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

SECOND SECTION

DECISION

Application no. 22575/05
Bayram ARSLAN against Turkey
and 47 other applications
(see list appended)

The European Court of Human Rights (Second Section), sitting on 11 October 2016 as a Committee composed of:

Nebojša Vučinić, *President,*
Valeriu Griţco,
Stéphanie Mourou-Vikström, *judges,*
and Hasan Bakırcı, *Deputy Section Registrar,*

Having regard to the above applications lodged on the various dates indicated in the appended table,

Having deliberated, decides as follows:

THE FACTS

1. A list of the applicants and their representatives is set out in the appendix. The Turkish Government ("the Government") were represented by their Agent.

A. The circumstances of the case

2. The facts of the case, as submitted by the parties, may be summarised as follows.

3. The applicants were all serving their prison sentences or were in pre-trial detention when the present applications were lodged. Disciplinary boards of respective prisons decided to impose on the applicants' correspondence several types of monitoring measures such as stopping, destroying or censoring their private letters.

4. The applicants challenged the prison authorities' decisions before the enforcement judges and the assize courts respectively. The domestic courts dismissed the applicants' objections and ruled that the impugned restrictions were consistent with the domestic laws and regulations and were justified by reasons of order and security in the prisons, prevention of offences and protection of third parties.

B. Relevant domestic law

5. A description of the domestic law regarding the new remedy introduced by Law no. 6384 can be found in *Sayan v. Turkey* ((dec.), no. 49460/11, §§ 6-12, 14 June 2016).

COMPLAINTS

6. The applicants invoked Articles 8, 9, 10 and/or 14 of the Convention and complained that the restrictions imposed on their correspondence breached, in a discriminatory manner, their right to respect for their correspondence solely or together with their right to freedom of thought and their right to free expression. Some of the applicants also invoked Articles 6 and 13 of the Convention and complained about the ineffectiveness and unfairness of the procedures before the national courts. Finally, based on the same facts some of the applicants invoked Articles 1, 3, 17 and 18 of the Convention, Article 1 of Protocol No. 1 and Article 3 of Protocol No.7.

THE LAW

7. Having regard to the similar subject matter of the applications, at the outset the Court finds it appropriate to examine them jointly in a single decision.

8. The Court will examine the applications solely from the standpoint of Article 8 of the Convention (see *Asan v. Turkey* (dec.), no. 38453/09, 30 August 2016).

9. The Government noted that pursuant to Law no. 6384 a new Compensation Commission had been established to deal with applications concerning the length of proceedings and the non-execution of judgments. They further noted that the competence of the Compensation Commission was subsequently enlarged by a decree adopted on 9 March 2016 to examine complaints relating to, among other things, the alleged breach of the right to respect for correspondence of detainees or convicted persons, on account of the prison administration's refusal to receive or send letters or

similar correspondence that are drafted in Turkish. Accordingly, they maintained that the applicants had not exhausted domestic remedies, as they had not made any application to the Compensation Commission.

10. The Court has examined similar applications against Turkey on several occasions and found a violation of Article 8 of the Convention on the grounds that the interference was not "in accordance with the law" (see *Tan v. Turkey*, no. 9460/03, §§ 24-26, 3 July 2007, and *Tur v. Turkey*, no. 13692/03, §§ 23-25, 11 June 2013) or was not "necessary in a democratic society" (see *Fazıl Ahmet Tamer v. Turkey*, no. 6289/02, §§ 54-56, 5 December 2006, and *Mehmet Nuri Özen v. Turkey*, no. 37619/05, §§ 18-19, 2 February 2010).

11. Furthermore, the Court also notes that in its decision in the case of *Ümmühan Kaplan* (no. 24240/07, § 77, 20 March 2012), it stressed that it could nevertheless examine, under its normal procedure, applications of that type which had already been communicated to the Government. However, taking into account the Government's objection with regard to the applicants' failure to make use of the new domestic remedy established by Law no. 6384, the Court reiterates its conclusion in the cases of *Turgut and Others v. Turkey* ((dec.), no. 4860/09, §§ 47-59, 26 March 2013), *Çakır and Others v. Turkey* ((dec.), no. 51274/07, § 6, 25 June 2013), *Yöyler and Others v. Turkey* ((dec.), no. 10783/07, §§ 11-13, 16 December 2014), *Yıldız and Yanak* ((dec.), no. 44013/07, § 29-38, 27 May 2014), and *Sayan v. Turkey* ((dec.), no. 49460/11, 14 June 2016).

12. In view of the above, the Court concludes that the applications should be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 17 November 2016.

Hasan Bakırcı
Deputy Registrar

Nebojša Vučinić
President

APPENDIX

No.	Application No.	Lodged on	Applicant Date of birth Place of residence	Represented by
1.	22575/05	30/05/2005	**Bayram ARSLAN** 31/03/1972 Ordu	
2.	25307/05	27/06/2005	**Tekin TANGÜN** 01/05/1969 Tekirdağ	Taylan TANAY
3.	37714/05	29/09/2005	**Serhat ÇETİNER** 23/10/1972 Kırıkkale	Sertaç ÇETİNER
4.	26677/06	25/05/2006	**Turgut KOYUNCU** 10/10/1974 İzmir	Hesin DURSUN
5.	10912/07	19/02/2007	**Mehmet Şerif ÖNER** 01/01/1975 İzmir	Türkan ASLAN
6.	14111/07	13/03/2007	**Kemal YİĞİT** 20/10/1982 İzmir	Esin ASLAN
7.	14118/07	13/03/2007	**Murat IŞIK** 01/01/1979 İzmir	Nezahat PAŞA BAYRAKTAR
8.	22257/07	15/05/2007	**Eren YILDIZ** 01/01/1973 Edirne	Fazıl Ahmet TAMER
9.	26229/07	05/06/2007	**Süleyman TATAR** 02/04/1970 Ankara	Fazıl Ahmet TAMER
10.	41318/07	09/08/2007	**Kemal YİĞİT** 20/10/1982 İzmir	Esin ASLAN
11.	47146/07	09/10/2007	**Cengiz Sinan Halis ÇELİK** 16/04/1974 Muğla	Ercan KANAR

No.	Application No.	Lodged on	Applicant Date of birth Place of residence	Represented by
12.	49409/07	25/10/2007	**Mustafa ÇAÇAN** 01/01/1973 Diyarbakır	
13.	10000/08	18/02/2008	**Hüseyin AYYILDIZ** 01/01/1966 Istanbul	
14.	10367/08	23/01/2008	**Hikmet KALE** 08/12/1970 Tekirdağ **Hasan ŞAHİNGÖZ** 10/10/1971 Tekirdağ	Gülizar TUNCER
15.	13804/08	19/02/2008	**Kemal YİĞİT** 20/10/1982 İzmir	Esin ASLAN
16.	15645/08	10/03/2008	**Kamuran Reşit BEKİR** 01/01/1971 Ankara	Fahriye Belgün BABA
17.	19169/08	31/03/2008	**Erdener DEMİREL** 21/11/1980 Tekirdağ	Metin FİLORİNALI
18.	19639/08	01/04/2008	**Hayati KAYTAN** 01/05/1968 Ankara	
19.	20071/08	15/04/2008	**Cebbar PALABIYIK** 29/09/1969 Ankara	
20.	26976/08	02/05/2008	**Murat KARAYEL** 10/05/1971 Kırıkkale	Fazıl Ahmet TAMER

No.	Application No.	Lodged on	Applicant Date of birth Place of residence	Represented by
21.	42121/08	15/05/2008	**Nedim ÖZALP** 01/04/1963 Bolu	Murat VARGÜN
22.	42692/08	26/08/2008	**Sinan İYİT** 06/11/1973 Ankara	Murat VARGÜN
23.	42701/08	13/06/2007	**Fermani ÇETİN** 01/03/1972 Bolu	
24.	42709/08	09/11/2007	**İbrahim ŞAHİN** 01/05/1975 Kocaeli	Gül ALTAY
25.	42717/08	16/05/2007	**Resul DEMİR** 02/02/1974 Bitlis	
26.	50594/08	31/10/2006	**Serhat ÇETİNER** 23/10/1972 Kırıkkale	Sertaç ÇETİNER
27.	56246/08	22/08/2008	**Cahit İLBOĞA** 20/06/1973 Erzurum	Abdullah GÜZEL
28.	56361/08	30/10/2008	**Turgut KOYUNCU** 10/10/1974 İzmir	Hesin DURSUN
29.	60855/08	03/12/2008	**Barış İNAN** 05/02/1973 Kandıra	Faruk Nafiz ERTEKİN
30.	3812/09	25/11/2008	**Mehmet YAVUZ** 11/02/1969 İzmir	
31.	5495/09	03/11/2008	**Mehmet Şirin TEKMENÜRAY** 02/05/1970 Karaman	Ömer GÜNEŞ

No.	Application No.	Lodged on	Applicant Date of birth Place of residence	Represented by
32.	5883/09	05/03/2008	**Mehmet Şirin TEKMENÜRAY** 02/05/1970 Karaman	Ömer GÜNEŞ
33.	6160/09	16/02/2009	**Muhammed ŞORLİ** 01/01/1987 Tekirdağ	İnan AKMEŞE
34.	6567/09	24/01/2009	**Mehmet Emin ERSOY** 22/02/1967 Erzurum	
35.	6798/09	02/12/2008	**Mehmet Çelebi ÇALAN** 01/09/1967 Bolu	Murat VARGÜN
36.	6804/09	25/11/2008	**Ömer YILDIRIM** 01/05/1962 Karaman	
37.	9942/09	28/10/2008	**Ali İhsan DOST** 20/11/1974 İzmir	Hesin DURSUN
38.	10771/09	31/12/2008	**Mehmet Şirin TEKMENÜRAY** 02/05/1970 Karaman	Ömer GÜNEŞ
39.	11457/09	31/03/2004	**Mehmet Reşit ARSLAN** 01/06/1966 Ankara	
40.	11550/09	06/12/2006	**Mehmet Şirin TEKMENÜRAY** 02/05/1970 Karaman	Ömer GÜNEŞ
41.	12864/09	12/02/2009	**Musa ÖZER** 01/07/1968 Osmaniye	

No.	Application No.	Lodged on	Applicant Date of birth Place of residence	Represented by
42.	13910/09	23/02/2009	**Tekin İREZ** 14/06/1968 Balıkesir	
43.	16962/09	18/03/2009	**Mehmet Nuri ÖZEN** 10/05/1976 İzmir	Murat VARGÜN
44.	18149/09	17/03/2009	**Ali ADIMAN** 03/03/1965 Bolu	
45.	29165/09	29/04/2009	**Musa KAYA** 05/05/1973 Kırıkkale	
46.	33508/09	25/05/2009	**Musa KAYA** 05/05/1973 Kırıkkale	
47.	50108/09	16/07/2009	**Giyasettin AYDIN** 15/12/1972 Kırıkkale	Emel SAYIN
48.	25958/15	29/03/2006	**Soydan AKAY** 20/01/1974 Diyarbakır	Canan CENGİZ ORUÇ