

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

SECOND SECTION

CASE OF ACAR v. TÜRKİYE

(Application no. 20039/22)

JUDGMENT

STRASBOURG

23 June 2026

This judgment is final but it may be subject to editorial revision.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Acar v. Türkiye,

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

Péter Paczolay*, President*,
Oddný Mjöll Arnardóttir,
Hugh Mercer*, judges*,
and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to:

the application (no. 20039/22) 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 11 April 2022 by a Turkish national, Mr Gökhan Acar ("the applicant"), who was born in 1977, lives in Burdur and was represented by Mr A. Doğan, a lawyer practising in Ankara;

the decision to give notice of the complaint concerning Article 8 of the Convention to the Turkish Government ("the Government"), represented by their Agent, Mr Abdullah Aydın, Head of the Department of Human Rights of the Ministry of Justice of the Republic of Türkiye, and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated in private on 2 June 2026,

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

SUBJECT MATTER OF THE CASE

1. The case concerns the continued processing of data about the applicant's criminal conviction in an internal police database after his conviction has become spent. It raises an issue under Article 8 of the Convention.

I. THE PROCEEDINGS AT ISSUE

2. On 20 June 2000 the Konya Criminal Court of General Jurisdiction convicted the applicant of the unlawful possession of a firearm and sentenced him to a fine.

3. On 21 October 2015 the Konya Criminal Court of General Jurisdiction granted an application by the applicant for an order for the deletion of his conviction from his criminal record and the restoration of certain rights that he had lost.

4. The applicant stated that data about his criminal conviction continued to be stored in the General Information Gathering system (hereafter "the GBT/KİHBİ database") maintained by the Ministry of the Interior pursuant to the Information Gathering Directive ("the KİHBİ/GBT Directive", see paragraph 11 below). The GBT/KİHBİ database stores, among other data,

data relating to criminal convictions for certain offences. The applicant claimed that as a result he had been treated like a criminal during routine police checks.

5. On 7 August 2019 the applicant commenced administrative proceedings in the Konya Administrative Court, seeking the deletion of his record from the GBT/KİHBİ database. He argued that there was no legal basis for the retention of his personal data and that it was in violation of Article 20 of the Turkish Constitution (see paragraph 10 below), which provided that personal data could be processed only as prescribed by statute. Section 13 (1)(c) of Law No. 3152 on the Organisation and Duties of the Ministry of the Interior – which authorised data collection for individuals who had committed crimes and had not been arrested – did not apply to the applicant, as he had been convicted and had paid his fine. Supplementary section 7 of Law No. 2559 on Police Duties and Authorities (see paragraph 12 below) did not provide for specific, clear, and lawful procedures for collecting, retaining, or deleting personal data. It therefore failed to meet the standards set by the Constitution and the Court's case-law on accessibility, foreseeability, and safeguards against arbitrariness. The KİHBİ/GBT Directive could not override or replace a statute passed by the Parliament.

6. On 23 January 2020 the Konya Administrative Court dismissed the case, stating that the applicant had been convicted of an offence listed in the KİHBİ/GBT Directive. Records of offences listed in that Directive were deleted only if the person had been acquitted, the case had been dismissed, or the statute of limitations had expired without a conviction. Since the applicant had been convicted and fined, his record did not qualify for deletion under the KİHBİ/GBT Directive.

7. On 16 February 2021 the Konya Regional Administrative Court dismissed an appeal lodged by the applicant against the decision of the first-instance court, holding that the decision had complied with the law and procedure.

8. On 5 April 2021 the applicant lodged an individual application with the Constitutional Court. He complained that the refusal to delete the record of his conviction from the GBT/KİHBİ database violated his right to respect for his private life. He argued that his personal data was being processed according to an administrative directive rather than according to statute, in violation of the requirements of Article 20 of the Turkish Constitution. He also set out the facts of the case and the remedies he had sought, and attached copies of the relevant documents.

9. On 12 October 2021 the Constitutional Court declared the applicant's individual application inadmissible, holding that he had not made out his complaint about the violation of his right to respect for his private life.

II. RELEVANT DOMESTIC LAW

10. Article 20 of the Turkish Constitution provides that personal data may be processed only where provided for by statute or with the explicit consent of the individual concerned. The principles and procedures governing the protection of personal data must be set out in statute.

11. The Information Gathering Directive of 4 June 2007 issued by the Anti-Smuggling, Intelligence, Operations, and Information Gathering Department of the Ministry of the Interior (the KİHBİ/GBT Directive) has not been published, as confirmed by the Constitutional Court's ruling in *Bülent Kaya* ((Plenary), no. 2013/2941 of 11 May 2016, § 19). The Constitutional Court held that the KİHBİ/GBT Directive "was classified as 'for official use only' and therefore was not available to the public." Section 3 of the KİHBİ/GBT Directive has been cited by the Supreme Administrative Court and the Constitutional Court in judgments that are available to the public. It states, in so far as it is relevant to the present case, that the Directive was issued pursuant to Supplementary section 7 of Law No. 2559.

12. Supplementary section 7 of Law No. 2559 on Police Duties and Authorities provides:

> "In order to take preventive and protective measures concerning the indivisible integrity of the State with its territory and nation, constitutional order, and public security, as well as to maintain law and order, the police are authorised to conduct nationwide ... intelligence activities; to collect, evaluate, and transmit information to the appropriate authorities or to use such information as necessary. The police shall cooperate with other state intelligence agencies in carrying out these functions."

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

13. The applicant complained that the continued retention of data about his criminal conviction in the GBT/KİHBİ database, despite its removal from his official criminal records, constituted an unlawful interference with his right to respect for his private life under Article 8 of the Convention.

A. Admissibility

14. The Government raised five preliminary objections, namely (a) that the applicant did not have the status of a victim; (b) that he had not suffered a significant disadvantage; (c) that he had not exhausted domestic remedies; (d) that he had abused the right of application; and (e) that the application was manifestly ill-founded.

15. The Government argued that the applicant did not have victim status because he had not shown that his private life had been affected by the storage of data about his conviction in the GBT/KİHBİ database. The Court however

finds that the applicant may claim to be a victim of a violation of his rights under Article 8 as a result of the mere storage of data relating to his private life. The subsequent use of the stored information has no bearing on that finding (see *S. and Marper v. the United Kingdom* [GC], nos. 30562/04 and 30566/04, § 67, ECHR 2008, and *Catt v. the United Kingdom*, no. 43514/15, § 76, 24 January 2019).

16. The Government alternatively argued that the applicant had not suffered a significant disadvantage because the storage of his personal data had not affected his everyday life. Having regard to the fundamental importance of the protection of personal data to a person's enjoyment of his or her right to respect for private and family life, as guaranteed by Article 8 of the Convention (see *L.B. and Hungary* [GC], no. 36345/16, § 103, 9 March 2023), and to the fact that data about convictions are identified as a special category of data under the Council of Europe's Data Protection Convention (see *M.M. v. the United Kingdom*, no. 24029/07, § 188, 13 November 2012), the Court does not agree that the storage of the applicant's conviction data could constitute an "insignificant" disadvantage.

17. The Government also submitted that the applicant had not exhausted domestic remedies because he had insufficiently substantiated his complaint before the Constitutional Court. The Court rejected a similar objection in *Durukan and Birol v. Türkiye* (nos. 14879/20 and 13440/21, §§ 39-42, 3 October 2023). It does not see any reason to reach a different conclusion in the present case, given that in his application to the Constitutional Court the applicant stated the facts of his case, the substance of his complaint and the remedies used by him, and he attached copies of supporting documents (see paragraph 8 above).

18. As regards the Government's argument that the applicant had abused the right of application because his allegations of being stopped and treated as a criminal were unsubstantiated and untrue, the Court notes that, although certain facts are disputed between the parties, there is no sufficient indication that the applicant abused the right of individual application for the purposes of Article 35 § 3 (a) of the Convention by intentionally basing his application on untrue facts with a view to deceiving the Court (see for the relevant principles, among others, *X and Others v. Bulgaria* [GC], no. 22457/16, § 145, 2 February 2021).

19. Lastly, as regards the Government's objection that the application was manifestly ill-founded the Court finds that the arguments advanced by the Government in this regard fall to be examined on the merits of the complaint under Article 8 of the Convention, rather than at the admissibility stage (see *Durukan and Birol,* cited above, § 45, with further references).

20. The Court therefore rejects the Government's objections. It further notes that the applicant's complaint is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

21. The Court finds that the continued retention of data about the applicant's criminal conviction in the GBT/KİHBİ database, despite its removal from his official criminal records, constituted an interference with his right to respect for his private life (compare also *N.F. and Others v. Russia*, nos. 3537/15 and 8 others, § 38, 12 September 2023).

22. The applicant complained that the storage of his criminal conviction data was not "in accordance with the law". The general principles concerning the "in accordance with the law" requirement in the context of processing of personal data have been summarised in *S. and Marper* (cited above, §§ 95, 96 and 99) and *M.M. v. the United Kingdom* (cited above, §§ 193 and 195). In particular, the law must be adequately accessible and foreseeable, that is, formulated with sufficient precision to enable the individual – if need be with appropriate advice – to regulate his conduct. For domestic law to meet these requirements, it must afford adequate legal protection against arbitrariness and accordingly indicate with sufficient clarity the scope of discretion conferred on the competent authorities and the manner of its exercise (*S. and Marper*, cited above, § 95, and *M.M. v. the United Kingdom*, cited above, § 193).

23. The Court notes that the storage of the data about the applicant's criminal conviction had a legal basis in the KİHBİ/GBT Directive, which was issued pursuant to Supplementary section 7 of Law No. 2559.

24. Article 20 of the Turkish Constitution (see paragraph 10 above) provides that personal data may be processed only as authorised by statute, and in accordance with the principles and procedures established by statute. However, the KİHBİ/GBT Directive governing the storage of data about criminal convictions is not a statute but instead secondary legislation made by an executive authority and the Supplementary section 7 of Law No. 2559 under which it was issued does not establish any concrete principles and procedures for the retention and use of such data. Accordingly, it appears that the Directive cannot, on its own, provide a lawful basis for the processing of the applicant's personal data under domestic law.

25. In any event, the Court cannot but note that the Directive has never been officially published and that only fragmentary extracts from it can be found in the judgments by the Supreme Administrative Court and the Constitutional Court (see paragraph 11 above). Accordingly, the KİHBİ/GBT Directive does not, as required by the Court's case-law, set out in a form accessible to the public any indication of the minimum safeguards against abuse (compare *Shimovolos v. Russia*, no. 30194/09, §§ 69 and 70, 21 June 2011). In the absence of a complete officially published text it is also impossible for the Court to verify whether it satisfies the requirement of foreseeability as required by the Court's case-law (compare *Nuh Uzun and Others v. Turkey*, nos. 49341/18 and 13 others, § 97, 29 March 2022). As

shown above (see paragraph 24), the Supplementary section 7 of Law No. 2559 under which the Directive was issued does not set out any minimum safeguards against abuse in the context of the retention and use of the personal data concerned either.

26. The interference with the applicant's rights under Article 8 was not, therefore, "in accordance with the law".

27. There has accordingly been a violation of Article 8 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

28. The applicant claimed 20,000 euros (EUR) in respect of non-pecuniary damage and, relying on a legal-fee agreement, EUR 2,000 in respect of costs and expenses incurred before the Court.

29. The Government submitted that the claims were excessive and unsubstantiated.

30. The Court awards the applicant EUR 2,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

31. Having regard to the documents in its possession, the Court considers it reasonable to award EUR 500 in respect of costs and expenses for the proceedings before the Court, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 8 of the Convention;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 2,000 (two thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 500 (five hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 23 June 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Dorothee von Arnim Deputy Registrar	Péter Paczolay President