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

SECOND SECTION

DECISION

Application no. 3554/17
Yusuf İHTİYAROĞLU
against Türkiye

The European Court of Human Rights (Second Section), sitting on 2 September 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. 3554/17) 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 14 December 2016 by a Turkish national, Mr Yusuf İhtiyaroğlu ("the applicant"), who was born in 1991, lives in Istanbul and was represented by Ms B. Özdemir, a lawyer practising in İzmir;

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. The application concerns the alleged insult directed at the applicant by a police officer during his arrest, which, according to the applicant, amounted to degrading treatment within the meaning of Article 3 of the Convention, and the effectiveness of the ensuing investigation into his claims.

2. On 1 June 2013 the applicant was arrested during a demonstration in İzmir, which was held as part of the wide-spread protests referred to as the Gezi Park events. He was then examined by a doctor and placed in police custody on suspicion of resisting officers and damaging public property.

3. On 2 June 2013, during his interrogation by the police in the presence of his lawyer, the applicant stated that he had distanced himself from the group when the demonstration had started to become violent and had been standing near the police station when the police officers had arrested him. As he had made a facial gesture during his handcuffing, one of the officers had insulted him.

4. On the same date the applicant was examined by a doctor and released from custody.

5. The medical reports issued in respect of the applicant at the beginning and end of his one-day custody stated that the applicant was fully conscious, that his general health condition was good, and that he had redness on both wrists. According to the last report, the applicant noted that he had not been subjected to any ill-treatment during his police custody. The reports did not mention any complaints from the applicant as to any psychological damage caused to him.

6. Upon the complaints lodged by twenty-one people including the applicant, some of whom had also complained of bodily injuries caused to them, an investigation was initiated against the officers of the İzmir Directorate of Security for exceeding the limits of use of force, causing bodily injury and defamation.

7. On 11 October 2015 the İzmir Public Prosecutor issued a decision not to prosecute any officers for their alleged acts during the demonstration. As regards the claims of defamation, the Public Prosecutor found that, except for the claimants' abstract submissions, there was not adequate evidence to allow for the opening of criminal proceedings against the suspects.

8. On 5 January 2016 the applicant's objection to that decision, in which he had argued that he had been insulted without there being any resistance shown by him to the officers, was rejected by the İzmir Magistrates' Court.

9. By a decision of 9 June 2016, the Constitutional Court examined the applicant's individual application from the standpoint of the right to dignity, and rejected it for his failure to exhaust the compensatory remedy.

10. The applicant complained under Articles 3, 6 and 13 of the Convention that he had been insulted by the police and that the investigation into his complaint had not been prompt or effective. He also argued that the decision of the Constitutional Court rejecting his application for his failure to exhaust the civil compensatory remedy made it impossible for him to pursue his case. In that respect, he maintained that he could not have had recourse to that remedy as he had not known the name of the officer concerned, which, according to him, could only be established had an effective investigation been carried out.

THE COURT'S ASSESSMENT

11. The Government argued that, in the absence of any clarification by the applicant regarding the content of the alleged insult directed at him, he could not be considered to have raised an arguable claim and that accordingly, the State authorities had not been obliged to carry out an effective investigation into his abstract allegations. Even assuming that he had been insulted by the police during his arrest, the incident had been instantaneous and had not caused any mental damage, thereby not reaching the threshold of severity required by Article 3 of the Convention. They concluded therefore that the application was manifestly ill-founded.

12. In his application to the Court, the applicant submitted that the insult he had been subjected to had constituted ill-treatment and that the domestic authorities had failed to take any steps to identify the officers concerned and to impose a sanction on them.

13. The Court considers that the applicant's complaints under Articles 3, 6 and 13 of the Convention fall to be examined under Article 3 of the Convention alone (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 126, 20 March 2018).

14. As regards the alleged violation of Article 3 in its substantive aspect, the general principles with regard to the infliction of psychological suffering within the context of Article 3 of the Convention were set out by the Court in its judgment in the case of *Aghdgomelashvili and Japaridze v. Georgia* (no. 7224/11, §§ 42-44, 8 October 2020). The Court reiterates, in particular, that Article 3 cannot be limited to acts of physical ill-treatment; it also covers the infliction of psychological suffering. Hence, treatment can be qualified as "degrading" – and thus fall within the scope of the prohibition set out in Article 3 of the Convention – if it causes in its victim feelings of fear, anguish and inferiority, if it humiliates or debases an individual in the victim's own eyes and/or in other people's eyes, whether or not that was the aim, if it breaks the person's physical or moral resistance or drives him or her to act against his or her will or conscience, or if it shows a lack of respect for, or diminishes, human dignity (ibid., § 42, with further references).

15. In assessing evidence in relation to a claim of a violation of Article 3 of the Convention, the Court adopts the standard of proof "beyond reasonable doubt". According to its established case-law, proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact. Moreover, the level of persuasion necessary for reaching a particular conclusion and, in this connection, the distribution of the burden of proof are intrinsically linked to the specificity of the facts, the nature of the allegation made and the Convention right at stake. Where the events in issue lie wholly, or in large part, within the exclusive knowledge of the authorities, the burden of proof is on the Government to provide a satisfactory and convincing explanation by producing evidence

establishing facts which cast doubt on the account of events given by the victim (ibid., § 43, with further references).

16. Turning to the present case, the Court notes at the outset that the applicant did not raise any complaints regarding the redness around his wrists noted in the medical reports and solely complained about the alleged insult directed at him during his arrest, as well as the alleged ineffectiveness of the ensuing investigation. In that respect, as also noted by the Government, the applicant, who was represented by a lawyer, failed to give any details about the nature and content of the alleged insult at any stage during the domestic proceedings or the proceedings before the Court, but merely stated that the officer had insulted him when he had made a facial gesture during his handcuffing. The Court also observes that none of the documents and information submitted by the parties allow it to establish that the applicant was indeed insulted.

17. The applicant did not claim that the alleged incident had caused him mental suffering or feelings of fear and anguish. In that regard, the Court points out that according to the medical reports concerning the applicant, the content of which was not contested by him at any stage, he stated not to have been subjected to any sort of ill-treatment during his police custody (see paragraph 5 above). The Court notes that the medical reports did not indicate any psychological effects of the incident on the applicant either.

18. In view of the above, the Court concludes that the applicant failed to lay the basis of an arguable claim or make a credible assertion that he has suffered treatment infringing Article 3.

19. As regards the alleged violation of Article 3 in its procedural aspect, the Court further finds that in the absence of an arguable claim of ill-treatment in breach of Article 3, the State authorities could not be considered to be under a positive obligation to conduct an effective investigation into the applicant's allegations (see *Maļinovskis v. Latvia* (dec.), no. 48435/07, §§ 52-53, 4 March 2014; *Öcalan v. Turkey* (dec.), no. 12261/10, §§ 28-35, 4 September 2018; and *Ghişoiu v. Romania* (dec.), no. 40228/20, §§ 63-64, 29 November 2022).

20. It follows that the application is 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 25 September 2025.

Dorothee von Arnim Deputy Registrar	Jovan Ilievski President