government argued that the administrative court had appointed an expert panel, which included a professor on environmental engineering. The Government explained that environmental engineering covered multi-disciplinary fields, applying principles from various sciences including civil and chemical engineering and addressing issues such as water quality management, drinking water treatment facilities and pollution prevention. It followed that an environmental engineer would be competent to prepare and assess EIA reports involving such issues. The Government further noted that the report prepared by the panel of experts in question had answered the domestic courts' questions and was comprehensive in all aspects, including the impacts of the project on water resources and concerns to air pollution. Furthermore, domestic court was not bound by an expert opinion and could seek further opinion from other experts in the event it considered the conclusions of those experts to be insufficient to determine the dispute. Concerning the Constitutional Court's approach to consider and then dismiss as incompatible *ratione personae* the applicants' individual application solely under Article 8 of the Convention without making a separate assessment under Article 6 § 1 of the Convention, the Government argued that just like the Court, the Constitutional Court was not bound by the legal grounds adduced by an applicant and had the power to decide on the characterisation to be given in law to the facts of a complaint by virtue of the *jura novit curia*

principle. In the Government's view, the Constitutional Court had decided to examine the applicants' complaints raised under Article 6 § 1 of the Convention under the procedural aspect of Article 8 and dismissed them as inadmissible because of the applicants' failure to demonstrate that they had been personally affected by the activities of the mine in question.

2. *The Court's assessment*

42. The Court reiterates that it is not its task to take the place of the domestic courts. It is primarily for the national authorities, notably the courts, to resolve problems of interpretation of domestic legislation. The Court is not a court of appeal from the national courts and it is not its function to deal with errors of fact or law allegedly committed by a national court unless and in so far as they may have infringed rights and freedoms protected by the Convention (see *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], nos. 55391/13 and 2 others, § 186, 6 November 2018, with further references).

43. While Article 6 of the Convention guarantees the right to a fair hearing, it does not lay down any rules on the admissibility of evidence or the way it should be assessed, which are therefore primarily matters for regulation by national law and the national courts (see *García Ruiz v. Spain* [GC], no. 30544/96, § 28, ECHR 1999-I; *Perić v. Croatia*, no. 34499/06, § 17, 27 March 2008; and *Carmel Saliba v. Malta*, no. 24221/13, § 63, 29 November 2016). Moreover, Article 6 § 1 of the Convention does not bar the national courts from relying on expert opinions drawn up by specialised bodies to resolve the disputes before them when this is required by the nature of the issues under consideration (see *Letinčić v. Croatia*, no. 7183/11, § 61, 3 May 2016, and *Devinar v. Slovenia*, no. 28621/15, § 47, 22 May 2018).

44. Thus, the mere fact that the court preferred the opinion of a particular expert does not reveal any "unfairness" within the meaning of Article 6 of the Convention. Similarly, under Article 6 it is normally not the Court's role to determine whether a particular expert report available to the domestic judge was reliable or not (see *Gülağacı v. Turkey* (dec.) no. 40259, § 37, 13 April 2021 with further references).

45. The Court also recalls that according to established case-law reflecting a principle linked to the proper administration of justice, judgments of courts and tribunals should adequately state the reasons on which they are based (see, among others, *García Ruiz*, cited above, § 26). Without requiring a detailed answer to every argument, this obligation presupposes that a party to judicial proceedings can expect a specific and express reply to those submissions which are decisive for the outcome of the proceedings in question (see *Ramos Nunes de Carvalho e Sá*, cited above, § 185). An issue in respect of a lack of reasoning in judicial decisions under Article 6 § 1 of the Convention will normally arise when the domestic courts ignored a

specific, pertinent and important point raised by the applicant (see, among others, *Aykhani Akhundov v. Azerbaijan*, no. 43467/06, § 87, 1 June 2023).

46. Lastly, the Court reiterates its subsidiary role in the supervisory mechanism established by the Convention, whereby the Contracting Parties have the primary responsibility of securing the rights and freedoms defined in the Convention and the Protocols thereto (see *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* [GC], no. 21881/20, § 138, 27 November 2023, with further references). The Court further notes that the principle of subsidiarity imposes a shared responsibility between the States Parties and the Court, and that national authorities and courts must interpret and apply domestic law in a manner that gives full effect to the Convention (see *Grzęda v. Poland* [GC], no. 43572/18, § 324, 15 March 2022). As a corollary to the subsidiarity principle, where an applicant's pleas relate to the "rights and freedoms" guaranteed by the Convention, the courts are required to examine them with particular rigour and care (see *Wagner and J.M.W.L. v. Luxembourg*, no. 76240/01, § 96, 28 June 2017). For this reason the requirement to provide adequate reasons for dismissing a complaint may also apply to constitutional courts regard being had to the object and purpose of the proceedings before it (see *Paun Jovanović v. Serbia*, no. 41394/15, §§ 108-110, 7 February 2023; *Lorenzo Bragado and Others v. Spain*, nos. 53193/21 and 5 others, § 145, 22 June 2023; and *Meli and Swinkels Family Brewers N.V. v. Albania*, nos. 41373/21 and 48801/21, §§ 70-76, 16 July 2024).

47. In the context of the individual application mechanism in Türkiye, the Constitutional Court determines whether there has been a violation of an applicant's rights secured under the Convention and, if so, provides redress for such violations (see *Uzun v. Turkey* (dec.), no. 10755/13, §§ 62-64, 30 April 2013). Therefore, when an applicant's complaint before the Constitutional Court concerns the inadequacy of the reasoning of trial courts, and the Constitutional Court does not examine that complaint, it cannot be assumed that the Constitutional Court has endorsed the reasoning of the domestic courts (see for a similar approach *Meli and Swinkels Family Brewers N.V.*, cited above, § 73).

48. In the present case, in addition to complaining about the allegedly insufficient reasoning of the administrative courts, the applicants have also raised a separate complaint concerning the Constitutional Court's failure to examine their grievance under Article 6 of the Convention. In particular, they argued that their concerns regarding the expert opinion were not answered in the administrative court proceedings. They specifically took issue with the way the Constitutional Court decided to examine that complaint solely under Article 8 and to subsequently declare their application incompatible *ratione personae*.

49. The Court will therefore examine those issues separately, starting with the former.

50. The Court observes that the experts were entrusted with the assessment of the compliance of an industrial activity with environmental requirements, a technical field of which the administrative court in question had no specialist knowledge. It can therefore be said that the experts had a dominant influence on the outcome of the dispute since their conclusions with respect to the EIA report, while not being officially binding on the court, were directly decisive in resolving the dispute (see *Çöçelli and Others v. Türkiye*, no. 81415/12, § 59, 11 November 2022). Furthermore, one of the main points of contention for the applicants with regard to the EIA report was water use and water resource management in relation to the mining activity. The applicants argued that the EIA contained misleading information about the limitation of groundwater resources, stating that it could only be used at a rate of 35 litres per second. That figure was unrealistic because it had not taken into account the months of drought when the Gediz River itself would not have that much water. The experts' role was therefore to assess, as required by the administrative court (see paragraph 11 above), the current situation of the ground water resources in view of the already existing needs for activities related to household, industrial and agricultural consumption and whether the ground water would be able to replenish its reserves sufficiently to accommodate the proposed mining operations. The Court notes that the expert report merely replicated what had been provided in the EIA report as concerns water and failed to discuss in a critical manner as had been required by the administrative court whether the mining activity would lead to depletion of groundwater resources. Furthermore, the applicants' objections regarding the risk of sulphuric acid mist during the irrigation of leach with sulphuric acid (condensation of sulphuric acid) and its effects on human health and agriculture were not addressed in the proceedings. The experts evaluated the risks posed by sulphuric acid with respect to the process of production of sulphuric acid and not its risk of condensation in the form of acid mist when sulphuric acid is used to separate the metal from the ore in the heap leaching phase (see paragraphs 15 and 16 above). In view of the lack of a response with respect to those two issues in the proceedings, the Court considers that the applicants were not provided with sufficient reasoning in line with the requirements of Article 6 § 1 of the Convention. Finally, the Court notes that the trial court's failure to provide sufficient reasoning was not remedied by the Supreme Administrative Court, which dismissed the applicants' appeal without addressing their arguments in that regard.

51. Turning to the applicants' complaint about the alleged failure of the Constitutional Court to examine their Article 6 complaint, the Court would begin by noting that the Constitutional Court found that the applicants' individual application, which included an Article 6 complaint regarding the fairness of proceedings with respect to the reasoning of domestic courts, raised issues only under the procedural limb of Article 8, and therefore rejected it for lack of victim status. In particular, the Constitutional Court

concluded that the applicants did not have victim status under Article 8 of the Convention in as much as they have failed to demonstrate that the mining activity in question would pose a *serious* threat to their private lives and their homes. The Court notes that the applicants' complaint under Article 8 was also declared inadmissible on the same ground by the President of the Section 2 of the Court, acting as a single judge, when giving notice of the application to the respondent Government. While the Convention does not prevent national courts, including Constitutional Courts, from applying the principle of *jura novit curia* to make their own assessment of the legal rules to be applied to the facts of the case before them, in the present case this had the effect that the Constitutional Court did not examine the admissibility and merits of the applicants' Article 6 complaint with respect to the reasoning of the domestic courts. The applicants' grievances were therefore not entirely examined by the highest court.

52. The Court notes at this juncture that although there is some overlap between the procedural guarantees of Article 8 and the requirements of a fair trial under Article 6 § 1 of the Convention, the Court's case-law demonstrates that the applicability criteria of each of those articles are not identical (see, for example, in the case of an environmental dispute brought by an association *Yusufeli İlçesini Güzelleştirme Yaşatma Kültür Varlıklarını Koruma Derneği v. Turkey* (dec.), no. 37857/14, § 43, 7 December 2021 and contrast it with the unique position afforded to associations under Articles 6 and 8 in the context of climate change *Verein KlimaSeniorinnen Schweiz and Others*, cited above, § 612; and in the context of employment related disputes, *Denisov v. Ukraine* [GC], no. 76639/11, §§ 53-57 and §§ 92-117, 25 September 2018). In the present case, the Court has found that Article 6 was applicable to the proceedings in respect of the second, third and fifth applicants and that there has been a violation in respect of their right to a reasoned judgment. However, the Constitutional Court failed to consider the admissibility and merits of the applicants' distinct complaint under Article 6 in the context of the individual application before it. In so doing, it failed to discharge its obligation under the Convention to provide an effective review of arguable complaints.

53. Having regard to the above considerations, the Court concludes that there has been a violation of Article 6 § 1 of the Convention on account of the insufficient reasoning provided by the administrative courts and the Constitutional Court's failure to address the applicants' complaint.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

54. Article 41 of the Convention provides:

"If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only

partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

55. In their observations the applicants requested fair compensation for the breaches in the proceedings complained of and for the damage sustained and costs and expenses incurred by them. That being so, they did not specify the amount of just satisfaction.

56. The Government argued that the applicants had failed to comply with the requirements of Rule 60 of the Rules of Court, and urged the Court not to make any award.

57. The Court reiterates that an applicant who wishes to obtain an award of just satisfaction must make a specific claim to that effect (Rule 60 § 1 of the Rules of Court). While the Court is, even in the absence of a properly submitted claim, empowered to afford just satisfaction, this is only on account of non-pecuniary damage and in exceptional circumstances (see *Nagmetov v. Russia* [GC], no. 35589/08, §§ 74-82, 30 March 2017). It finds that such exceptional circumstances do not exist in the present case (see for a similar approach, *Cangı and Others*, cited above, § 60). It therefore rejects the applicants’ claim for just satisfaction.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints in so far as brought by the applicants Adnan Ayan, İhsan Candesteci, Ali Yaşar Kayabaş concerning the reasoning of the domestic courts admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention in respect of the lack of a reasoning of domestic courts, including the Constitutional Court;
3. *Dismisses* the applicants’ claim for just satisfaction.

Done in English, and notified in writing on 8 July 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı
Registrar

Arnfinn Bårdsen
President

APPENDIX

List of applicants:

No.	Applicant's Name	Year of birth	Nationality	Place of residence
1.	Arif Ali CANGI	1964	Turkish	İzmir
2.	Adnan AYAN	1965	Turkish	Turgutlu
3.	Ertuğrul BARKA	1950	Turkish	İzmir
4.	İhsan CANDESTEÇİ	1959	Turkish	Turgutlu
5.	Ali Yaşar KAYABAŞ	1942	Turkish	Turgutlu
6.	Oya OTYILDIZ	1958	Turkish	İzmir
7.	Mehmet ŞAHİN	1959	Turkish	İzmir