

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

SECOND SECTION

CASE OF GÜRMEN v. TÜRKİYE

(Application no. 34365/22)

JUDGMENT

STRASBOURG

17 March 2026

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Gürmen 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. 34365/22) 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 1 July 2022 by a Turkish national, Ms Esragül Gürmen ("the applicant"), who was born in 1980, lives in Uşak and was represented by Mr T. Atay, a lawyer practising in Uşak;

the decision to give notice of the complaint under Article 6 § 1 of the Convention concerning the rejection of the applicant's administrative action for being lodged out of time without sufficient reasoning 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 the remainder of the application inadmissible;

the parties' observations;

Having deliberated in private on 17 February 2026,

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

SUBJECT MATTER OF THE CASE

1. The application concerns the rejection of an administrative action brought by the applicant on the grounds that it had been lodged out of time and the applicant's complaint that her right of access to a court under Article 6 § 1 of the Convention had been violated as a consequence.

2. The applicant, a civil servant employed as a teacher by the Ministry of National Education ("the administration"), was dismissed from her post pursuant to Legislative Decree no. 672, promulgated on 1 September 2016.

3. On 7 July 2020 the State of Emergency Commission (see, for background information on the Commission, *Köksal v. Turkey* (dec.), no. 70478/16, § 16, 6 June 2017) adopted a decision to reinstate the applicant in her previous post. After the reinstatement, the administration decided of its own motion to pay, as a lump sum, the salary which the applicant had not received during her period of unemployment. The relevant amount was deposited into her bank account on 27 August 2020.

4. On 26 October 2020 the applicant requested a detailed breakdown of the payment, which the administration provided on the same day. Also on that date, after receiving the breakdown containing twenty indicative components

for the calculation of each of the forty-nine months' salary payments, she lodged a petition, seeking payment of the interest accrued on the unpaid salary, the salary increases she would have received on account of her seniority and grade advancement during the relevant period, and compensation for additional tasks she would have performed had she remained in her post. The administration rejected those requests on the same day, although that written decision was not officially communicated to the applicant by means capable of verification, and the exact date on which the applicant was notified remains a matter of dispute. While the Government maintained that the decision had been served on the applicant in person on 26 October 2020, the applicant submitted that she had been handed the decision on 24 December 2020.

5. On 24 December 2020 the applicant brought an action in the Uşak Administrative Court against the administration's decision to reject her claims.

6. During the proceedings, the administration maintained that the rejection decision had been delivered to the applicant by hand, as per her request, on the same day it had been adopted. It submitted a copy of the applicant's original petition bearing a stamp indicating that it had been registered with the administration on that date.

7. On 1 February 2021 the Uşak Administrative Court rejected the action, holding that the applicant had failed to bring it within the sixty-day time-limit. That court found it established that the period had commenced on 27 August 2020, when the applicant had received the salary payment in her bank account. The running of the time-limit had, however, been suspended on 26 October 2020 – that is, one day before the expiry of the time-limit – when the applicant had lodged her petition making additional claims. Since the administration's rejection decision was considered to have been issued and served on the applicant on the same date, the time-limit had resumed immediately, expiring on 27 October 2020, whereas the applicant had brought the action on 24 December 2020.

8. The applicant appealed to the İzmir Regional Administrative Court, arguing, among other things, that the rejection decision had never been formally served and that no evidence to the contrary had been produced. She further submitted that, in any event, the relevant time-limit should have started running on 26 October 2020, when she had become aware of the specific omissions in the administration's payment.

9. On 15 April 2021 the İzmir Regional Administrative Court rejected the applicant's appeal on points of fact and law, upholding the first-instance court's judgment in every respect.

10. On 23 June 2021 the applicant applied to the Constitutional Court, complaining, among other things, that her right of access to a court had been violated.

11. On 16 March 2022 the Constitutional Court found that, when the proceedings were taken as a whole, it was clear that there had been no violation of the right in question. It accordingly declared the applicant's complaints inadmissible.

12. In accordance with section 7 of the Law on Administrative Procedure (Law no. 2577), as in force at the material time, the time-limit for bringing an action before the administrative courts is sixty days, unless otherwise provided in specific laws. The time-limit runs from the day following the date of written notification in administrative disputes. In accordance with section 11, before bringing an action, the person concerned may request to have the administrative act in question amended, or to have a new act implemented. That application will suspend the relevant time-limit; if the request is refused or deemed to have been refused, the time-limit will resume. Under section 32 of the Law on Notifications (Law no. 7201), if the notification is not made in accordance with the prescribed procedure, it will nevertheless be deemed valid if the addressee has become aware of it, and the date declared by the addressee will be considered the date of notification (see for that provision also *Hıdır Durmaz v. Turkey*, no. 55913/00, § 25, 5 December 2006).

THE COURT'S ASSESSMENT

ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

13. Relying on Article 6 § 1 of the Convention, the applicant alleged that she had been denied a fair hearing and the right of access to a court on account of the national courts' flawed assessment of her compliance with the applicable time-limit and their reliance on the administration's version of events concerning the date of notification of the administration's decision rejecting her additional claims.

A. Admissibility

14. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

15. The applicant contended that she had been denied access to a court on account of the national courts' allegedly unreasonable interpretation of the *dies a quo* of the time-limit for bringing an action. In that regard, she disputed the national courts' finding that she had become aware of the contested

administrative act – that is, the retroactive payment of her salary without including the additional amounts to which she claimed to be entitled (see paragraph 4 above) – on 27 August 2020 as that had been the date on which the relevant bank transfer had occurred. Instead, the applicant maintained that she had only become aware of the specific elements of the payment on 26 October 2020, when she had received the detailed breakdown as the bank transfer made on 27 August 2020 did not include any such breakdown, notwithstanding the complexity of the components of the payment, including the interest rates applied, any tax reductions, or allowances.

16. The applicant further maintained that, even assuming the national courts' interpretation of the *dies a quo* to be accurate, the rules on time-limits had in any event been incorrectly applied. In that respect, she argued that on 24 December 2020 – according to her, the date on which the administration had informed her of its rejection of her petition of 26 October 2020 – she had still had one day remaining to initiate legal proceedings, since her petition had interrupted the running of the time-limit. She alleged that the administration's submission concerning the date of notification of its decision rejecting her additional claims, which contradicted her own, was inaccurate and that the national courts had upheld the administration's version of events despite the absence of any evidence that she had been notified of the decision.

17. The Government argued that the relevant rules on the time-limit for bringing an action before the administrative courts were clearly laid down in law and pursued the legitimate aim of ensuring legal certainty. They relied on examples from national administrative court judgments regarding the calculation of the *dies a quo*, according to which, where the plaintiff is fully aware of the nature and consequences of the impugned act, that date constitutes the starting-point of the time-limit for bringing an action. In the Government's view, the applicant had become fully aware of the nature and consequences of the administrative act in dispute on 27 August 2020, when her financial entitlements had been transferred to her bank account. As to the date of notification of the administration's decision rejecting her additional claims, the Government reiterated the administration's account to the effect that she had been notified of the decision in person on 26 October 2020. They submitted a copy of the applicant's original petition bearing a stamp indicating that it had been registered with the administration on 26 October 2020, and a screenshot from its electronic case-management system showing that the administration had issued the rejection decision at 5.30 p.m. on that date.

2. The Court's assessment

18. The general principles concerning the right of access to a court are set out in *Zubac v. Croatia* ([GC], no. 40160/12, §§ 76-79, 5 April 2018). In particular, the limitations applied to the right of access to court must not restrict the access left to the individual in such a way or to such an extent that

the very essence of the right is impaired. Furthermore, a limitation will not be compatible with Article 6 § 1 if it does not pursue a legitimate aim and if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be achieved (ibid., § 78). As regards time-limits for lodging an action or appeal, individuals must be able to avail themselves of the right to bring an action from the moment they can effectively apprise themselves of decisions which may infringe their legitimate rights or interests (see *Miragall Escolano and Others v. Spain*, nos. 38366/97 and 9 others, § 37, ECHR 2000-I). The Court's task is therefore to assess whether, in the present case, the manner in which the rules on the time-limit in question were applied was compatible with these requirements (compare also *Baničević v. Croatia* (dec.), no. 44252/10, § 32, 2 October 2012).

19. The Court observes that the applicant's complaints are twofold. Firstly, she complained about the national courts' conclusion that the sixty-day period had begun to run on 27 August 2020, when she had received the retroactive salary payment. Instead, she argued that the *dies a quo* was 26 October 2020, when she had obtained the detailed breakdown of the payment. If that argument were upheld, her action would have been admissible. Secondly, even if the *dies a quo* were recognised as 27 August 2020, her action had nevertheless been admissible, as the administration notified its decision of 26 October 2020 to her on 24 December 2020, when she still had one day remaining to bring an action, irrespective of the national courts' conclusion as to the *dies a quo* (see paragraph 7 above).

20. The Court notes that the parties do not contest that the procedural rules regarding the sixty-day time-limit under section 7 of the Law on Administrative Procedure limiting the applicant's access to court serve the legitimate aims of ensuring legal certainty and a proper administration of justice. Thus, the Court will ascertain whether, in the light of all the relevant circumstances of the present case and in so far as can be established from the material in the case file at its disposal, there existed a reasonable relationship of proportionality between these aims and the means employed to attain it, namely, the interpretation and application of the time-limit in the present case.

21. As regards the first aspect of the applicant's arguments, the Court notes that the national courts held that the *dies a quo* was 27 August 2020 when the retroactive payment was made, rather than 26 October 2020, the date on which the detailed breakdown was provided. The Court further notes that, under the relevant criteria in national law and the established practice for determining the *dies a quo* in cases concerning administrative acts that are not formally served, as in the present case, the decisive factor is when the person concerned becomes fully aware of the nature and consequences of the impugned act (see paragraph 17 above). In this connection, the applicant argued before the national courts that a lump sum payment did not in itself

make her fully aware of the alleged underpayment since the retroactive payment covered a number of components with a complex structure, covering approximately four years of salary. However, the national courts did not engage with or address those contentions in their decisions, for instance by way of referencing the established criteria referred to also by the Government, (compare also *Pişkin v. Turkey*, no. 33399/18, § 149, 15 December 2020, and contrast *Cañete de Goñi v. Spain*, no. 55782/00, § 41, ECHR 2002-VIII). The national courts thus appear to have declared the action time-barred by adopting a strict interpretation for determining the *dies a quo*, without providing relevant reasoning in accordance with established domestic case-law.

22. The Court will now turn to the second aspect of the applicant's arguments, namely the national courts' conclusion as to the date on which the administration's decision of 26 October 2020 was served on the applicant. The Court is mindful of the Government's submissions in support of the domestic courts' position in that respect, namely, that the administration had notified the applicant on the same day. Having examined the material in the case file, the Court notes, however, that there is no evidence regarding the notification of the decision to the applicant on that date. The documents submitted merely indicate the date on which the administration received the applicant's petition but do not state that the applicant was actually notified of the administration's decision taken on the same day. It is also noteworthy that neither the Government before the Court nor the administration during the domestic proceedings alleged that the decision in question had been read out and thus verbally communicated to the applicant on 26 October 2020. In the absence of any evidence concerning the date of notification, there was therefore uncertainty in relation to the application of the national procedural rules on the calculation of the time-limit.

23. The Court reiterates that it has not infrequently determined the proportionality of a limitation on access to court by identifying the procedural errors which occurred during the proceedings which eventually prevented the applicant from enjoying access to a court and by deciding whether the applicant was made to bear an excessive burden in respect of such errors. Where the procedural error in question occurred only on one side, that of the applicant or the relevant authorities, notably the court(s), as the case may be, the Court would normally be inclined to place the burden on the one who has produced it (see *Zubac*, cited above, § 90, and *Tence v. Slovenia*, no. 37242/14, § 35, 31 May 2016).

24. However, the Court observes that, in the present case, the national courts, in upholding the administration's unproven assertion regarding the date of notification, effectively placed the burden regarding this procedural uncertainty onto the applicant. In the circumstances of this case, even though the applicant cannot be said to have failed to act with the necessary diligence to remain informed of the developments in her case, given that there is no

dispute as to the fact that she was notified of the decision in person (contrast *Marina Aucanada Group S.L. v. Spain*, no. 7567/19, § 53, 8 November 2022), she was nevertheless penalised for the administration's failure to serve its decision by official and verifiable means (compare also, *mutatis mutandis*, *Platakou v. Greece*, no. 38460/97, § 39, ECHR 2001-I). Furthermore, the national courts did not provide reasoning – for instance, by referencing the application of section 32 of Law no. 7201 (see paragraph 12 above) – as to why they had accepted the administration's version of events, despite the fact that the administration had failed to submit any supporting evidence in that regard and the applicant had expressly challenged it.

25. The Court finds that the foregoing considerations are sufficient to conclude that the national courts' interpretation and application of the national rules governing the time-limit for bringing an action against a contested administrative act imposed a disproportionate burden on the applicant that upset the fair balance to be struck and thus breached the applicant's right of access to a court.

26. There has accordingly been a violation of Article 6 § 1 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

27. The applicant claimed 3,300 euros (EUR) in respect of pecuniary damage, representing the amount she alleged had been wrongfully withheld by the administration in the context of the retroactive salary payment, and EUR 10,000 in respect of non-pecuniary damage. The applicant further claimed EUR 2,000 for legal fees and EUR 100 for costs and expenses. The applicant did not submit any receipts or other relevant documents with respect to any of the above-mentioned claims.

28. The Government contested those claims, considering them unfounded and, in any case, excessive.

29. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, it awards the applicant EUR 1,500 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

30. As for costs and expenses, the applicant failed to substantiate that she had actually incurred the costs claimed. Accordingly, the Court makes no award under this head (compare also *Altay v. Turkey (no. 2)*, no. 11236/09, §§ 87-88, 9 April 2019).

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds*

(a) that the respondent State is to pay the applicant, within three months, EUR 1,500 (one thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount 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 17 March 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Dorothee von Arnim Deputy Registrar	Péter Paczolay President