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

SECOND SECTION

DECISION

Application no. 52889/19
Aydın CINGI and Satı Sibel CINGI
against Türkiye

The European Court of Human Rights (Second Section), sitting on 23 September 2025 as a Committee composed of:

Jovan Ilievski*, President*,
Oddný Mjöll Arnardóttir,
Stéphane Pisani*, judges*,

and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to:

the application (no. 52889/19) 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 October 2019 by two Turkish nationals, Mr Aydın Cıngı and Ms Satı Sibel Cıngı ("the applicants"), who were born in 1944 and 1939 respectively, live in Istanbul and were represented by Ms A. Becerik, a lawyer practising in Istanbul;

the decision to give notice of the application under Article 3 of the Convention to the Turkish Government ("the Government"), 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;

the parties' observations;

the decision to request additional factual information and further observations from the parties under Article 8 of the Convention;

the observations submitted by the respondent Government in response;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

A. Incident of 16 June 2013

1. On 16 June 2013 a tear gas projectile, which had been fired by the police to disperse a demonstration during the Gezi Park events in Istanbul (for

more information see *Kavala v. Turkey*, no. 28749/18, §§ 15-22, 10 December 2019), entered the applicants' bedroom, breaking the window and setting the curtains on fire. Ms Satı Sibel Cıngı ("the second applicant"), who was alone in the applicants' flat when the incident occurred, suffered from the effects of the tear gas released into the room.

2. Two medical reports drawn up on 18 and 21 June 2013 noted that the second applicant showed symptoms of obstructive lung disease, that she had undergone an operation for lung cancer in August 2012, and that she had undiagnosed respiratory issues caused by external factors.

3. On 20 June 2013, following a complaint lodged by the applicants, a scene-of-incident report was drawn up by the police. The report noted that the window of the applicants' bedroom was broken and that there were burn marks on the curtains and a strong residue of tear gas in the room.

B. Criminal investigation

4. On 10 June 2015, following an investigation initiated in July 2013, the Istanbul public prosecutor decided not to prosecute any police officers who had been involved in the incident in question, finding that the security forces had had to use tear gas to disperse the crowd and that the gas had infiltrated the flats in the vicinity, causing damage. The security forces had had no intention of causing bodily injury and their acts had not met the criteria for the offence of causing damage to property. An objection lodged by the applicants against that decision was dismissed by the Istanbul Magistrate's Court on 4 September 2015.

C. Administrative proceedings

5. According to the information and documents submitted by the Government, in 2013 the applicants brought an administrative action, seeking compensation in respect of the pecuniary and non-pecuniary damage sustained by them as a result of the incident.

6. On 13 March 2015 the Istanbul Administrative Court allowed in part the applicants' action and awarded them compensation in respect of pecuniary and non-pecuniary damage. The domestic court found it established on the basis of the scene-of-incident report and the medical reports that the alleged damage had been caused by a tear gas projectile which had been fired by the security forces. The security operation (which should have been carried out in a diligent manner by officers with the required level of training) had not been adequately executed by the authorities in the present case, resulting in a fault on the part of the authorities in the provision of public service (*hizmet kusuru*) for which the applicants should be compensated.

7. According to the documents provided by the Government, on 25 November and 15 December 2015 the applicants were paid a total of

24,172 Turkish liras in damages (approximately 7,800 euros (EUR) at the material time).

8. On 28 September 2020 the Supreme Administrative Court quashed the judgment of the first-instance court. Following a request for rectification lodged by the applicants, by a final decision of 26 October 2023 the Supreme Administrative Court reversed its previous decision and upheld the judgment of the Istanbul Administrative Court awarding the applicants compensation.

D. Proceedings before the Constitutional Court

9. On 19 October 2015 the applicants lodged an individual application with the Constitutional Court. They argued, *inter alia*, that the damage they had sustained on account of the entry of the tear gas projectile into their flat amounted to ill-treatment and a breach of their right to respect for their physical and psychological integrity, and that the authorities had failed to carry out an effective investigation into the matter. In that regard, they referred to the Istanbul public prosecutor's decision of 10 June 2015 and the Istanbul Magistrate's Court's decision of 4 September 2015, without making any mention of the administrative proceedings.

10. By a decision of 6 March 2019, which was notified to the applicants on 2 April 2019, the Constitutional Court rejected the applicants' individual application. It found that the applicants had not made any submission capable of explaining how the first applicant had been affected by the incident in question, other than as a witness to its impact on his spouse, and it rejected the application in so far as it pertained to him for being incompatible *ratione personae* with the provisions of the Constitution. As for the complaints lodged by the second applicant, the Constitutional Court stated that in the absence of any intention on the part of the police to cause damage, the incident in question had not reached the threshold of severity for the purposes of the prohibition of inhuman or degrading treatment. It considered that, accordingly, the second applicant's complaint should be examined from the standpoint of Article 17 § 1 of the Constitution, which regulated the right to respect for physical and psychological integrity within the meaning of Article 8 of the Convention.

11. The Constitutional Court stated that Turkish law provided for both criminal and civil remedies in respect of interferences with individuals' physical and psychological integrity. While acts such as the impugned act in the present case could attract a criminal sanction (provided that the act in question was regulated as an offence under criminal law), such acts could also be subject to compensation proceedings before the civil and administrative courts. Nevertheless, the second applicant had failed to bring an administrative action in respect of the State officials' allegedly unlawful acts, which would have constituted a more effective remedy given the circumstances of the present case. The Constitutional Court accordingly

rejected that part of the application on account of the non-exhaustion of domestic remedies.

E. The applicants' complaints

12. The applicants complained under Articles 1, 3, 7, 8, 10, 13 and 14 of the Convention that the damage sustained by them as a result of the entry of the tear gas projectile into their flat had constituted ill-treatment and a breach of their right to respect for their physical integrity. They also argued that they had not been compensated for the pecuniary and non-pecuniary damage resulting from the incident and that the authorities had failed to initiate criminal proceedings against those responsible.

THE COURT'S ASSESSMENT

A. The striking out of the application in respect of the second applicant

13. By a letter of 5 February 2025, the Government informed the Registry of the Court that the second applicant, Ms Satı Sibel Cıngı, had died on 19 October 2024.

14. By a letter of 6 March 2025 sent *via* the Court's Electronic Communication Service (eComms), the Registry asked the applicants' representative to indicate by 3 April 2025 whether anyone wished to pursue the proceedings before the Court in Ms Cıngı's stead. The applicants' representative downloaded the Court's letter *via* the eComms platform on 10 March 2025. No response has been received to date. Nor have any heirs or close relatives expressed a wish to pursue the application in Ms Cıngı's stead.

15. Accordingly, in line with Article 37 § 1 *in fine*, the Court finds no special circumstances regarding respect for human rights which require the continued examination of the case and considers it appropriate to strike the application out of its list of cases under Article 37 § 1 (c) of the Convention in respect of Ms Cıngı (see for the relevant principles *Léger v. France* (striking out) [GC], no. 19324/02, §§ 44 and 51, 30 March 2009).

B. Alleged violations of Articles 1, 3, 7, 8, 10, 13 and 14 of the Convention in respect of the first applicant

1. The parties' submissions

16. In their observations of 16 December 2021 submitted after the Court gave them notice of the applicants' complaints under Article 3 of the Convention, the Government informed the Court that the applicants had initiated administrative proceedings and had been awarded compensation by

the Istanbul Administrative Court, and that proceedings were pending before the Supreme Administrative Court. Reiterating the findings of the Constitutional Court, the Government argued that in the absence of any intention on the part of the State authorities to fire the projectile through the applicants' window, the more effective remedy in the circumstances of the present case was the applicants' action for a full remedy before the administrative courts, which at that time was still pending.

17. On 19 December 2023, in response to the Court's letter of 8 November 2023 requesting additional information from the parties, the Government informed the Court that in 2015 the applicants had been paid compensation amounting to approximately EUR 7,800.

18. Lastly, following the Court's request for the parties to submit additional observations with regard to the applicants' complaint under Article 8 of the Convention, on 7 October 2024 the Government noted that the Supreme Administrative Court had upheld the Administrative Court's judgment and that it was no longer possible for the authorities to reclaim the amount awarded to the applicants. According to the Government, the applicants could no longer be considered to have the status of victims.

19. On 31 January 2022 the applicants submitted their observations and just-satisfaction claims in response to the Government's observations of 16 December 2021, arguing that where there were several domestic remedies available, applicants could choose which remedy to pursue – which, in their case, had been the criminal-law remedy. The applicants did not respond to subsequent requests made by the Court for additional information and observations.

2. The Court's assessment

20. Being the master of the characterisation to be given in law to the facts of the case, the Court considers that the first applicant's complaints fall to be examined under Articles 3 and 8 of the Convention (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 126, 20 March 2018).

21. The Court reiterates that an application may be rejected as an abuse of the right of individual application under Article 35 § 3 (a) of the Convention if it has been established that it was knowingly based on untrue facts. The submission of incomplete and thus misleading information may also amount to an abuse of the right of application, especially if the information concerns the very core of the case and no sufficient explanation has been provided for the failure to disclose that information. The same applies if important new developments have occurred during the proceedings before the Court and where, despite being expressly required to do so by Rule 47 § 7 of the Rules of Court, the applicant has failed to disclose that information to the Court, thereby preventing it from ruling on the case in full knowledge of the facts. However, even in such cases, the applicant's intention to mislead the Court

must always be established with sufficient certainty (see *Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014, with further references).

22. Any actions or omissions attributable to an applicant's representative may be imputed to the applicant and could lead to the rejection of the application as an abuse of the right of individual application (compare ibid., § 33).

23. Furthermore, the Court has previously emphasised that the question of possible abuse can be raised by it *proprio motu* (see *Gevorgyan and Others v. Armenia* (dec.), no. 66535/10, § 32, 14 January 2020).

24. The Court notes that the first applicant failed to provide it with any information regarding the Istanbul Administrative Court's decision awarding both applicants compensation or the payment of that amount – both of which had taken place some four years before the applicants lodged the present application. They had also previously failed to submit that information to the Constitutional Court, which rejected their individual application in so far as it concerned the second applicant on account of her failure to initiate administrative proceedings (see paragraph 11 above). The Court considers that the first applicant, who was represented by a lawyer, must have known at the time when he lodged the present application that the information concerning the decision of the Administrative Court was of such relevance for the Court's ruling on the case that it had to be disclosed.

25. While it is true that the administrative proceedings were still pending at the time the first applicant lodged the application with the Court, as noted above, the compensation awarded by the Administrative Court had already been paid to both applicants. Moreover, during the course of the proceedings before the Court, despite the additional information and observations requested from the applicants, the first applicant failed to respond to the Court's letters and inform it of a key development, namely, the Supreme Administrative Court's final decision of 26 October 2023, by which it had upheld the Istanbul Administrative Court's judgment awarding the applicants compensation (see paragraphs 8 and 18 above).

26. The Court considers that the information about the administrative proceedings concerned the very core of the case. Although in cases of wilful ill-treatment the breach of Article 3 cannot be remedied only by an award of compensation to the victim (see *Jeronovičs v. Latvia* [GC], no. 44898/10, § 105, 5 July 2016), in view of the damage caused to the first applicant, which resulted from the entry of a tear gas projectile into the applicants' flat, and the Constitutional Court's finding that the case fell to be examined under Article 8 on account of the unintentional nature of the act, the information regarding the administrative proceedings was clearly important for the purposes of an assessment of the effective domestic remedy to be used. Moreover, the final decision of the Supreme Administrative Court was relevant to the question of whether the first applicant could still claim to be the victim of an alleged violation of Article 8. It notes in that context that in

their application, the applicants had complained, in particular, that they had not been compensated for the damage resulting from the incident (see paragraph 12 above).

27. The Court also notes that, following the disclosure of the information about the administrative proceedings by the Government in their first observations, the first applicant did not make any submissions as to why he had initially refrained from providing that information to the Court; rather, he simply stated that he was not required to exhaust the remedy before the administrative courts as he had already had recourse to the relevant criminal remedy. In respect of the failure to disclose further developments regarding the administrative proceedings, he did not make any submissions at all.

28. At this juncture, the Court reiterates that having due regard to its duty to examine allegations of human rights violations, lawyers must show a high level of professional prudence and meaningful cooperation with the Court by sparing it from the introduction of unmeritorious complaints and, once proceedings have been instituted, then meticulously abide by all the relevant rules of the procedure and urge their clients to do the same (see *Bekauri v. Georgia* (preliminary objection), no. 14102/02, § 24, 10 April 2012).

29. In the light of the foregoing, the Court considers that the conduct of the first applicant and his representative constituted an abuse of the right of individual application. It follows that this part of the application is inadmissible pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Decides to strike the application out of its list of cases in respect of the second applicant;

Declares the application inadmissible in respect of the first applicant.

Done in English and notified in writing on 16 October 2025.

Dorothee von Arnim Deputy Registrar	Jovan Ilievski President