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

SECOND SECTION

DECISION

Application no. 55896/21
Mehmet Deniz GÜZEL
against Türkiye

The European Court of Human Rights (Second Section), sitting on 21 October 2025 as a Committee composed of:

Jovan Ilievski*, President*,
Péter Paczolay,
Juha Lavapuro*, judges*,

and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to:

the application (no. 55896/21) 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 21 October 2021 by a Turkish national, Mr Mehmet Deniz Güzel ("the applicant"), who was born in 1972, lives in Bolu and was represented by Mr B. Polat, a lawyer practising in Diyarbakır;

the decision to give notice of the application 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;

Having deliberated, decides as follows:

## SUBJECT MATTER OF THE CASE

1. At the time of the events in question, the applicant was detained in Bolu F-Type Prison. On 17 January 2008 an altercation took place between the prisoners in the applicant's cell and prison officers during a routine headcount. According to the applicant, while he was trying to stop a quarrel between one of the inmates and a certain prison officer, İ.C., the latter pushed the applicant towards another officer and struck him on the back, upon which

the other officer took him downstairs, where he was beaten by a group of officers.

2. A medical report drawn up in respect of the applicant on the same day noted that he was feeling pain in his shoulder blades, neck and left ankle, the cause of which was deemed to be myalgia. The report also noted a mucosal tear in his upper lip, mucosal bleeding in both his nostrils, bruising on his left index finger, and hyperaemia on his forehead. The report concluded that the issues identified could be treated with simple medical care.

3. On 17 September 2008 the Bolu public prosecutor issued an indictment accusing the prisoners concerned (including the applicant) of defamation and five prison officers of exceeding the limits of their authority to use force.

4. Subsequently the applicant was assigned a lawyer by the Bolu Bar Association. On 3 May 2011, after holding several hearings – during which it heard all of the parties involved (including the applicant and his lawyer) and examined the relevant medical reports – the Bolu Magistrate's Court held that in view of the tense nature of the situation and the way in which it had escalated, İ.C. could not be considered to have exceeded the limits on his authority to use force by striking the applicant on the back and pushing him. Accordingly, he had been acting within the limits of his authority and did not need to be sentenced. The Magistrate's Court also acquitted the applicant, finding that although he had pushed İ.C. and another officer, he had been trying to de-escalate the situation. The court went on to find the other four officers guilty as charged for their acts against the applicant, sentencing them to a fine but suspending the pronouncement of the judgment on condition that they did not commit an intentional offence within the following five years. Lastly, it noted that an objection challenging the decision to suspend the pronouncement of the judgment (regarding the four officers) could be lodged with the Criminal Court of First Instance and that an appeal against the judgment (notably concerning İ.C.) could be lodged with the Court of Cassation.

5. On 6 June 2011 the applicant applied for leave to appeal, arguing that the Magistrate's Court had erred in its findings regarding all of the prison officers. He maintained, in particular, that the suspension of the pronouncement of the judgment in respect of the officers concerned had been unlawful and that they should have been tried for inflicting torture. According to the documents in the case file, his appeal request – in so far as it concerned the judgment regarding İ.C. – was forwarded to the Court of Cassation. The remainder of his request concerning the four officers who had benefited from the suspension of the pronouncement of the judgment was forwarded to the Bolu Criminal Court of First Instance.

6. On 10 August 2011 the Bolu Criminal Court of First Instance reclassified his appeal request regarding four of the officers as an objection to the suspension of the pronouncement of the judgment and rejected it by a

final decision, finding the Magistrate's Court's decision to have been in accordance with the law. That decision – which, in respect of the four officers, the court held was final and not subject to appeal – was served on the applicant's lawyer on 19 September 2011.

7. On 23 October 2013 a copy of the observations of the public prosecutor to the Court of Cassation were served on the applicant's lawyer. On 4 November 2014 the Court of Cassation upheld the judgment of the Magistrate's Court in so far as it concerned İ.C.'s treatment of the applicant. On 22 November 2019, at his own request, the applicant was served a copy of that decision.

8. On 19 December 2019 the applicant lodged an individual application with the Constitutional Court, arguing that all prison officers concerned had subjected him to torture. In particular, İ.C. had pushed him and had struck him in the back and the other officers had beaten him. He maintained that the impugned acts had constituted torture and that both the Magistrate's Court's and the Court of Cassation's failure to convict the prison officers for those acts had violated the right to a fair trial and the prohibition of torture.

9. The Constitutional Court examined the applicant's application from the standpoint of the right to a fair trial and, by a decision of 30 June 2021, rejected it for being incompatible *ratione materiae* with the provisions of the Constitution, stating that criminal proceedings against third persons did not fall within the scope of the right to a fair trial.

10. The applicant complained under Articles 3 and 6 of the Convention that he had been subjected to ill-treatment and that the officers had not been sentenced (in spite of the fact that their acts had been established by the domestic court), resulting in their impunity.

## THE COURT'S ASSESSMENT

11. The Court notes at the outset that the applicant's complaint under Article 6 of the Convention falls to be examined under Article 3 of the Convention (see for the general principles *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 126, 20 March 2018).

### Alleged violation of Article 3 of the Convention

12. The Government argued that the application had been lodged outside the six-month time-limit, as the final decision regarding the officers – that is, the decision rejecting the applicant's objection to the suspension of the pronouncement of the judgment – had been served on his lawyer on 19 September 2011. As the mechanism allowing individuals to lodge an application with the Constitutional Court had not yet entered into force at the time, the applicant should have applied to the Court within six months of that

date. They also submitted that the applicant had failed to exhaust the available domestic remedies, in compliance with the procedural requirements, as he had lodged his application with the Constitutional Court long after the expiry of the thirty-day time-limit following the decision of the Court of Cassation. In that respect, they noted that as there was no procedural obligation requiring that decisions of the Court of Cassation be served on the parties concerned, the applicant (who had been represented by a lawyer) should have exercised the required diligence and sought to inform himself of the decision earlier.

13. The applicant contested the Government's submissions. He argued that, as a prisoner, he could not have been expected to have had ready access to court decisions. In any event, his alleged failure to comply with the time-limit in respect of lodging an application with the Constitutional Court could not be advanced as grounds for declaring his application inadmissible, as the court itself had not mentioned any such time-limit.

*1. Acts allegedly committed by four of the officers involved in the events in question*

14. The Court reiterates that in each case brought before it, it must ensure that the application has been lodged in compliance with the six-month time-limit (four-month time-limit following the entry into force of Article 4 of Protocol No. 15 on 1 February 2022) (see *Sabri Güneş v. Turkey* [GC], no. 27396/06, § 29, 29 June 2012). As a rule, the six-month period runs from the date of the final decision in the process of exhaustion of domestic remedies (see *Lopes de Sousa Fernandes v. Portugal* [GC], no. 56080/13, § 131, 19 December 2017).

15. In the present case, although the force used against the applicant by four of the officers involved in the events in question (other than İ.C.) was found by the Magistrate's Court to have exceeded the limits of their authority, the judgment in respect of those officers was not pronounced. Although an objection to that decision could be lodged, it could not be appealed against. Nevertheless, the applicant applied for leave to appeal, challenging the decision to suspend the pronouncement of that judgment and the fact that the officers had not been tried for inflicting torture. The Bolu Criminal Court reclassified the applicant's application for leave to appeal as an objection and rejected it by a final decision, in so far as it pertained to the four officers concerned. That decision was served on the applicant's lawyer on 19 September 2011.

16. At that time, that decision was final and there was no other domestic remedy available to the applicant, as the mechanism allowing individuals to apply to the Constitutional Court had not yet entered into force (see *Uzun v. Turkey* (dec.), no. 10755/13, §§ 15 and 70, 30 April 2013, regarding the entry into force of that mechanism on 23 September 2012). While it is true that the Constitutional Court did not reject the applicant's above-mentioned

individual application as being incompatible *ratione temporis* with the provisions of the Constitution (it considered the application to be already incompatible *ratione materiae* with the provisions of the Constitution) – given that the six-month rule is a public-policy rule and that the Court has jurisdiction to apply it of its own motion (see *Sabri Güneş*, cited above, § 29) – the absence of any reference by the Constitutional Court to its own temporal jurisdiction does not prevent the Court from examining compliance with the six-month time-limit in the present case.

17. In view of the foregoing, the Court concludes that in so far as it concerns the alleged ill-treatment of the applicant by the four officers (other than İ.C.) and the suspension of the pronouncement of the judgment delivered in their respect, the present application was lodged more than six months after the final domestic decision had been served. It therefore rejects this part of the application for being out of time, pursuant to Article 35 §§ 1 and 4 of the Convention.

*2. Acts allegedly committed by İ.C.*

18. In so far as the applicant's complaints concern the acts committed by İ.C., the Court takes note of the Government's submissions in that respect and observes that the applicant, who was represented by a lawyer, lodged his application with the Constitutional Court more than five years after the decision of the Court of Cassation. In that connection, it notes that during the proceedings before the Court of Cassation, the applicant's lawyer was notified of the observations of the public prosecutor, which should have prompted him to inform himself of the final decision sooner (see paragraph 7 above). Moreover, the applicant did not complain at any stage that the representative appointed to him had failed to duly represent him.

19. That being so, the Court will not assess whether the applicant complied with the procedural rules, and notably the applicable time-limits, in the proceedings before the Constitutional Court and thus duly exhausted domestic remedies for the purposes of Article 35 § 1 of the Convention, as it considers that in any event the complaint should be rejected for the following reasons.

20. The Court reiterates that in respect of a person who 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 his or her own conduct diminishes human dignity and is, in principle, an infringement of the right set forth in Article 3 (see *Bouyid v. Belgium* [GC], no. 23380/09, § 88, ECHR 2015).

21. In the present case, the applicant argued that following his attempt to intervene in the altercation between the prison officers and his fellow inmates, İ.C. had struck him on the back and pushed him towards another officer. That version of events was confirmed by the Magistrate's Court, which found that

the applicant had pushed İ.C. while trying to de-escalate the situation and that İ.C. had then struck him on the back and pushed him. The domestic court went on to find that, given the tense nature of the situation, İ.C. could not be considered to have exceeded the limits of his authority to use force (see paragraph 4 above).

22. In that connection, the Court reiterates that it is sensitive to the subsidiary nature of its role and recognises that it must be cautious in taking on the role of a first-instance tribunal of fact, where this is not rendered unavoidable by the circumstances of a particular case. Nonetheless, where allegations are made under Article 3 of the Convention the Court must apply "particularly thorough scrutiny", even if certain domestic proceedings and investigations have already taken place (see *El-Masri v. the former Yugoslav Republic of Macedonia* [GC], no. 39630/09, § 155, ECHR 2012, with further references).

23. In the present case, in view of the nature of the proceedings before the Magistrate's Court (which held several hearings and heard all the persons concerned) and its establishment of the facts (which duly reflected the submissions of the applicant), the Court does not see any reason to call the domestic court's findings into question. In that connection, it notes that the applicant did not contest the sequence of events as established by the Magistrate's Court. Moreover, when seeking leave to appeal, the applicant generally complained about the outcome of the proceedings before the Magistrate's Court, without giving further details regarding the acts allegedly committed by İ.C.

24. The Court accordingly finds that, as established by the domestic court, İ.C.'s acts occurred during an altercation between him and the applicant. Notwithstanding the applicant's good intentions in attempting to stop the quarrel between the officers and his fellow inmates, his pushing of İ.C. can be considered to have warranted the use of force against him in the heat of the moment. Taking into account the nature of the force used – namely, a push and a slap on the back, in response to a push by the applicant – and the lack of any submissions by the applicant regarding any injuries which he may have sustained as a result, the Court accepts that the use of force was made strictly necessary by his own conduct (compare also *Borodin v. Russia*, no. 41867/04, §§ 119-21, 6 November 2012, and *Perrillat-Bottonet v. Switzerland*, no. 66773/13, § 41, 20 November 2014, with further references).

25. Being attentive to the seriousness that attaches to a ruling that a Contracting State has violated fundamental rights (see *El-Masri*, cited above, § 151), the Court concludes that this part of the application must be rejected as being manifestly ill-founded 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 20 November 2025.

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| Dorothee von Arnim<br>Deputy Registrar | Jovan Ilievski<br>President |