

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

SECOND SECTION

CASE OF Z.A. AND K.S. v. TÜRKİYE

(Application no. 36449/17)

JUDGMENT

Art 3 (substantive) • Conditions of detention of the first applicant at a reception and accommodation centre amounting to degrading treatment
Art 5 § 1 • Deprivation of liberty of the first applicant • Initial detention not in accordance with a procedure prescribed by law • Detention following judicial release order arbitrary

Prepared by the Registry. Does not bind the Court.

STRASBOURG

5 May 2026

FINAL

05/08/2026

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Z.A. and K.S. 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 Andrea Tamietti, *Section Registrar,*

Having regard to:

the application (no. 36449/17) 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 Kyrgyzstani national, Mr Z.A., and a Russian national, Mr K.S. ("the applicants"), on 17 April 2017;

the decision to give notice to the Turkish Government ("the Government") of the complaints concerning Article 3 and Article 5 §§ 1, 2, 4, 5 as well as Article 13 in conjunction with Article 3 of the Convention, and to declare the remainder of the application inadmissible;

the decision not to give notice of the present application to the Russian Federation having regard to the Court's findings in *I v. Sweden* (no. 61204/09, §§ 40-46, 5 September 2013) and *A.B. and Others v. France* (no. 11593/12, § 5, 12 July 2016);

the decision not to have the applicants' names disclosed;

the parties' observations;

Having deliberated in private on 24 March 2026,

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

INTRODUCTION

1. The application concerns the alleged unlawfulness and conditions of the applicants' detention in various facilities for periods of approximately five and four months respectively in the context of immigration proceedings.

THE FACTS

2. The applicants, Mr Z.A. ("the first applicant") and Mr K.S. ("the second applicant") are Kyrgyzstani and Russian nationals, who were born in 1973 and 1988 and live in Bilecik and Yalova respectively. They were represented by Mr A. Yılmaz, 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, as they appear from the parties' submissions and the findings made by the Constitutional Court in its decision of 22 September 2016 (see paragraphs 22-23 below), may be summarised as follows.

I. THE FIRST APPLICANT'S (MR Z.A.) ENTRY INTO TÜRKİYE AND HIS SUBSEQUENT DEPRIVATION OF LIBERTY

5. The first applicant left Tajikistan because of an alleged risk of persecution on account of his religious and political opinions and subsequently moved to Türkiye.

6. On 7 April 2014, whilst accompanying a Syrian national receiving medical treatment at a hospital in Sakarya, the first applicant was arrested for not being in possession of valid identification documents. He was subsequently transferred to the Foreigners' Department at the Sakarya police headquarters (*Yabancılar Şube Müdürlüğü*) by the police authorities.

7. On 8 April 2014 the first applicant lodged an application for international protection with the competent authorities. A travel permit, valid until 15 April 2014, was issued to him to facilitate the completion of registration procedures with the United Nations High Commissioner for Refugees ("the UNHCR"), as was the required procedure at the material time. He was released on the same date.

8. On 14 April 2014, prior to the expiry of the above-mentioned travel permit, the first applicant reapplied with the Sakarya police headquarters, submitting documentation pertaining to his application to the UNHCR. Upon that submission, the first applicant was taken into custody on account of existing entry bans imposed against him.

9. During the period from 14 April 2014 to 17 April 2014 the first applicant was held at the premises of the Sakarya police headquarters pending his relocation to a removal centre. On 17 April 2014 he was transferred to the Kocaeli Foreigners' Removal Centre ("the Kocaeli Removal Centre"). On 18 April 2014 an administrative detention order issued by Kocaeli governor's office was served on the first applicant.

10. On an unspecified date the first applicant lodged a second application for international protection. On 13 May 2014 he was informed that his request had been refused by the Directorate General of Migration Management. The first applicant objected to that decision.

11. On an unspecified date in May 2014, but no later than 13 May 2014, the first applicant was transferred to the Adana Accommodation and Reception Centre.

12. On an unspecified date, the first applicant lodged an objection against his detention with the Adana Magistrate's Court. On 25 July 2014 the court

granted the objection and ordered his release on the grounds that no extension order had been issued for the continuation of his administrative detention.

13. On 22 August 2014 the first applicant was taken to Bilecik and released on the following day.

II. THE SECOND APPLICANT'S (MR K.S.) ENTRY INTO TÜRKİYE AND HIS SUBSEQUENT DEPRIVATION OF LIBERTY

14. The second applicant left Russia because of an alleged risk of persecution on account of his religious and political opinions and is allegedly wanted by Russian security forces.

15. On 6 March 2014 the second applicant presented himself at the Yalova police headquarters to apply for a residence permit. He was arrested following the discovery of records indicating that an entry ban had been imposed against him. Subsequently, he was placed under administrative detention in the Yalova police headquarters.

16. On 14 March 2014 the second applicant lodged an application for international protection. That request was rejected by the Yalova governor's office on 28 March 2014. The second applicant appealed against that decision. His appeal was also rejected. He subsequently instituted annulment proceedings before the administrative courts against the final decision.

17. On 15 May 2014 the second applicant was transferred to the Adana Accommodation and Reception Centre.

18. On 11 June 2014 the second applicant lodged an application for release with the Yalova Magistrate's Court. In a decision dated 18 June 2014, that court held that there was no need to give a ruling (*karar verilmesine yer olmadığına*), citing the termination of the second applicant's administrative detention. Subsequently, he lodged a fresh application for release, this time with the Adana Magistrate's Court, which rejected it on 27 June 2014 on the grounds of lack of jurisdiction. Following an objection by the second applicant, that decision was reversed, and his release was ordered on 31 July 2014.

19. On 22 August 2014 the second applicant was taken to Çankırı and released on the following day.

III. PROCEEDINGS BEFORE THE CONSTITUTIONAL COURT

20. The applicants jointly lodged an individual application with the Constitutional Court on 22 September 2014.

21. In his application to the Constitutional Court, the first applicant provided an account of his detention and appended the documents in his possession related to his asylum request and the administrative procedures at the various facilities in which he was detained. He complained, in substance, of the inadequate conditions of his detention at the Sakarya police

headquarters, the Kocaeli Removal Centre (see paragraph 9 above) and the Adana Foreigners' Reception and Accommodation Centre ("the Adana Reception and Accommodation Centre" – see paragraph 11 above). The second applicant likewise stated that he had been detained in allegedly inhuman and degrading conditions at the Yalova police headquarters and the Adana Reception and Accommodation Centre (see paragraphs 15 and 17 above). Both applicants further contended that they did not have at their disposal an effective domestic remedy by which to lodge a complaint concerning the above-mentioned conditions of detention. Both applicants additionally asserted that their administrative detention had been unlawful, complaining that they had not been promptly informed of the reasons for their detention, that their right to have the lawfulness of their deprivation of liberty reviewed speedily by a court had been violated and that they lacked an effective and enforceable right to compensation for their allegedly unlawful detention.

22. On 22 September 2016 the Constitutional Court delivered its decision in the applicants' case.

A. The first applicant

23. The first applicant's complaints were found to be inadmissible on account of an abuse of the right of individual application. The relevant parts of the Constitutional Court's decision read as follows:

> " **A. The Facts**
>
> 46. ... [The] applicant was transferred to the Adana Foreigners' Reception and Accommodation Centre on an unspecified date in May 2014 (and no later than 13 May 2014). ...
>
> **B. The Court's Assessment**
>
> ...
>
> 84. The applicant submitted that he had been assigned Sakarya as his compulsory place of residence by the Ministry of Interior on account of his status as an asylum-seeker, and that he had reported to the Foreigners' Directorate on a weekly basis as required. He alleged that on 7 May 2014, when he had arrived at the police station for the purposes of signing and obtaining a residence permit, he had been taken into detention without any justification being provided. He further stated that after an initial period of thirteen days' detention at the Sakarya police headquarters, he had been held at the Kocaeli police headquarters for one month, following which he had been transferred to the Adana Foreigners' Reception and Accommodation Centre. He contended that during those periods of detention at the Sakarya and Kocaeli police headquarters, he had been denied access to open air.
>
> 85. The Constitutional Court, however, after examining the letter from the Sakarya police headquarters dated 7 March 2016, observes that law-enforcement officers handed over the applicant to the Foreigners' Directorate on 7 April 2014 for administrative procedures. This occurred after it had been established that the applicant was not in possession of any identification documents or a passport whilst

accompanying a Syrian national ... at a hospital in Sakarya. The applicant had lodged an asylum application on 8 April 2014, whereupon a travel permit, valid from 8 April 2014 to 15 April 2014, had been issued to him to enable his registration procedures with the UNHCR. He was released on the same day, 8 April 2014. On 14 April 2014, prior to the expiry of the above-mentioned travel permit, the applicant presented himself again at the Sakarya police headquarters and submitted documentation pertaining to his UNHCR application. At that juncture, the applicant was detained on account of entry restrictions imposed against him. [Subsequently], the General Directorate of Migration Management ... requested his transfer to the Kocaeli Removal Centre. Consequently, the applicant was accommodated as a 'guest' in the Sakarya police headquarters between 14 April 2014 and 17 April 2014, and was subsequently transferred to the Kocaeli Removal Centre on 17 April 2014.

86. The Constitutional Court observes that, as demonstrated by these findings, the events did not transpire in the manner presented by the applicant. It finds that the applicant concealed the fact that the primary reason for his initial contact with the Foreigners' Directorate had been his failure to produce an identity card or passport at the outset of the events, and that he, furthermore, misrepresented the timeline of the events. Moreover, while the applicant asserted a detention period of thirteen days at the Sakarya police headquarters, it has been established that this period amounted, in fact, to approximately three days in total.

87. The Constitutional Court considers that the above-mentioned incomplete and misleading information, which has a direct impact on the individual application and came to light only following the information submitted by the authorities, cannot be regarded as an excusable error or as a consequence of the applicant's efforts to seek redress. Such conduct on the part of the applicant falls outside the legitimate exercise of the right of individual application and constitutes an abuse of that right.

88. In the light of the foregoing considerations, the Constitutional Court concludes that the application must be declared inadmissible on account of the abuse of the right of application.

89. Furthermore, on account of [this finding], the Constitutional Court, decides to impose a disciplinary fine of 500 Turkish liras on the applicant ..."

B. The second applicant

24. The second applicant's complaints concerning the conditions of his detention at the Yalova police headquarters were declared manifestly ill-founded. The relevant parts of the decision read as follows:

"... 98. The applicant failed to provide any specific details concerning the conditions of his detention at the Yalova police headquarters ... where he alleged he had been held between 6 March 2014 and 14 May 2014. In his application, he merely stated that 'he had been subjected to physical conditions similar to those which had been previously described with regard to the other detention centres'. Rather than describing the specific hardships or deprivations he had allegedly endured at the facility in question, the applicant made general references to physical conditions in other locations without providing a specific account of his own circumstances. This lack of specificity significantly hindered the examination of this part of his individual application. Consequently, the court concludes that the applicant, having failed to provide sufficient explanations or evidence to substantiate the facts underlying this particular allegation, failed to substantiate his claim.

99. For these reasons, this part of the application is declared inadmissible as being manifestly ill-founded ..."

25. The Constitutional Court, however, examined the second applicant's conditions of detention at the Adana Reception and Accommodation Centre (from 15 May 2014 to 23 August 2014 – see paragraphs 17-19 above), and mainly addressed his allegations on the restrictions imposed on outdoor exercise at the time. It first took note of the submissions made by the relevant authorities which mentioned a policy for providing daily outdoor exercise "as far as possible". However, it ultimately observed a lack of specific and substantiated evidence demonstrating the actual frequency and duration of outdoor exercise afforded to detainees in practice. Referencing the standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of at least one hour of outdoor exercise daily, it found that the authorities' failure to meet that minimum requirement rendered the second applicant's conditions of detention sufficiently severe as to amount to treatment incompatible with human dignity.

26. Making reference to its established case-law, the Constitutional Court also found that no effective remedy existed for foreign nationals under administrative detention to complain about their conditions of detention, a deficiency which persisted both prior and subsequent to the enactment of the Law on Foreigners and International Protection ("Law no. 6458" – see paragraph 29 below). Observing no grounds to depart from that precedent, it found that the second applicant had also been denied the right to an effective remedy for complaining of his conditions of detention between 15 May and 23 August 2014.

27. With regard to the second applicant's complaints concerning his deprivation of liberty, the Constitutional Court found several violations pertaining to the lawfulness and the procedural safeguards relating to his detention. Based on those violations, it awarded the second applicant the sum of 10,000 Turkish liras (equivalent to approximately 3,000 euros at the material time) in respect of non-pecuniary damage.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. DOMESTIC LAW AND PRACTICE

28. A description of the relevant domestic law and practice prior to the entry into force of Law no. 6458 can be found in *Abdolkhani and Karimnia v. Turkey* (no. 30471/08, §§ 31-43, 22 September 2009).

29. On 11 April 2014 Law no. 6458 entered into force. A detailed description of the provisions of that law governing the administrative detention of foreign nationals pending their removal and the judicial review of detention orders can be found in *G.B. and Others v. Turkey* (no. 4633/15,

§§ 44-45, 17 October 2019) and *Yapuquan v. Türkiye* ((dec.), nos. 70333/16 and 160/18, § 43, 20 September 2022).

30. As regards the procedure for individual applications before the Constitutional Court, Rule 60 § 2 of the Internal Regulations of that court provides that the application form must be legible and restricted to a concise statement of the substantive aspects of the claim. Where the application form – exclusive of its annexes – exceeds ten pages in length, it must be accompanied by a separate, condensed summary of the facts of the case.

31. On 13 July 2021 the Human Rights and Equality Institution of Türkiye ("the TİHEK") – the national preventive mechanism registered under the Optional Protocol to the United Nations Convention against Torture – carried out an unannounced monitoring visit to the Kocaeli Gündoğdu Removal Centre. According to the subsequent report published on 4 January 2022 (no. 2022/04), this new facility officially commenced operations and began accommodating foreign nationals on 27 December 2017.

II. CASE-LAW OF THE CONSTITUTIONAL COURT

A. Constitutional Court decision dated 9 January 2014

32. In its decision in *Veli Özdemir* (no. 2013/276), the Constitutional Court clarified that, for the purposes of the individual application mechanism, it was incumbent upon applicants to substantiate their claims regarding the factual circumstances of their cases and to set forth their legal arguments concerning the alleged violations of constitutional provisions by submitting all relevant evidence. To that end, applicants were required to append to their individual application form a comprehensive account of the impugned acts or omissions, specifying the right or freedom relied on, the constitutional provisions relied on, the grounds for the alleged violation and all available relevant documentation. Under Law no. 6216 on the Establishment and Rules of Procedure of the Constitutional Court ("Law no. 6216") and the Constitutional Court's internal regulations, the court could request rectification or missing documents for formal deficiencies in an application. Those formal requirements were limited to application forms that were not duly filled out and missing documents or information specifically referenced within the application form itself. Furthermore, if applicants provided a convincing explanation as to why certain documents were not in their possession, the Constitutional Court could request those documents from the relevant authorities. Failure to comply with those requirements might lead to the application being declared inadmissible as being manifestly ill-founded.

B. Constitutional Court decision dated 30 November 2017

33. In its plenary decision in *B.T.* (no. 2014/15769), the Constitutional Court departed from its previous case-law. Under its former approach, the Constitutional Court had consistently held that an action for compensation before the administrative courts did not constitute an effective remedy for complaints concerning the conditions or lawfulness of administrative detention, as such actions were incapable of providing adequate redress or termination of the deprivation of liberty. However, in the *B.T.* judgment, it ruled that for applications lodged after a person's release from a removal centre, an action for compensation brought in an administrative court in respect of the adverse material conditions of detention constituted an effective remedy that had to be exhausted prior to the lodging of an individual application with the Constitutional Court. Regarding complaints alleging the unlawful deprivation of a person's liberty, the Constitutional Court held that seeking compensation in the administrative courts would similarly constitute an effective remedy – but only if a magistrate's court had already found the administrative detention in question to be unlawful.

34. The Constitutional Court further elucidated that the above-mentioned change of case-law in *B.T.* had been published in the Official Gazette on 16 February 2018 and that the complaints submitted to the Constitutional Court before that date but still pending on its docket would nevertheless be declared inadmissible for failure to exhaust the compensatory remedy. However, should the applicants subsequently pursue this compensatory remedy after the Constitutional Court's inadmissibility decision, the administrative courts must ensure that the application of time-limit rules for bringing the administrative actions does not prejudice the right of access to a court.

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 3, 5 AND 13 OF THE CONVENTION IN RESPECT OF THE FIRST APPLICANT

35. The first applicant complained that the conditions of his detention at the Sakarya police headquarters, the Kocaeli Removal Centre and the Adana Reception and Accommodation Centre had amounted to a breach of his right not to be subjected to inhuman or degrading treatment, as provided for in Article 3 of the Convention. Relying on Article 13 of the Convention, he further complained that he did not have at his disposal an effective domestic remedy in respect of that violation.

36. The first applicant also alleged violations under Article 5 §§ 1, 2, 4 and 5 of the Convention, complaining that his detention pending deportation had been unlawful, that he had not been promptly informed of the reasons for

it, that he had had no effective remedy to challenge its lawfulness and that he lacked an enforceable right to compensation under domestic law for those breaches.

37. The relevant provisions of the Convention read as follows:

Article 3

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

Article 5

"1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

...

(f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

...

4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation."

Article 13

"Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

A. Admissibility

1. The parties' submissions

(a) The Government's objections

38. The Government submitted that the first applicant had failed to exhaust domestic remedies, as required by Article 35 § 1 of the Convention.

39. Firstly, the Government argued that the first applicant had provided misleading submissions concerning the material aspects of his complaints. They pointed out that the Constitutional Court had thus declared his individual application inadmissible on account of an abuse of the right of individual application (see paragraph 23 above), which is a ground for inadmissibility clearly provided for in Law no. 6216 (see paragraph 32 above) and the internal regulations of that court. They further observed that the first applicant had failed to provide the Constitutional Court with any explanation

for the manifest discrepancies in his submissions. The Government contended that on account of that procedural deficiency, the first applicant had not properly exhausted the individual application remedy that had been available to him.

40. Secondly, the Government stated that the first applicant had failed to exhaust administrative remedies by omitting to bring an action for compensation (*tam yargı davası*) before the administrative courts. They observed that the first applicant had lodged his individual application with the Constitutional Court on 22 September 2014 (see paragraph 20 above), that is following his release on 23 August 2014 (see paragraph 19 above), without first having initiated the above-mentioned proceedings. In their submissions of 22 January 2019, the Government further relied on recent developments in domestic case-law to support that objection. The Government referred, in particular, to two decisions of the Constitutional Court of 30 November 2017 and 9 May 2018 (*B.T.*, no. 2014/15769 – see paragraphs 33 and 34 above –, and *D.D.*, no. 2014/2427), in which that court had changed its case-law on the matter. They submitted that the Constitutional Court now held that for applications lodged after an individual's release from administrative detention, an action for compensation before the administrative courts concerning adverse material conditions of detention constituted an effective remedy which had to be exhausted prior to the lodging of an individual application. The Constitutional Court further held that for complaints concerning the unlawfulness of the deprivation of liberty itself, such a claim for compensation was also considered an effective remedy, albeit only where a magistrate's court had first established the unlawfulness of the detention in question. To demonstrate the practical effectiveness of that remedy, the Government cited a decision of the Istanbul Seventh Administrative Court of 9 May 2018, which had awarded compensation to a French national on account of her unlawful administrative detention in a removal centre between 15 and 24 June 2013.

(b) The first applicant's reply to those objections

41. The first applicant contested the Government's arguments.

42. As regards the Government's first objection alleging an abuse of the right of application (see paragraph 39 above), the first applicant argued that the discrepancy concerning the date on which his detention had started had resulted from an inadvertent error. He explained that he had confused the fourth and fifth months of the year (April and May) when making his submissions. He maintained that that mistake, which had resulted in his understating the total duration of his detention by one month, was incompatible with any intention to mislead the Constitutional Court. He argued that had that been his intention, he would have sought to exaggerate, not diminish, the length of the period in question. As for the allegedly contradictory reason given for his initial detention, he submitted that any

inconsistency had arisen from his genuine confusion between the complex administrative procedures relating to his asylum claim and the distinct legal basis for his detention. He maintained that that error, like the one concerning the dates, had been inadvertent and could not be construed as an abuse of the right of application. Lastly, concerning the alleged discrepancy in respect of the time spent at the Sakarya police headquarters, the first applicant maintained that the specification of thirteen days had probably stemmed from a misunderstanding based on his exchanges with his lawyer. He submitted that that did not affect the consistency of the central tenets of his application, which concerned the lawfulness and conditions of his detention. In that connection, he stressed that the Constitutional Court had itself observed the authorities' inability to specify his precise transfer date between detention facilities.

43. As regards the Government's second objection (see paragraph 40 above), the first applicant argued that the compensatory remedy before the administrative courts lacked practical effectiveness. He highlighted that the singular favourable judgment issued by the Istanbul Seventh Administrative Court was intrinsically linked to the specific political climate prevailing at the time, notably the Gezi Park events, and was therefore unlikely to establish a precedent or be replicated in similar future cases. To the best of his knowledge, the administrative courts had consistently rejected actions for full compensation for damages in similar contexts. He additionally submitted that the Constitutional Court's *B.T.* decision (see paragraphs 33 and 34 above) had deemed the theoretical availability of a full remedy action as sufficient, yet had disregarded its practical ineffectiveness. That judgment, he maintained, had led to the inadmissibility of hundreds of applications and had not, to date, resulted in a finding of a violation concerning the substance of similar complaints.

2. The Court's assessment

(a) The Government's objection of non-exhaustion of domestic remedies

44. The general principles concerning exhaustion of domestic remedies are summarised in *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* [GC], no. 21881/20, §§ 138-145, 27 November 2023. The Court reiterates, in particular, that Article 35 § 1 requires that the complaints intended to be made subsequently in Strasbourg should have been made to the appropriate domestic body, at least in substance and in compliance with the formal requirements and time-limits laid down in domestic law and, further, that any procedural means that might prevent a breach of the Convention should have been used. Where an applicant has failed to comply with these requirements, his or her application should in principle be declared inadmissible for failure to exhaust domestic remedies (see *Vučković and Others v. Serbia* (preliminary objection) [GC], nos. 17153/11 and 29 others,

§ 72, 25 March 2014 and the case-law cited therein). Nevertheless, Article 35 § 1 must be applied with some degree of flexibility and without excessive formalism. The rule of exhaustion is neither absolute nor capable of being applied automatically; in monitoring compliance with this rule, it is essential to have regard to the circumstances of the individual case (see *Communauté genevoise d'action syndicale (CGAS)*, cited above, § 140).

45. The Court has also found that the misuse of domestic remedies and the applicant's conduct before the national authorities are relevant factors in assessing whether an application should be considered an abuse of the right of application. However, for behaviour to qualify as abuse, it must be intentional and this intention must be established with sufficient certainty (see, *Ferrara and Others v. Italy* (dec.) nos. 2394/22 and 18 others, §§ 43-44, 16 May 2023, and *Mamić and Others v. Croatia* (dec.), nos. 21714/22 and 2 others, § 118, 9 July 2024, with further references).

46. Turning to the present case, and to the first part of the non-exhaustion plea, concerning the abusive character of the applicant's complaint before the Constitutional Court (see paragraph 39 above), the Court observes at the outset that the procedural rules, as set out in Law no. 6216 and the internal regulations of the Constitutional Court (see paragraph 32 above), are evidently designed to ensure the proper administration of justice and compliance with the principle of legal certainty. Domestic courts must, in this context, be entitled to expect these rules to be complied with by those introducing cases before them (see, *mutatis mutandis*, *Andrejeva v. Latvia* [GC], no. 55707/00, § 99, ECHR 2009). While Article 35 § 1 of the Convention requires a degree of deference to domestic procedural formalities (see, for instance and amongst many other authorities, *Craxi v. Italy* (dec.), no. 34896/97, 11 October 2001), the interpretation and application of these rules should not be so formalistic and rigid as to bar the examination of complaints sufficiently raised in substance (compare, *mutatis mutandis* and within the ambit of Article 6 § 1 of the Convention, *Kurşun v. Turkey*, no. 22677/10, § 104, 30 October 2018).

47. In this connection, the Court observes that the Constitutional Court declared the first applicant's application inadmissible as abusive, citing discrepancies between some of the facts submitted by the first applicant and those provided by the relevant authorities (see paragraph 23 above). The Court must therefore assess, whether these inconsistencies, standing alone, are sufficient to establish a deliberate intent on the part of the first applicant to mislead, and whether the domestic courts, in dismissing his case, exercised their discretion without undue formalism (see, *mutatis mutandis*, *Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014, and *Shelley v. the United Kingdom* (dec.), no. 23800/06, 4 January 2008).

48. Firstly, the Constitutional Court observed a discrepancy concerning the first applicant's initial date of detention. While it is affirmed that his detention commenced on 7 April 2014, and not 7 May 2014 as indicated in

his individual application form, the Court finds no discernible reason whereby an understatement of the detention period would confer an advantage upon the first applicant or demonstrate an abusive intent. Secondly, the Constitutional Court also noted that the first applicant, despite being represented by a lawyer, had omitted to state the grounds for his administrative detention with sufficient detail. Nevertheless, the Court observes that the first applicant, in his individual application to the Constitutional Court, appears to have submitted all available documents in his possession and therefore fails to see how such a discrepancy regarding the background of his initial detention would constitute a deliberate abuse directly relevant to the essence of his complaints (see paragraph 21 above). Lastly, the Court notes that even the Constitutional Court itself faced challenges in pinpointing the precise dates while establishing some of the facts of the present case, yet it did not offer the applicant any opportunity to clarify or account for these inconsistencies (see paragraph 23 above) .

49. Having regard to the first applicant's explanations and the overall context of the case, the Court considers that the first applicant cannot be reproached for the inconsistencies in question. While the information provided by the applicant to the Constitutional Court regarding the circumstances and timeline of his initial detention did not refer to the accurate dates, these discrepancies appear to be the result of a genuine confusion regarding dates and administrative procedures. Those inconsistencies, in any event, did not involve factual inaccuracies directly bearing on the substance of his complaints, nor has it been established that the applicant knowingly and willingly made false statements or submitted misleading information. The Court therefore considers the Constitutional Court's approach to be unduly formalistic when read in the light of the circumstances of the case and the parties' submissions as a whole. It follows that the applicant's inaccuracies cannot lead the Court to the conclusion that he did not properly exhaust domestic remedies and that this part of the Government's objection must be dismissed.

50. As to the second part of the non-exhaustion plea, concerning the first applicant's failure to bring an action for compensation (see paragraph 40 above) the Court reiterates the general principles concerning the exhaustion of domestic remedies in respect of the lawfulness of a deprivation of liberty that has been terminated, as recently reaffirmed in *Mansouri v. Italy* ((dec.) [GC], no. 63386/16, § 84-86, 29 April 2025). It also reiterates that Article 35 § 1 of the Convention provides for a distribution of the burden of proof and that it is incumbent on the Government claiming non-exhaustion to clearly identify the means of redress to which the applicant failed to have recourse (see *Communauté genevoise d'action syndicale (CGAS)*, cited above, § 143, and, *mutatis mutandis*, *Hajibeyli v. Azerbaijan*, no. 16528/05, § 41, 10 July 2008). However, in the specific circumstances of the present case and for the reasons set out below, the Court does not consider it

necessary to determine whether the compensatory remedy referred to in the Constitutional Court's *B.T.* decision (see paragraphs 33 and 34 above) constituted an effective remedy that required exhaustion.

51. The Court observes at the outset that the first applicant's complaints concerning his deprivation of liberty and its conditions were lodged with the Constitutional Court after his detention had already ceased (see paragraphs 13 and 20 above, and compare *Kunshugarov v. Türkiye*, nos. 60811/15 and 54512/17, §§ 140 and 156, 14 January 2025). Be that as it may, at the time the Constitutional Court rendered its decision in the first applicant's case on 22 September 2016 (see paragraph 22 above), its established case-law held that no effective remedies were available under domestic law which required exhaustion prior to the submission of an individual application concerning similar complaints. It was on this premise that the Constitutional Court proceeded to examine the merits of analogous complaints lodged by the second applicant, ultimately concluding that violations had occurred on account of the inadequate conditions and the unlawfulness of his detention, rather than declaring them inadmissible on grounds of non-exhaustion (see paragraphs 24-27 above). The Court further notes that, for the reasons explained by the Constitutional Court regarding the calculation of statutory time-limits (see paragraph 34 above and *G.B. and Others v. Turkey*, no. 4633/15, § 37, 17 October 2019), the first applicant could not, at any point, have been afforded a realistic opportunity to institute an administrative action for compensation subsequent to the shift in case-law with the *B.T.* decision. This conclusion is further reinforced by the Government's failure to provide a convincing explanation or to demonstrate a practice as to how the first applicant could have, following the Constitutional Court's dismissal of his case, nevertheless effectively pursued an administrative remedy in the light of the new case-law.

52. The Court is therefore of the view that it would be unrealistic to expect the first applicant, especially in a case that has reached an advanced stage of proceedings, to resubmit his grievances with the lower courts, whether on the grounds of a new remedy or otherwise (compare, *mutatis mutandis*, *D.H. and Others v. the Czech Republic* [GC], no. 57325/00, §§ 116-18, ECHR 2007-IV, and *Burdov v. Russia (no. 2)*, no. 33509/04, § 144, ECHR 2009).

53. In these circumstances and without prejudice to a future assessment of the effectiveness of the administrative-law remedy referred to by the Constitutional Court, the second part of the Government's objection concerning the non-exhaustion of domestic remedies must likewise be dismissed.

(b) Conclusion on admissibility

54. The Court notes that the complaints under examination are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the

Convention or inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits

1. Alleged violation of Article 3 of the Convention

(a) The parties' submissions

(i) The first applicant

55. The first applicant contended that the conditions of his detention at the Sakarya Police Headquarters, the Kocaeli Removal Centre and the Adana Reception and Accommodation Centre had been so inadequate that they had amounted to inhuman and degrading treatment.

56. The first applicant submitted that, during his three-day detention at the Sakarya police headquarters (14-17 April 2014 – see paragraph 9 above), he had been held in a locked room and denied access to fresh air. He further asserted that he had not had access to basic hygiene services such as showers or cleaning facilities, and had not been provided with a bed on which to sleep. Those conditions, in his view, had been poorer than those in a regular detention facility. He further stressed that while the Government had admitted his three-day stay in those premises, they had failed to provide substantive information on his conditions of detention.

57. Subsequently, during his twenty-six-day detention at the Kocaeli Removal Centre (17 April-13 May 2014 – see paragraphs 9-11 above), the first applicant alleged that there had been a considerable lack of hygiene services, including an inability to shower regularly which had led to a head lice infestation, and a strict ban on access to outdoor exercise and fresh air. In support of his allegations, he referred to the documents submitted by the Government which included bills for head lice shampoo and medication for depressive disorders. He additionally maintained that the food provided had been insufficient and inedible. Furthermore, he asserted that the prohibition on using telephones had made it impossible to contact his lawyer and family during the period in question. The first applicant concluded that the detention conditions had been so poor that the centre had since been closed.

58. Lastly, concerning his detention at the Adana Reception and Accommodation Centre (13 May-23 August 2014 – see paragraphs 11-13 above), the first applicant submitted that the Constitutional Court, in its decision of 22 September 2016 pertaining to other applicants in the same proceedings, had found violations stemming from inhuman and degrading conditions of detention at the above-mentioned facility (see paragraph 25 above). He stressed that until 24 May 2014, food had been served only once per day, increasing to twice a day thereafter as a result of intervention by non-governmental organisations. He alleged that he had been deprived of access to fresh air and outdoor exercise, had received inadequate sustenance and had

been unable to engage in any recreational activities. Furthermore, he contended that he had been denied appropriate medical assistance despite his documented health issues, and highlighted the absence of clean drinking water, which he attributed to a failure to address the contamination of the water tank.

(ii) The Government

59. The Government contested the first applicant's arguments. Regarding the Sakarya police headquarters, no submissions had been provided to address the first applicant's allegations, save for an undated photograph of the office where he had been detained. Concerning the Kocaeli Removal Centre, the Government argued that the facility had been operating under capacity during the first applicant's detention. They further contended that recreational activities, three free meals per day and cleaning services had all been available. The rooms had also been described as having sufficient sunlight and ventilation. Similarly, regarding the Adana Reception and Accommodation Centre, the Government argued that there had been no overcrowding issues during the relevant period. They stated that detainees had been given access to open air and outdoor activities; meals and toiletries had been provided; they had had access to medical services; and they could have visits from family members and lawyers. In support of those arguments, they submitted floor maps of the facility, logs detailing the meals provided and several records indicating that the first applicant had met with his lawyer and other visitors on numerous occasions.

(b) The Court's assessment

60. The relevant general principles concerning the application of Article 3 within the context of conditions of immigration detention have been summarised by the Court in *Khlaifia and Others v. Italy* [GC], no. 16483/12, §§ 159-77, 15 December 2016).

61. The Court reiterates that in cases which concern conditions of detention, applicants are expected in principle to submit detailed and consistent accounts of the facts complained of and to provide, as far as possible, some evidence in support of their complaints. The Court, however, also notes that in practice it may be very difficult for a detainee to collect evidence concerning the material conditions of his or her detention and it may thus be permissible, under certain circumstances, to shift the burden of proof from the applicant to the Government in question, especially where the Government alone have access to information capable of corroborating or refuting allegations. In such circumstances, a failure on the part of a Government to submit the relevant information without a satisfactory explanation may give rise to the drawing of inferences as to the well-foundedness of the applicant's allegations (see *G.B. and Others*

v. Turkey, cited above, § 115, and the cases cited therein). The Court further reiterates that, according to its case-law, ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. The assessment of this minimum is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim (see *M.S.S. v. Belgium and Greece* [GC], no. 30696/09, § 219, ECHR 2011).

62. The Court observes that the Government furnished an undated photograph of the office at the Sakarya police headquarters where the first applicant had been held (see paragraph 59 above). While the applicant did not challenge this photograph, the Court notes that he provided written submissions regarding the specific lack of hygiene and sleeping facilities at that location (see paragraph 56 above), which the Government did not substantively address. The Court further notes the absence of any information from independent and reliable sources – such as reports from national or international monitoring bodies – regarding the standards of detention at that specific location.

63. Regarding the Kocaeli Removal Centre, the Court notes that the parties have submitted diverging accounts of the conditions of detention. The Government produced various documents concerning the facility's technical and operational aspects – such as schematic layouts, occupancy logs, and food records (see paragraph 59 above). However, these materials do not address the entirety of the first applicant's grievances (see paragraph 57 above). Furthermore, while it can be verified that a new removal centre was opened in Kocaeli in 2017 (see paragraph 31 above), the TİHEK report contains no information regarding the material conditions of the previous detention facility in which the first applicant was held.

64. Lastly, with regard to the Adana Reception and Accommodation Centre, the Court notes the Constitutional Court's finding of a violation concerning the second applicant's detention at the same facility, where he was held for a duration identical to that of the first applicant. That violation was primarily based on the Government's failure to submit specific evidence demonstrating the actual frequency and duration of outdoor exercise afforded to detainees in practice (see paragraph 25 above). The Court considers that a similar lack of evidence is also present in the first applicant's case, as the Government did not submit any specific information or explanation to counter the contention that no outdoor exercise was permitted during his detention (see paragraph 58 above).

65. In view of the findings of the Constitutional Court regarding the conditions of detention at the Adana Reception and Accommodation Centre during the same period (see paragraph 25 above), and the lack of specific evidence from the Government to demonstrate that the first applicant was afforded daily outdoor exercise at that facility, the Court considers that the conditions of his detention in Adana – where he was held for more than three

months, representing the most significant portion of his deprivation of liberty – caused him distress that exceeded the unavoidable level of suffering inherent in detention and thus attained the threshold of degrading treatment prohibited by Article 3 of the Convention. Given this conclusion, the Court does not need to examine the applicant's remaining complaints concerning his stay in this facility (see, for a similar approach, *Thuo v. Cyprus*, no. 3869/07, §§ 159-164, 4 April 2017).

66. Having regard to the above finding and the lack of sufficient information regarding the two other facilities (see paragraphs 62 and 63 above), the Court does not consider it necessary to reach a separate conclusion as to whether the conditions at the Sakarya police headquarters and the Kocaeli Removal Centre also amounted to a violation of Article 3 (see, for general principles, *Tsaava and Others v. Georgia* [GC], nos. 13186/20 and 4 others, §§ 221-29, 11 December 2025, and for a similar approach, *Tabesh v. Greece*, no. 8256/07, §§ 38-44, 26 November 2009).

2. *Alleged violation of Article 13 of the Convention in conjunction with Article 3*

67. The parties reiterated the submissions previously made in respect of the admissibility of the application (see paragraphs 42-43 above). In particular, the first applicant contended that the conditions of his detention had amounted to a breach of Article 3 and that he had lacked an effective domestic remedy in that regard. The Government, for their part, maintained that the individual application before the Constitutional Court constituted an effective remedy in theory and practice. They argued that the first applicant's failure to obtain an examination on the merits was solely attributable to his own conduct, which the Constitutional Court had characterized as an abuse of the right of application.

68. Having regard to its findings under Article 3 (see paragraph 65 above) and its assessment of the Government's preliminary objection regarding the exhaustion of domestic remedies (see paragraphs 46-49 above), the Court considers that it has examined the main legal questions raised in this part of the application. It therefore decides that there is no need to give a separate ruling on the complaint under Article 13 (see, *mutatis mutandis*, *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014, and *H.M. and Others v. Hungary*, no. 38967/17, § 33, 2 June 2022).

3. *Alleged violation of Article 5 of the Convention*

(a) The parties' submissions

69. The first applicant contended that his detention at the Sakarya police headquarters (see paragraph 9 above) had been unlawful, asserting that no official decision ordering his detention had been issued and that the

authorities had effectively deprived him of his liberty under the pretext of accommodating him as a "guest" in an office of the foreigner's department. He further alleged that his detention at the Kocaeli Removal Centre and the Adana Reception and Accommodation Centre (see paragraphs 9-13 above) had been unlawful, and that there had been a lack of an effective judicial remedy to obtain a review of the lawfulness of his deprivation of liberty. He specifically pointed out that, firstly, despite the Adana Magistrate's Court decision of 25 July 2014 (see paragraph 12 above), he had only been released on 23 August 2014 (see paragraph 13 above), rendering the review of the magistrate's court ineffective in securing his immediate release. Secondly, the Constitutional Court's refusal to examine the merits of his complaints, based on an erroneous finding of abuse of process (see paragraph 23 above), had deprived him of an effective judicial review at that level of jurisdiction.

70. The Government submitted that the first applicant's presence at the Sakarya police headquarters was solely for the purpose of completing administrative procedures and facilitating his transfer to the Kocaeli Removal Centre and that he had not been subjected to any restrictions during that period. They further contended that he had been "held" there because of his lack of a valid passport and the pending status of his asylum request at the time. Regarding the first applicant's subsequent detention at the facilities in Kocaeli and Adana, the Government maintained that his deprivation of liberty had had a legal basis and had been legitimate. As to the availability of an effective judicial remedy, the Government asserted that the Adana Magistrate's Court's examination of the first applicant's release request, ordering his release on 25 July 2014, demonstrated the existence of such a remedy (see paragraph 12 above). They added that the individual application mechanism before the Constitutional Court would have provided a further layer of effective remedy had he properly availed himself of it.

(b) The Court's assessment

(i) Article 5 § 1 of the Convention

71. The Court refers to its general principles under Article 5 § 1 of the Convention relating to the control of the liberty of aliens in an immigration context (see *G.B. and Others v. Turkey*, cited above, §§ 145-46 and the cases cited therein).

72. The Court observes at the outset that the first applicant was held at the Sakarya police headquarters on two separate occasions: first, briefly between 7 and 8 April 2014 (see paragraphs 6 and 7 above), and subsequently for three days from 14 to 17 April 2014. As no specific complaint was raised in respect of that initial 24-hour period, the Court will limit its examination to the detention commencing on 14 April 2014. While the Government in their submissions stated that no restrictions had been imposed on the first applicant during that period, they also stated that he had been "held" there

since he had not possessed valid identity documents at the time, pending administrative proceedings to ensure his eventual transfer to a removal centre (see paragraph 70 above). Consequently, the Court considers that the type and manner of keeping the first applicant in the Sakarya police headquarters amounted in practice to a deprivation of liberty (see, *mutatis mutandis*, *Medvedyev and Others v. France* [GC], no. 3394/03, §§ 73-75, ECHR 2010). Crucially, the Court notes that the Government failed to cite any specific legal provision that would authorize or regulate such a stay at a police headquarters. The information in the case file demonstrates that the earliest detention order taken and served on the first applicant was dated 18 April 2014, that is when he was transferred from the Sakarya police headquarters to the Kocaeli Removal Centre (see paragraph 9 above). The Court therefore finds it established that the first applicant was not detained in accordance with a procedure prescribed by law, at least not for that initial period. It therefore concludes that there has been a violation of Article 5 § 1 of the Convention in respect of the first applicant's detention from 14 to 17 April 2014.

73. Regarding the first applicant's detention at the Adana Reception and Accommodation Centre, the Court observes that on 25 July 2014, the Adana Magistrate's Court ordered the first applicant's release owing to the absence of an administrative order extending his detention (see paragraph 12 above). Despite that judicial order, he was not released until 23 August 2014 (see paragraph 13 above), twenty-nine days later. While the Court recognises that some delay in executing a release order is understandable and often inevitable, national authorities must endeavour to minimise such delays (see *G.B. and Others v. Türkiye*, cited above, § 154, with a further reference). Having regard to the extent of the delay in releasing the first applicant and the absence of any satisfactory explanation from the Government to justify that extensive period, the Court finds that he was arbitrarily detained between 25 July and 23 August 2014, in breach of Article 5 § 1 of the Convention.

74. In view of the findings concerning the first applicant's initial detention at the Sakarya police headquarters (14-17 April 2014) and his arbitrary detention following the judicial release order (25 July-23 August 2014), the Court considers that it has examined the main legal questions raised under this head. Consequently, it does not find it necessary to separately examine the lawfulness of the first applicant's detention during the intervening period from the standpoint of Article 5 § 1 of the Convention.

(ii) Remainder of the first applicant's complaints under Article 5 of the Convention

75. Relying on Article 5 §§ 2, 4 and 5 of the Convention, the first applicant further complained that he had not been promptly informed of the reasons for his deprivation of liberty, that he had been unable to obtain an effective judicial review of his detention and that he had no enforceable right to compensation under domestic law for his Article 5 grievances.

76. Having regard to its findings under Article 5 § 1 (see paragraphs 72-74 above), the Court considers that the grievances raised under Article 5 § 4 raise essentially the same issues of law as those already examined. It therefore concludes that there is no need to give a separate ruling on the merits of the complaints under Article 5 § 4 of the Convention (see, *Tsaava and Others*, cited above, §§ 225-229, see also, *mutatis mutandis*, *Assanidze v. Georgia* [GC], no. 71503/01, § 187, ECHR 2004-II).

77. Lastly, in the light of finding a violation of Article 5 of the Convention and the reasons detailed above, the Court does not consider it necessary to examine the first applicant's remaining complaints under Article 5 (see, for a similar approach, *G.B. and Otthers v. Turkey*, cited above, §§ 189-90, and *Kunshugarov*, cited above, §§ 175-76).

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION IN CONJUNCTION WITH ARTICLE 13 ON ACCOUNT OF THE SECOND APPLICANT'S CONDITIONS OF DETENTION AT THE YALOVA POLICE HEADQUARTERS

78. The second applicant complained that the material conditions of his detention at the Yalova police headquarters (between 6 March and 14 May 2014 – see paragraphs 15-17 above) had amounted to a violation of Article 3 of the Convention. He further complained under Article 13 that he had no effective remedy under domestic law by which to raise this complaint.

A. The parties' submissions

1. The Government

79. The Government contended that the second applicant had failed to exhaust the domestic remedies available to him. Referring to the procedural rules as set out in Law no. 6216 (see paragraph 32 above), they argued that he had not complied with the admissibility requirements for his individual application. To that end, they emphasised that the second applicant's statement in his application form concerning his detention conditions at the Yalova police headquarters consisted of only one sentence, which read: "K.S. complains of similar material conditions concerning Yalova, as noted above [for other detention facilities]." According to the Government, the second applicant had therefore failed to provide an explanation as to which specific material conditions of the detention room constituted ill-treatment when lodging his application with the Constitutional Court. They further stressed that the second applicant had been represented by a lawyer throughout the proceedings and had thus been expected to demonstrate the requisite diligence to comply with the procedural requirements under domestic law. To that end, they highlighted that other individuals in the same individual

application form had elaborated on their complaints, leading the Constitutional Court to find violations in their respective circumstances.

80. In their further submissions, the Government argued that the decision to file the application jointly with other individuals rested solely with the second applicant, and that no legal or procedural obstacles had prevented him from lodging his individual application through a separate form.

2. The second applicant

81. The second applicant contended that the individual application lodged with the Constitutional Court, encompassing the grievances of five individuals with similar complaints, including his own, had already been thirty-one pages in length. He submitted that a more extensive account of the conditions in Yalova would have rendered the application impracticable. The second applicant further asserted that the application form had already provided a detailed account of the detention conditions for another detention facility, namely, the Kumkapı Removal Centre. He maintained that, given the explicit reference to the similarity of conditions at the Yalova police headquarters with those at Kumkapı, his approach had intended to avoid unnecessary repetition. Lastly, the second applicant argued that he would have submitted any additional information or documents had the Constitutional Court so requested.

82. The second applicant further alleged that during his detention at Yalova police headquarters from 6 March to 14 May 2014 (see paragraphs 15-17 above), the material conditions had been inadequate, specifically he had been confined to a very small room, deprived of personal space and essential sleeping materials, and denied access to fresh air or recreational activities throughout the duration of his detention.

B. The Court's assessment

83. The Court reiterates that the mere fact that an applicant has submitted his or her case to the relevant court does not of itself constitute compliance with the requirements of Article 35 § 1 of the Convention, as even in those jurisdictions where the domestic courts are able, or even obliged, to examine the case of their own motion, applicants are not dispensed from the obligation to raise before them a complaint subsequently made to the Court. Thus, in order properly to exhaust domestic remedies it is not sufficient for a violation of the Convention to be "evident" from the facts of the case or the applicant's submissions. Rather, the applicant must have actually complained (expressly or in substance) about it in a manner that leaves no doubt that the same complaint that was subsequently submitted to the Court had indeed been raised at the domestic level (see *Fu Quan, s.r.o. v. the Czech Republic* [GC], no. 24827/14, §§ 171-72, 1 June 2023 and the case-law cited therein).

84. The Court has acknowledged that an individual application before the Constitutional Court has the capacity to provide an effective remedy for grievances under Article 3 concerning conditions of detention pending removal, which must be exhausted before lodging an application with the Court (see *Z.K. and Others v. Turkey* (dec.), no. 60831/15, §§ 41-49, 7 November 2017). Furthermore, the Court observes that, at the material time, the Constitutional Court itself highlighted the absence of an effective remedy before lower courts through which to raise grievances pertaining to conditions of detention. That situation ultimately led that court to examine the merits of the application brought by the second applicant with respect to the conditions of detention at the Adana Reception and Accommodation Centre and to find violations thereof (see paragraphs 25-26 above). The Court therefore sees no reason to question the effectiveness of that remedy at the material time. Accordingly, the second applicant was required to duly submit his complaint to that body. Having regard to the principles reiterated in paragraph 83 above, the Court's task is therefore to ascertain whether the manner in which the second applicant raised his complaint about the condition of his detention at the Yalova police headquarters satisfied his obligation to exhaust that domestic remedy by sufficiently raising it in substance.

85. The Court observes that while the second applicant described the conditions of his detention at the Yalova police headquarters in his submissions before this Court (see paragraph 82 above), he raised this complaint before the Constitutional Court only in a cursory fashion, merely by referring to other detention facilities and without providing a specific description of those conditions (see the description of that complaint in the Government's submissions, summarised in paragraph 79 above and which, on this point, are not challenged by the applicant). Therefore, for the reasons set out below, the Court is not persuaded by the second applicant's arguments as to why such an overly general formulation should be deemed sufficient for duly raising his complaints before the domestic courts (see paragraph 81 above).

86. Firstly, the Court notes that, as the Government argued, the second applicant was under no obligation to submit his complaints jointly with other individuals, nor, consequently, to use the same application form (see paragraph 80 above). This is especially more relevant if, as he contended, he sought to be as concise as possible to avoid a lengthy application. Furthermore, the Court underscores that the second applicant failed to avail himself of the opportunity to provide additional explanations, which could have been annexed to his individual application form, had he wished to elaborate on the conditions of detention in Yalova (see paragraph 30 above). The second applicant therefore had ample opportunity to describe his complaints in detail, regardless of whether he lodged his application jointly with other individuals, especially as he was represented by a lawyer.

Secondly, while the second applicant argued that the allegedly inadequate conditions at Yalova police headquarters had been similar to those in other detention facilities, particularly the Kumkapı Removal Centre, the Court finds this level of description ambiguous and insufficient. This is because, without further elaboration, it is unclear how the conditions at a police headquarters could be genuinely compared to those of an established removal facility specifically designed for foreign nationals awaiting deportation.

87. Having regard to the foregoing considerations, the Court is not convinced that the substance of the second applicant's complaint has been sufficiently raised before the Constitutional Court. The Government's preliminary objection of non-exhaustion of domestic remedies (see paragraph 79 above) must therefore be upheld.

88. It follows that this complaint is inadmissible under Article 35 § 1 of the Convention for non-exhaustion of domestic remedies and that it must be rejected pursuant to Article 35 § 4.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

89. 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

90. The first applicant did not claim any compensation for pecuniary damage. He claimed 35,000 euros (EUR) in respect of non-pecuniary damage.

91. The Government contested these claims.

92. In view of the violations found in respect of the first applicant's complaints under Articles 3 and 5 § 1 of the Convention, and ruling on an equitable basis, the Court awards that applicant EUR 3,900 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

93. The first applicant claimed, jointly with the second applicant, EUR 9,322 in respect of lawyer's fees and EUR 725 for other costs and expenses incurred before the Court, such as travel expenses, stationery, photocopying, translation and postage. In that connection, he submitted a timesheet showing that his legal representative had carried out seventy-nine hours of legal work at a rate of EUR 100 per hour and a legal services agreement signed with his representative. He provided itemised invoices and bills for the remaining costs and expenses.

94. The Government contested these claims as excessive, noting that only costs actually incurred could be reimbursed.

95. Regard being had to the documents in its possession, the Court considers it reasonable to award the first applicant the sum of EUR 3,500 for costs and expenses, plus any tax that may be chargeable to him.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible in so far as it was brought by the first applicant;

2. *Declares* the application inadmissible in so far as it concerns the second applicant;

3. *Holds* that there has been a violation of Article 3 on account of the conditions of the first applicant's detention at the Adana Reception and Accommodation Centre;

4. *Holds* that there is no need to examine the complaint under Article 3 concerning the conditions of the first applicant's detention at the Sakarya police headquarters and the Kocaeli Removal Centre;

5. *Holds* that there is no need to examine the complaint under Article 13 of the Convention in conjunction with Article 3 on account of the lack of effective remedies to complain about the conditions of the first applicant's detention;

6. *Holds* that there has been a violation of Article 5 § 1 of the Convention in respect of the first applicant's detention from 14 to 17 April 2014 and from 25 July to 23 August 2014;

7. *Holds* that there is no need to examine the first applicant's complaints under Article 5 §§ 2, 4 and 5 of the Convention as well as the complaint under Article 5 § 1 concerning his detention from 18 April until 24 July 2014;

8. *Holds*
   (a) that the respondent State is to pay the first 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 3,900 (three thousand nine hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 3,500 (three thousand five hundred euros), plus any tax that may be chargeable to the first 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;

9. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 5 May 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Andrea Tamietti Registrar	Arnfinn Bårdsen President