



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

SECOND SECTION

CASE OF AKAN v. TÜRKİYE

(Application no. 62611/17)

JUDGMENT

Art 3 (procedural) • Failure to carry out an investigation against high-ranking officials to establish any shortcomings in the planning and organisation of the police intervention in a demonstration and to assess their responsibility for the use of force that caused the applicant's injury

Prepared by the Registry. Does not bind the Court.

STRASBOURG

25 November 2025

FINAL

25/02/2026

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

In the case of Akan v. Türkiye,

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

Arnfinn Bårdsen, *President*,

Saadet Yüksel,

Jovan Ilievski,

Péter Paczolay,

Stéphane Pisani,

Juha Lavapuro,

Hugh Mercer, *judges*,

and Hasan Bakırcı, *Section Registrar*,

Having regard to:

the application (no. 62611/17) 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 a Turkish national, Mr İbrahim Akan (“the applicant”), on 25 May 2017;

the decision to give notice to the Turkish Government (“the Government”) of the complaints concerning the applicant’s allegations of ill-treatment in so far as they pertained to the police officer concerned, the Governor of Istanbul and the head of the Istanbul Security Directorate, and to declare the remainder of the application inadmissible;

the parties’ observations;

Having deliberated in private on 4 November 2025,

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

INTRODUCTION

1. The case concerns the injury sustained by the applicant during the security forces’ intervention in the Labour Day demonstrations of 1 May 2013 and the domestic authorities’ refusal to initiate an investigation into his complaints regarding the responsibility of the Governor of Istanbul and the head of the Istanbul Security Directorate at the time. The applicant relied on Article 3 of the Convention.

THE FACTS

2. The applicant was born in 1990 and lives in Istanbul. He was represented by Mr R. Demir, a lawyer practising in Istanbul.

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.

I. BACKGROUND TO THE EVENTS OF 1 MAY 2013 AND THE INJURY CAUSED TO THE APPLICANT

5. On 18 January 2013 the Governorship of Istanbul (“the Governorship”) issued a notice identifying four specific locations in the city where demonstrations could be held, pursuant to the Meetings and Demonstrations Act (Law no. 2911). Taksim Square in the district of Beyoğlu was not among those four locations (for more information on the background to the restrictions on Labour Day celebrations in Taksim Square, see *Disk and Kesk v. Turkey*, no. 38676/08, §§ 4-9 and 31, 27 November 2012, and *Süleyman Çelebi and Others v. Turkey*, nos. 37273/10 and 17 others, §§ 5-11, 24 May 2016).

6. In April 2013 several trade unions lodged requests and held meetings with the Governor, stating their intention to celebrate Labour Day in Taksim Square in order to commemorate those who had lost their lives during the demonstrations of 1 May 1977. In a letter of 29 April 2013, addressed to several trade unions, the Governorship rejected their requests and stated that, due to the construction work on a pedestrianisation project in Taksim Square, there were excavations covering a large area and pits around 40 metres deep, which constituted a potential threat to demonstrators’ lives. It also noted that no security precautions taken would be sufficient given the unpredictability of human behaviour in the event of panic. According to the applicant, on the same day the Governor made a speech, stating that holding a demonstration in Taksim Square would be equivalent to having fun at the edge of a cliff.

7. On 30 April 2013 the Governor and the head of the Istanbul Security Directorate at the time (H.A.M. and H.Ç. respectively) made an announcement, reaffirming that they would not allow entry into Taksim Square on Labour Day. In response, the organising committee for the demonstrations stated that the construction work referred to by the State authorities concerned only a small area and that it would be possible to hold a demonstration in a different part of Taksim Square.

8. On 1 May 2013 the authorities blocked all roads leading to Taksim Square, suspended all public transport to that area and made regular announcements stating that they would definitely intervene in any unauthorised demonstrations. As part of the security measures, around 22,000 police officers were deployed and a substantial number of vehicles (including 27 ambulances and 25 water tanks) were brought to the area. In the meantime, demonstrators gathered in the surrounding neighbourhoods and started a march towards the square. The security forces intervened, using pressurised water and tear gas.

9. According to the applicant’s submissions, while he was passing by a demonstration in one of the surrounding neighbourhoods where his sister lived, he was hit in the left eye by a tear-gas grenade. He was taken to the

Istanbul Research and Training Hospital where he was diagnosed with globe perforation. He was operated on but eventually lost his left eye.

10. On 3 May 2013 officers from the Feriköy police headquarters visited the applicant at the hospital to take his statement regarding the incident that had led to his injury. The applicant said that he would give his statement after he had been discharged from the hospital. The chief police officer of the headquarters drew up a report, stating that as the applicant had refused to give a statement, the details of the incident – including where it had taken place – could not be determined and that no further investigation could be carried out.

11. On 11 July 2013 the applicant lodged a criminal complaint with the Istanbul Public Prosecutor's Office, requesting the initiation of criminal proceedings against several people, including the police officer who had used disproportionate force during the events as well as that officer's supervisors, including H.A.M., and H.Ç. He argued that, during the events of 1 May 2013, the police had used force indiscriminately and disproportionately, causing serious injury to several protesters, including himself. He claimed that the actions of the police had resulted from previous instructions by State authorities who had aimed to prevent the public from celebrating Labour Day.

12. The Public Prosecutor's Office separated the investigation into the actions of police officers who had used the contested force from the investigation against the others. It then transmitted the complaint regarding H.A.M. and H.Ç. to the Public Prosecutor's Office at the Court of Cassation.

II. INVESTIGATION AGAINST THE GOVERNOR AND THE HEAD OF THE SECURITY DIRECTORATE

13. On 6 September 2013 the Public Prosecutor's Office at the Court of Cassation sent the case file to the Ministry of the Interior for a preliminary investigation, pursuant to Law no. 4483 on the prosecution of civil servants and other public officials ("Law no. 4483").

14. On 8 November 2013 the Ministry of the Interior decided, on the basis of a preliminary investigation report approved by two deputy governors, that the criminal complaint against H.A.M. and H.Ç. should not be processed, by virtue of section 4 of Law no. 4483. The decision stated that the State authorities had clearly indicated the locations where demonstrations could be held, and had informed all trade unions and the public that no demonstrations in Taksim Square would be authorised due to the security concerns arising from the construction work. The trade unions had also been informed that as a symbolic ceremony, their leaders could lay a wreath in Taksim Square. However, on 1 May 2013 demonstrators had attempted to enter the area, had blocked the roads with barricades, had damaged property and had attacked police officers with Molotov cocktails and stones. Although six demonstrators had been injured, some fifty police officers had also sustained injuries. In view of these violent acts, the use of tear gas and pressurised water

by the police to disperse the crowd had been proportionate and in accordance with Law no. 2559 regarding the duties and powers of the police.

15. On 5 March 2014 the Supreme Administrative Court rejected an objection lodged by the applicant against that decision.

16. Subsequently, the applicant lodged an individual application with the Constitutional Court, complaining, *inter alia*, of a violation of the prohibition of ill-treatment. He argued that H.A.M. and H.Ç. had both been responsible for the injury caused to him on account of their instructions that had led to the excessive use of force by security forces. However, the judicial and administrative authorities had failed to open an investigation into their acts and to determine their degree of responsibility, thereby failing to comply with their positive obligations.

17. By a decision of 16 November 2016, the Constitutional Court found that the applicant had failed to point to any specific instructions by H.A.M. and H.Ç. and had merely relied on their decision not to authorise demonstrations in Taksim Square and their instructions regarding security measures. He had therefore failed to substantiate the causal link between the contested instructions and the use of force which had resulted in his injury. Consequently, in the absence of an arguable claim, the Ministry of the Interior's decision not to process the criminal complaint against the State officials concerned could not be considered as a failure of the State to comply with its obligation to investigate allegations of ill-treatment. The Constitutional Court therefore rejected the applicant's individual application as being manifestly ill-founded. That decision was served on the applicant on 1 December 2016.

III. INVESTIGATION AGAINST THE POLICE

18. Following the events of 1 May 2013, a senior police officer at the Istanbul Security Directorate drew up a preliminary investigation report on the nature of the incidents and the use of force by the security forces, stating that despite the clear decision of the State authorities and the unsuitability of Taksim Square for demonstrations, the trade union officials had insisted on meeting in that area and that their calls to that effect had been followed by marginal groups. The report gave detailed information on the legal and illegal groups which had attended the demonstrations and on the harm caused both to several protesters, including the applicant, and to members of the security forces, in addition to damage caused to public property. It concluded that the use of tear gas and pressurised water had been necessary to disperse the violent crowd and had been in accordance with the law. The report was approved by the head of the Security Directorate, H.Ç.

19. On 14 June 2013, in line with the preliminary investigation report, Governor H.A.M. issued a decision not to process any complaints of

excessive use of force or intentional injury against the personnel of the Istanbul Security Directorate, pursuant to section 4 of Law no. 4483.

20. On the basis of a similar report – which had been approved by H.Ç. – H.A.M. also decided not to initiate disciplinary proceedings against any of the personnel concerned.

21. On 6 September 2013, in the context of the investigation concerning the injury he had sustained, which had previously been initiated by the public prosecutor (see paragraph 12 above), the applicant gave his statement to the police as a complainant. He maintained that on the day of the incident, he had been passing by a demonstration on his way to his sister's. When he had entered a street filled with tear gas, he had noticed a man who had fainted on the ground and had turned around to ask the police officers behind him for help. At that moment, an officer, whose face he could not recognise as the officer had been wearing a mask, had fired a tear-gas grenade, aiming at his head. He had been hit in the left eye and had eventually lost that eye.

22. At the request of the public prosecutor, on 17 January 2014 the Forensic Medicine Institute issued a report on the applicant's state of health, noting that the injury which had caused the globe perforation had not put the applicant's life at risk, had not been of a nature that could be treated with simple medical care and had resulted in the loss of an eye and permanent loss of that organ's functions.

23. During the course of the investigation, the public prosecutor and the Security Directorate exchanged correspondence regarding the precautions taken before the security forces had resorted to use of force, the list of personnel on duty in the relevant area and the existence of any video footage that would allow for the establishment of the facts. By a decision of 25 August 2016, the Governor decided not to authorise the prosecution of any officers. On 17 June 2017 the Istanbul Regional Administrative Court rejected an objection lodged by the applicant against that decision.

24. On 13 September 2017 the public prosecutor decided to set up a permanent search notice to find the suspects, stating that the identity of the police officers responsible for the applicant's injury could not be determined.

25. The applicant lodged an individual application with the Constitutional Court, complaining of a violation of the prohibition of ill-treatment.

26. By a judgment of 25 February 2021, the Constitutional Court found a violation of both the substantive and procedural aspects of the prohibition of ill-treatment. As for the substantive aspect, the Constitutional Court stated that the security forces had failed to take the required measures to protect individuals who had not been involved in the violence and had caused the applicant's injury by shooting a tear-gas grenade in an uncontrolled manner. As regards the procedural aspect, it found that the public prosecutor had asked the Security Directorate for authorisation to prosecute police officers under Law no. 4483, without determining whether the contested act was among the acts listed in section 2(5) of that law, which were not subject to such

authorisation. Moreover, the investigation had been delayed and the public prosecutor had failed to take the necessary steps to establish the identities of those responsible. The Constitutional Court awarded the applicant 50,000 Turkish liras (TRY) in respect of non-pecuniary damage for the violation of the procedural aspect. It did not award any compensation for the violation of the substantive aspect because the compensation proceedings before the administrative courts were still pending. Lastly, it transmitted its decision to the Public Prosecutor's Office, which could then initiate a fresh investigation.

IV. PROCEEDINGS BEFORE THE ADMINISTRATIVE COURTS

27. On 17 July 2013 the applicant applied to the administrative authorities, requesting compensation for the pecuniary and non-pecuniary damage caused to him by the security forces' excessive use of force. A compensation commission established within the Governorship awarded him a certain amount of compensation. On 16 May 2014 the applicant lodged an action before the Istanbul Administrative Court, requesting the annulment of the decision of the compensation commission and claiming damages.

28. On 29 January 2016 the Administrative Court allowed the applicant's action, annulled the decision of the compensation commission and awarded him TRY 167,000 in respect of pecuniary damage (52,000 euros (EUR) at the time) and TRY 200,000 in respect of non-pecuniary damage (EUR 62,500 at the time). In doing so, the domestic court stated that although it was clear that security forces could intervene in demonstrations to the extent necessary, precautions had to be taken so as to prevent harm to third parties. As a result of a tear-gas grenade hitting the applicant in the eye, the applicant – who had been 23 years old at the time of the events – had lost his left eye and had become 33% disabled. Given that there was nothing to indicate that he had attended the demonstration or had been involved in the violent acts towards the security forces, his damage had to be compensated by the administrative authorities.

29. That judgment was quashed by the Supreme Administrative Court for recalculation of the amount of compensation, following which a fresh judgment making a higher award in respect of pecuniary damage was delivered by the Administrative Court. On 26 September 2023 the Supreme Administrative Court upheld the part of the Administrative Court's judgment pertaining to an award of TRY 200,000 plus legal interest in respect of non-pecuniary damage and quashed the part concerning pecuniary damage. The proceedings are still pending before the Istanbul Administrative Court.

RELEVANT LEGAL FRAMEWORK

I. RELEVANT DOMESTIC LAW

A. Use of tear-gas weapons

30. The relevant domestic law in respect of the use of force by the police, as well as the use of tear-gas weapons and munitions, has been summarised in *Abdullah Yaşa and Others v. Turkey* (no. 44827/08, §§ 23-28, 16 July 2013) and *Geylani and Others v. Türkiye* (no. 10443/12, §§ 43-44, 12 September 2023).

31. In particular, the Directive on the use of tear-gas weapons and munitions, which was issued in February 2008, provides detailed instructions regarding the use of such weapons. It reads, in so far as relevant, as follows:

“2. Instructions for the use of tear-gas weapons and munitions

(i) Tear-gas weapons and munitions must not be used for purposes other than those specified in the rules or before the necessary measures (such as ensuring the presence of medical personnel) have been taken.

(ii) Prior to the use of tear gas, the crowd must be audibly warned that in the event of non-dispersal, use will be made of such gas.

(iii) The gas shall be used in accordance with tactics and dosages determined by the head of the tear-gas intervention team following an assessment of the situation by the latter.

(iv) Units which lack suitably trained personnel may not apply for tear-gas supplies.

...

(vii) No tear-gas projectile may be launched directly at a human body.

...

(x) Tear gas must never be used against persons who have ceased to put up resistance or show aggression.

(xi) Personnel called upon to use munitions [of this type] shall be instructed in their use and informed of the warnings issued by their manufacturers.”

...

(4) Levels of use of tear gas

...

(c) Level 3: Long range (30-150 metres) 37/38 mm. Intervention with grenade launcher ... A grenade launched at a 45° angle to the body of the officer concerned under appropriate meteorological conditions has a range of over 150 metres ...

B. Law no. 4483 on the prosecution of civil servants and other public officials

32. For the relevant provisions of Law no. 4483 on the prosecution of civil servants and other public officials of 2 December 1999 (“Law no. 4483”), the Court refers to its judgments in *Işıldak v. Turkey* (no. 12863/02, §§ 25–30, 30 September 2008) and *Arslan v. Türkiye* (no. 42749/19, §§ 96–102, 21 November 2023).

33. According to the Code of Criminal Procedure, a public prosecutor, who is made aware of a situation giving rise to a suspicion that a criminal offence has been committed, is required to investigate the matter in order to decide whether or not to prosecute those concerned. However, if the alleged perpetrator of the offence is a civil servant and the act was committed in the course of his or her duties, the investigation of the matter falls within the scope Law no. 4483, save for the following exceptions listed in section 2 of that law: (i) situations concerning a civil servant or offence subject to special investigation and prosecution procedures (section 2(2)); (ii) cases of *in flagrante delicto* requiring a heavy penalty (section 2(3)); (iii) disciplinary provisions (section 2(4)); and (iv) investigations and prosecutions initiated in the context of torture or inhuman or degrading treatment (section 2(5)).

34. The procedure established by Law no. 4483 is based on Article 129 § 6 of the Constitution, which reads as follows:

“Criminal proceedings in relation to offences attributed to civil servants and other public officials may not be initiated, save for exceptions provided by law, without the authorisation of the administrative authority designated by law.”

35. According to section 9 of Law no. 4483, regional administrative courts and, where applicable, the Supreme Administrative Court have exclusive jurisdiction to examine objections brought against decisions by administrative authorities authorising or refusing the initiation of criminal proceedings against a civil servant, as well as against decisions not to process complaints.

36. The involvement of the Supreme Administrative Court depends on the function and rank of the official concerned, or on the level of the competent administration under Law no. 4483. For example, objections to decisions issued by the Ministry of the Interior fall within the jurisdiction of the Supreme Administrative Court.

37. These courts are not empowered to order, of their own motion, the initiation of an investigation against a civil servant other than the one targeted by the investigation under review. Their sole task is to verify whether the contested decision is based on an adequate investigation that meets the requirements of procedural law.

II. RELEVANT INTERNATIONAL MATERIAL

38. In the course of its examination of the execution of the Court's judgments in the group of cases following *Oya Ataman v. Turkey* (no. 74552/01, ECHR 2006-XIV), at its 1222nd meeting on 11 and 12 March 2015, the Committee of Ministers of the Council of Europe decided, *inter alia*, as follows:

“The Deputies

...

As regards general measures

...

6. reiterated their call on the Turkish authorities to take the necessary measures to ensure that the authorities and courts act promptly and diligently in carrying out investigations into allegations of ill-treatment and in conducting criminal proceedings initiated against law enforcement officers in compliance with Convention standards and in such a way as to ensure the accountability of all, including senior law enforcement officers.”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

39. The applicant complained that the excessive use of force by the police – which had caused him serious injury – had stemmed from the State authorities' determination to ban demonstrations in Taksim Square and the instructions they had given to that effect, which had instigated the excessive use of force. He argued that the authorities' refusal to initiate investigations against high-ranking officials had resulted in impunity. He relied on Article 3 of the Convention, which reads as follows:

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

A. Admissibility

1. The parties' submissions

(a) The Government

40. The Government submitted that the applicant had abused his right to individual application, as he had misled the Court by stating that on 1 May 2013, he had been walking to his sister's, whereas it had been established that his sister had already moved out of the neighbourhood concerned prior to that date.

41. They argued that the applicant had failed to exhaust domestic remedies, as the proceedings before the administrative courts were still

pending. In that regard, they submitted that, in the circumstances of the present case, the remedy before those courts was the effective remedy because the act that had caused the applicant's injury had not been intentional. Since the applicant had alleged that he had not taken part in the demonstrations and had not acted violently, and in view of the chaos in the area, the tear-gas grenade hitting the applicant in the eye could only be considered as an accident. The Government provided examples of decisions delivered by administrative courts in which those courts had awarded compensation to complainants for pecuniary and non-pecuniary damage caused during security forces' interventions in demonstrations.

42. The Government further argued that the applicant could no longer be considered a victim. Firstly, the administrative courts had acknowledged a violation of the applicant's rights and would eventually award him compensation. The proceedings were only pending for the recalculation of the amount. Secondly, the Constitutional Court had also clearly acknowledged a violation of the prohibition of ill-treatment and awarded the applicant compensation in respect of the violation of the procedural aspect of that provision.

(b) The applicant

43. The applicant contested the Government's submissions regarding an abuse of the right to individual application, stating that on 1 May 2013 his sister had indeed resided in the area concerned. In that regard, he submitted his sister's address records, issued by the relevant directorate, showing that she had lived in the neighbourhood concerned on the day of the events at issue.

44. Referring to case-law both from the Court and the Constitutional Court, the applicant stated that, in cases of wilful ill-treatment, a breach of Article 3 could not be remedied only by an award of compensation to the victim. Accordingly, the fact that he had initiated compensatory proceedings of his own motion would not absolve the State authorities of their obligation to carry out an effective investigation against those responsible for his injury. As a result, the application could not be considered premature on account of the pending proceedings before the administrative courts. Nor could the compensation that might be awarded in those proceedings have any effect on his victim status.

45. Finally, the applicant stated that the present application solely concerned the State authorities' refusal to authorise an investigation against the Governor and the head of the Security Directorate. The outcome of the second individual application before the Constitutional Court, which had been lodged in relation to the investigation against the police officers who had used force, therefore had no effect on the admissibility of the present application.

2. *The Court's assessment*

(a) **Alleged abuse of the right to individual petition**

46. As regards the Government's argument that the applicant had provided the Court with misleading information – because he could not have been passing by a demonstration on his way to his sister's since she had already moved out of the area – the Court reiterates that under Article 35 § 3 (a) of the Convention an application may be rejected as an abuse of the right of individual application if, among other reasons, it was knowingly based on untrue facts (see, among many authorities, *Centro Europa 7 S.r.l. and Di Stefano v. Italy* [GC], no. 38433/09, § 97, ECHR 2012). The submission of incomplete and thus misleading information may also amount to an abuse of the right of application, especially if the information concerns the very core of the case and no sufficient explanation has been provided for the failure to disclose that information (*Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014). However, in the present case, the applicant provided the Court with a document (see paragraph 43 above), which clearly demonstrated that his sister had been residing in the area concerned on 1 May 2013. The Government did not contest the veracity of that document or produce another document that would support their assertion. Accordingly, the Court dismisses the Government's objection regarding an abuse of the right of individual application.

(b) **Alleged failure to exhaust domestic remedies and lack of victim status**

47. The Government also contended that the applicant had failed to exhaust domestic remedies as the proceedings before the administrative courts were still pending. Moreover, he could no longer claim to be a victim as the administrative courts had acknowledged a breach of his right under Article 3 of the Convention and had awarded compensation, which would eventually be paid to him. The Court reiterates that in cases of wilful ill-treatment the breach of Article 3 cannot be remedied only by an award of compensation to the victim. This is so because, if the authorities could confine their reaction to incidents of wilful ill-treatment by State agents to the mere payment of compensation, while not doing enough to prosecute and punish those responsible, it would be possible in some cases for agents of the State to abuse the rights of those within their control with virtual impunity, and the general legal prohibition of torture and inhuman and degrading treatment, despite its fundamental importance, would be ineffective in practice (see *Gäfgen v. Germany* [GC], no. 22978/05, §§ 116 and 119, ECHR 2010, and *Jeronovičs v. Latvia* [GC], no. 44898/10, § 105, 5 July 2016).

48. The Court has previously held that a civil action is not capable, without the benefit of the conclusions of a criminal investigation, of making any findings as to the identity of the perpetrators, much less of establishing their responsibility. Awarding damages in civil proceedings could only

complement by way of redress the results of a thorough and effective investigation capable of leading to the punishment of those responsible (see *Durđević v. Croatia*, no. 52442/09, §§ 65-67, ECHR 2011 (extracts)).

49. In the present case, there is no dispute that the applicant initiated compensatory proceedings before the administrative courts in 2013. The Istanbul Administrative Court had awarded him compensation in respect of pecuniary and non-pecuniary damage, however, that judgment was overturned for a recalculation of the amount. Although the part of the judgment concerning non-pecuniary damage became final in 2023, the proceedings are still pending before the administrative courts for the calculation of compensation in respect of pecuniary damage.

50. The Court notes that the applicant complained specifically of the State authorities' failure to initiate an investigation against high-ranking officials, who, according to him, had been responsible for the indiscriminate use of force as a result of their instructions. In these circumstances, although the administrative courts had acknowledged that the administration bore responsibility for the harm suffered by the applicant, the Court cannot consider that the compensatory action before those courts could, in itself, provide for an effective remedy that could possibly establish the responsibility of the officials concerned or replace a criminal investigation for that purpose. The Court therefore rejects the Government's objections as to the non-exhaustion of domestic remedies and loss of victim status on account of that set of proceedings.

51. Lastly, as for the Government's contention that the Constitutional Court's judgment – in which that court had found a violation of the prohibition of ill-treatment and had awarded the applicant compensation – had stripped him of his victim status, the Court notes that that judgment of the Constitutional Court was delivered in an individual application lodged by the applicant regarding the harm caused to him by the police's use of force and the authorities' failure to carry out an effective investigation to identify the police officer who had launched the tear-gas grenade. Nevertheless, as specified by the applicant, the present application concerns solely the authorities' refusal to initiate an investigation against the Governor and the head of the Security Directorate (see paragraph 45 above), regarding which issue the Constitutional Court had previously rejected the applicant's individual application as being manifestly ill-founded in a separate decision (see paragraph 17 above). Accordingly, the Constitutional Court's judgment in the applicant's second individual application cannot be considered to cover the complaint raised in the present case. The Court therefore dismisses the Government's objection under this head as well.

(c) Conclusion on admissibility

52. The Court notes that the application is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

53. The applicant argued that the statements made and the measures taken by the then Governor, H.A.M., and the head of the Istanbul Security Directorate, H.Ç., prior to and during the demonstrations of 1 May 2013 had amounted to an instruction to the security forces to use indiscriminate and disproportionate force against the demonstrators. As a result of that use of force the applicant had been seriously injured. However, despite his requests to that effect, no investigation had been initiated by the State authorities to establish the responsibility of the two high-ranking officials, which had resulted in impunity. In that regard, the applicant pointed to the decision of the Committee of Ministers taken during its meeting in March 2015 on the execution of the group of cases concerning the use of force during demonstrations, in which the Committee of Ministers had called on the Turkish authorities to carry out prompt and diligent investigations to ensure the accountability of all officials concerned, including senior law-enforcement officers (see paragraph 38 above).

54. The Government stated that the demonstrations of 1 May 2013 had not been of a peaceful nature; the demonstrators had attacked the security forces and damaged property, and the security forces had been obliged to use force in the form of tear gas and pressurised water to maintain public order and security. They stated that the applicant's submission that he had simply been passing by was not convincing and that the use of force against him had been necessary as he had been part of a group of violent demonstrators. In any event, the use of tear-gas weapons was strictly regulated and there was no concrete evidence to indicate that the tear-gas grenade, which had caused the applicant's injury, had been launched with a flat trajectory, aiming at the applicant.

55. As for the responsibility of H.A.M. and H.Ç., the Government argued that the applicant had failed to raise an arguable claim, as he had not pointed to specific orders that authorised the security forces to use disproportionate force. Accordingly, no causal link could be established between the orders of the two high-ranking officials to prevent entry into Taksim Square and the allegedly disproportionate use of force resulting in injury. Even assuming that the concerned officials' orders had been unlawful, their acts could only be considered as an offence of "misconduct", the prosecution of which was subject to an authorisation for investigation pursuant to Law no. 4483.

Consequently, the Ministry of the Interior's decision not to grant that authorisation did not raise an issue with regard to the State's obligation to carry out an effective investigation.

2. *The Court's assessment*

(a) **Scope of the case**

56. Given that the applicant specifically stated in his observations that the present case only concerned the State authorities' refusal to initiate an investigation into his complaints against the Governor and the head of the Security Directorate, the Court will confine its examination of the case to that matter, which it will do so under the procedural aspect of Article 3 of the Convention (see *Elvan v. Türkiye*, no. 64937/19, § 86, 7 February 2023).

(b) **Whether the authorities had an obligation to carry out an investigation against the high-ranking officials concerned**

57. The Court reiterates that the provisions of Article 3 require by implication that there should be some form of effective official investigation where an individual makes a credible assertion that he or she has suffered treatment infringing Article 3 at the hands, *inter alia*, of the police or other similar authorities. The essential purpose of such an investigation is to secure the effective implementation of the domestic laws prohibiting torture and inhuman or degrading treatment or punishment in cases involving State agents or bodies, and to ensure their accountability for ill-treatment occurring under their responsibility (see *Bouyid v. Belgium* [GC], no. 23380/09, §§ 116-17, ECHR 2015).

58. The Court also states that unregulated and arbitrary action by State agents is incompatible with effective respect for human rights. This means that policing operations must be sufficiently regulated by national law, within the framework of a system of adequate and effective safeguards against arbitrariness and abuse of force. Accordingly, the Court must take into consideration not only the actions of the agents of the State who actually administered the force but also all the surrounding circumstances, including such matters as the planning and control of the actions under examination. Police officers should not be left in a vacuum when performing their duties: a legal and administrative framework should define the limited circumstances in which law-enforcement officials may use force and firearms, in the light of the international standards which have been developed in this respect (see *Makaratzis v. Greece* [GC], no. 50385/99, §§ 58-59, ECHR 2004-XI, and *Giuliani and Gaggio v. Italy* [GC], no. 23458/02, § 249, ECHR 2011 (extracts), in relation to the use of lethal force under Article 2; see also *Abdullah Yaşa and Others v. Turkey*, no. 44827/08, § 43, 16 July 2013, for the application of those principles in the context of the use of force under Article 3).

59. In the present case, it is not in dispute between the parties that the applicant was seriously injured and lost one of his eyes as a result of a tear-gas grenade hitting that eye. Although the Government argued that the use of force had been warranted by the applicant's involvement in the violent demonstration, that contention had already been ruled out by both the Istanbul Administrative Court and the Constitutional Court, which concluded that the applicant had been affected by the use of force by the police as a third party (see paragraphs 28 and 26, respectively). Even assuming that he had attended the demonstration, his injury resulted from the police's firing of a tear-gas grenade in an uncontrolled manner (see paragraph 26 above for the finding of the Constitutional Court to that effect), which did not comply with the detailed domestic regulations on the use of tear-gas weapons (see paragraph 31 above). Therefore, regardless of the applicant's participation in the demonstration or the necessity of the use of tear gas to disperse the crowd, the State authorities were under an obligation to carry out an effective investigation in order to elucidate the circumstances surrounding the contested use of force. That obligation required them to look into any deficiencies in the planning and organisation of the police operation, which was led by H.A.M. and H.Ç. and entailed substantive measures such as the deployment of some 22,000 police officers (see paragraphs 7-8 above).

60. In this regard, the Court notes that the Ministry of the Interior decided not to process the complaint lodged against H.A.M. and H.Ç., under Law no. 4483. The applicant's first individual application before the Constitutional Court – in which he complained that the two high-ranking officials were responsible for his injury on account of their instructions to the security forces and the authorities' failure to carry out an effective investigation – was rejected by that court due to his failure to establish a causal link between the actions of the officials concerned and the allegedly disproportionate use of force to which he had been subjected (see paragraph 17 above). The Government reiterated this argument, stating that the applicant had failed to point to specific instructions given by the two high-ranking officials and to demonstrate that their orders to prohibit access to Taksim Square had amounted to incitement of the security forces to use disproportionate force.

61. The Court recently found in *Elvan* (cited above, § 100) – which concerned a similar complaint by the applicants in the context of the death of B.E., resulting from a tear-gas grenade launched by the police – that such an approach was based exclusively on a reversal of the burden of proof. It could not reasonably be expected that an applicant would be able to submit that H.A.M. and H.Ç., in their capacities as heads of the police, had incited police officers to commit acts of violence. The burden of proof lay with the respondent Government, in particular in cases where individuals had died or had been injured while under the control of State authorities. In such situations those authorities could be presumed to be the only ones with access

to the relevant information capable of confirming or denying the allegations made against them (*ibid.*, §§ 100-02).

62. In the circumstances of the present case, the Court has no information that would enable it to conclude definitively that the security forces' use of force during the demonstrations of 1 May 2013 was part of a deliberate strategy by the State authorities to prevent further demonstrations in Taksim Square and was encouraged by the instructions of H.A.M. and H.Ç., as stated by the applicant (compare and contrast *Shmorgunov and Others v. Ukraine*, nos. 15367/14 and 13 others, § 344, 21 January 2021, in which such a strategy by the authorities was established by both domestic and international sources). That assertion could only be assessed through an effective investigation that would establish the degree of any responsibility the two high-ranking officials had in the events resulting in the applicant's injury (see *Süleyman Çelebi and Others v. Turkey*, nos. 37273/10 and 17 others, §§ 95-99, 24 May 2016, and *Elvan*, cited above, § 103).

63. In that regard, the Court cannot but point to the decision of the Committee of Ministers of the Council of Europe, in which it called on the Turkish authorities to carry out prompt and diligent investigations into allegations of ill-treatment so as to ensure the accountability of all officials, including senior law-enforcement officers (see paragraph 38 above), such as the Governor and the head of the Security Directorate in the present case.

(c) Whether there has been an effective investigation

64. The Court has already found that the issues raised by the implementation of the mechanism under Law no. 4483 amount to a structural problem, which constitutes, in itself, a breach of the procedural obligations at issue in the present case (see *Aydoğdu v. Turkey*, no. 40448/06, § 90, 30 August 2016, and *Asma v. Turkey*, no. 47933/09, § 86, 20 November 2018). In that regard, it has pointed to the lack of independence of the investigating authorities called upon to implement the said mechanism, the individuals' inability to participate effectively in the relevant investigations, and the inadequacy of the judicial review carried out into the decisions of the investigating authorities (see *Aydoğdu*, cited above, § 90, and the cases cited therein).

65. The Government argued that, even assuming that H.A.M. and H.Ç. had been responsible for the use of force during the demonstrations of 1 May 2013, their actions could only be considered as amounting to "misconduct", which could not be investigated without authorisation under Law no. 4483. The Court notes that, indeed, in Turkish law, the investigation of offences committed by civil servants in the course of their duties is subject to Law no. 4483, save for a few exceptions such as offences involving torture or inhuman or degrading treatment (see paragraph 33 above). Nevertheless, the Court's previous findings of a violation (see paragraph 64 above) were not limited to the investigation of offences relating to torture or other forms

of ill-treatment, which, in any event, should not be made subject to that law by the domestic authorities. Instead, as noted above, the implementation of Law no. 4483, in itself, has been found to constitute a breach of the State's duty to carry out an effective official investigation, regardless of the nature of the offence allegedly committed by the civil servants concerned.

66. In the present case, there is nothing that would require the Court to depart from its case-law relating to the implementation of Law no. 4483, because its previous considerations regarding the lack of independence of the investigating authorities, the absence of effective participation by individuals and the inadequacy of the judicial review mechanism remain valid. In particular, the decision of the Ministry of the Interior not to process the complaints against the Governor and the head of the Security Directorate was based on a report by two deputy governors (see paragraph 14 above); the decision was issued without any inclusion of the applicant in the procedure or any assessment of the necessity of the specific force used on him (*ibid.*); and the jurisdiction of the Supreme Administrative Court as a review mechanism was still limited to verifying the procedural adequacy of the Ministry of the Interior's decision (see paragraphs 36-37 above).

(d) Conclusion

67. The Court finds that the State authorities were under an obligation to carry out an investigation against H.A.M. and H.Ç., capable of identifying any shortcomings in the planning and organisation of the police intervention during the demonstrations of 1 May 2013, and of assessing the applicant's allegations concerning their responsibility for the use of force that caused his injury. However, no such investigation was carried out due to the implementation of the prior-authorisation mechanism under by Law no. 4483.

68. It follows that there has been a violation of Article 3 of the Convention under its procedural aspect.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

69. 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.”

A. Damage

70. The applicant claimed 250,000 euros (EUR) in respect of pecuniary damage on account of his injury, which had resulted in disability, and EUR 300,000 in respect of non-pecuniary damage.

71. The Government contested that claim, arguing that there was no causal link between the pecuniary damage claimed and the alleged violation of the Convention, and that the applicant had failed to submit the relevant documents proving his pecuniary damage. As for the amount claimed in respect of non-pecuniary damage, they argued that it was excessive and inconsistent with the amounts awarded in similar cases.

72. The Court reiterates that, as specified by the applicant in his observations, the present case concerns solely the procedural aspect of Article 3 of the Convention on account of the authorities' failure to initiate an investigation against the Governor and the head of the Security Directorate (see paragraphs 45 and 56 above). Accordingly, it does not discern any causal link between the violation found and the pecuniary damage alleged and rejects this claim. However, having regard to the nature of the violation found, the Court awards him, on an equitable basis, EUR 12,500 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

73. The applicant also claimed a total of EUR 5,500 for the costs and expenses incurred before the Court. In support of his claim, he submitted a legal fee agreement, according to which he was to pay the legal fees established by the breakdown of hours provided by his lawyer, and 15% of any award made by the Court. In that regard, without submitting a detailed document showing the breakdown of hours, he claimed that his lawyer had worked for a total of 50 hours for an hourly rate of EUR 100 (20 hours for the preparation of the application form and for 30 hours for the procedure following the notification of the application to the Government). Lastly, he claimed EUR 500 for stationery expenses.

74. The Government contested that claim, arguing that the applicant had failed to show that the costs and expenses had actually been incurred.

75. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 1,000 for the proceedings before it, plus any tax that may be chargeable to the applicant (see *İşik v. Türkiye*, no. 42202/20, § 88, 8 October 2024).

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of the procedural aspect of Article 3 of the Convention;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
 - (i) EUR 12,500 (twelve thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 1,000 (one thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 25 November 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı
Registrar

Arnfinn Bårdsen
President