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

SECOND SECTION

DECISION

Application no. 15591/21
Şivekar ATAŞ
against Türkiye

The European Court of Human Rights (Second Section), sitting on 25 November 2025 as a Committee composed of:

Jovan Ilievski*, President*,
Gediminas Sagatys,
Hugh Mercer*, judges*,

and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to:

the application (no. 15591/21) 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") on 5 March 2021 by a Turkish national, Ms Şivekar Ataş ("the applicant"), who was born in 1996, lives in Istanbul and was represented by Mr F.Ö. Erol, a lawyer practising in Istanbul;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the applicant's alleged ill-treatment in the context of her transfer between two prisons.

2. On 29 June 2017 the applicant – who had been in pre-trial detention since 2016 – was transferred from Sincan Prison to Tarsus T-Type Prison. While she was being admitted a physical altercation occurred between some of the detainees being transferred and the prison guards.

3. On 25 August 2017 the applicant lodged a criminal complaint with the Tarsus public prosecutor's office, asserting that she had been subjected to ill-treatment by the prison guards during her admission to Tarsus T-Type Prison. She claimed that the prison guards had started insulting her and the other detainees. Afterwards, an altercation had broken out during the search of two detainees, whereupon the prison guards had moved them to another

room. The applicant and several others had protested against that treatment, which had led to further altercations. The applicant alleged that during the incident her arms had been twisted, her hair had been pulled, her shoes and socks had been forcibly removed, her trousers had been unbuttoned, and she had been dragged away. She further asserted that subsequently, while waiting in a courtyard, she had started shouting in protest, at which point a piece of cloth had been stuffed into her mouth. She had been left in that condition for approximately four to five hours.

4. On 29 September 2018 the public prosecutor issued a decision not to prosecute any prison guards. On the basis of a report prepared by the prison administration and its annexes, the prosecutor stated that frequent group transfers – including of prisoners affiliated with terrorist groups who deliberately resisted searches and provoked prison staff – had severely disrupted the initial operation of the prison, which had been opened on 20 June 2017. A total of 40 detainees had been brought to the prison on the day of the incident and subjected to routine security measures such as body searches. He noted that, according to CCTV footage, an incident had occurred during the body search of two detainees, who had engaged in a verbal exchange with the guards. On account of the crowded environment and in order to prevent agitation among other detainees (including the applicant), those two detainees had been forcibly taken into a search booth, held there for approximately eight minutes, and then transferred first to the prison yard and later to their cells. On the basis of information provided by the prison guards present on the day of the incident, the prosecutor noted that one of the detainees in question (F.B.) had refused to remove her shoes during the search and had begun shouting slogans in protest. The second detainee (F.G.) had then joined her in the protest, which had made it difficult to control the group of inmates in the entrance hall – including the applicant. Consequently, force had been used to move F.B. and F.G. to the prison yard. On account of those events, admission procedures at the prison had been suspended, and the group, including the applicant, had been held in the prison yard for approximately one hour. The procedures had resumed around 2.45 p.m. and had ended at 5.20 p.m.

5. The prosecutor noted that there was no medical report documenting any injuries or physical harm to the applicant and no firm evidence supporting her allegations beyond general accusations against the guards. He therefore decided that there were insufficient grounds to proceed with prosecution. An objection lodged by the applicant against that decision was dismissed by the Tarsus Magistrates' Court.

6. On 3 September 2020 the Constitutional Court dismissed the applicant's individual application as inadmissible for being manifestly ill-founded. That decision was served on the applicant's lawyer on 9 September 2020.

7. Relying on Article 3 of the Convention, the applicant complained that she had been subjected to ill-treatment by the prison guards during her admission to Tarsus T-Type Prison on 29 June 2017, and argued that the criminal investigation into her allegations had been ineffective.

THE COURT'S ASSESSMENT

8. The applicant complained, first, about ill-treatment by the prison guards during her admission to Tarsus T-Type Prison on 29 June 2017 and thus alleged a violation of Article 3 of the Convention in its substantive aspect.

9. The general principles concerning the use of force by State agents have been summarised in *Bouyid v. Belgium* ([GC], no. 23380/09, §§ 81-90 and 100-01, ECHR 2015). In particular, where an individual is deprived of his or her liberty – or, more generally, is confronted with law-enforcement officers – any recourse to physical force which has not been made strictly necessary by the person's conduct diminishes human dignity and in principle constitutes an infringement of the right set forth in Article 3 of the Convention.

10. The Court reiterates that allegations of ill-treatment contrary to Article 3 must be supported by appropriate evidence. To assess this evidence, the Court adopts the standard of proof "beyond reasonable doubt", but adds that such proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact (see, among other authorities, *Gäfgen v. Germany* [GC], no. 22978/05, § 92, ECHR 2010).

11. Turning to the present case, the Court firstly observes that in her submissions before it, the applicant stated that she had been assaulted and insulted by the prison guards during her admission to Tarsus T-Type Prison. She submitted, in particular, that her arms had been twisted, her hair had been pulled, her shoes and socks had been forcibly removed, her trousers had been unbuttoned, and she had been dragged away and that, subsequently, a piece of cloth had been stuffed into her mouth after she was shouting in protest (see paragraph 3 above). The Court considers that such treatment would have left some traceable marks on her body (see, *mutatis mutandis*, *Milan v. France*, no. 7549/03, § 61, 24 January 2008, and *İz v. Turkey* (dec.), no. 9830/07, 5 July 2011).

12. However, the Court observes that, aside from her own statements, the applicant failed to present any evidence supporting her claims of ill-treatment. She did not submit any medical reports demonstrating any harm caused to her. Furthermore, nothing in the case file suggests that she requested medical treatment in the immediate aftermath of the incident at issue or that such a request was refused by the authorities. Nor did she claim that she had undergone any examinations that had been conducted in an improper manner. Additionally, the applicant failed to provide any other

corroborating evidence, such as statements by her relatives or her lawyer indicating that they had seen her in an injured state.

13. In support of her claims, the applicant submitted a report by the Adana branch of the Human Rights Association, which stated that it had received several submissions from the inmates in Tarsus T-Type Prison pointing to arbitrary practices on the part of the prison authorities and to poor conditions of detention. She also provided the Court with several articles from various news outlets reporting on detainees' allegations of systemic ill-treatment in Tarsus T-Type Prison. Even so, the Court notes that the report relied on by the applicant did not allege that detainees had been systematically subjected to assault or battery by the prison guards during the admission process, but rather mentioned several shortcomings concerning the conditions of detention, access to medical care, and the manner in which the strip searches had been carried out by the prison administration during admission, which are issues that do not directly correspond with the applicant's allegations in the present case.

14. In the absence of any evidence substantiating the applicant's allegations, the Court cannot conclude beyond reasonable doubt that she was subjected to ill-treatment. It follows that the part of the application pertaining to the substantive aspect of Article 3 of the Convention is manifestly ill-founded and must be rejected, in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

15. In so far as the applicant complained of the ineffectiveness of the criminal investigation into her allegations of ill-treatment and thus alleged a violation of Article 3 of the Convention in its procedural aspect, the Court notes that the requirements of the procedural obligation to carry out an effective investigation where an individual makes a credible assertion that he or she has suffered treatment infringing Article 3 at the hands of State agents have been summarised in *Bouyid*, cited above, §§ 114-23). In particular, in order to be effective, the investigation must be prompt, thorough – which means that the authorities must always make a serious attempt to find out what happened and should not rely on hasty or ill-founded conclusions in order to close their investigation – and be capable of leading to the identification and, if appropriate, punishment of those responsible (ibid., §§ 119, 121 and 123).

16. In the present case, the applicant submitted that the criminal investigation into her claims of ill-treatment had been ineffective, as the public prosecutor had not identified the prison guards on duty at the time of the events in question, had not taken statements from the applicant, other witnesses, or the prison guards, and had failed to arrange a medical examination for the applicant and to examine the CCTV footage.

17. The Court notes that the public prosecutor promptly initiated a criminal investigation following the applicant's complaint and ordered the prison administration to submit a report concerning the allegations of ill-treatment. The Court observes that, contrary to the applicant's allegations, the public prosecutor referred to the CCTV footage of the incident, establishing essential facts of the case on the basis of that visual evidence. It is not clear from the prosecutor's decision whether he examined the footage himself or relied on the video analysis carried out by the prison administration. Nevertheless, the applicant did not challenge the veracity of the facts as established by the public prosecutor by referring to that footage, but simply submitted that the footage had not been examined despite her request to that effect. Given the decisive nature of the visual evidence available, the prosecutor's decision not to take additional testimony from the applicant or other witnesses (including the prison guards) cannot be considered as having undermined the investigation's effectiveness.

18. In respect of the applicant's claims regarding the lack of a medical examination, the Court reiterates that the absence of forensic medical examinations is capable of preventing the establishment of whether an alleged victim received any injury (see *Shishkin v. Russia*, no. 18280/04, § 117, 7 July 2011) and emphasises that proper medical examinations are an essential safeguard against ill-treatment (see *Akkoç v. Turkey*, nos. 22947/93 and 22948/93, §§ 55 and 118, ECHR 2000-X). The Court observes in respect of the present case that the applicant requested a medical examination only on 25 August 2017 – that is, the date on which she lodged her criminal complaint, and some two months after the incident in question. The Court considers that a medical examination at that stage would have been of little or no evidentiary value, in particular as any physical traces of potential injuries would likely have disappeared by that time. Additionally, the applicant failed to explain whether the alleged ill-treatment had resulted in any physical marks or injuries. Nor did she submit that she had been denied a medical examination after the incident.

19. In view of the foregoing considerations, the Court concludes that the investigative steps taken by the public prosecutor were sufficiently thorough and adequate, given the circumstances of the case. It follows that this part of the application concerning the procedural aspect of Article 3 of the Convention is equally manifestly ill-founded and must be rejected, in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 18 December 2025.

Dorothee von Arnim Deputy Registrar	Jovan Ilievski President