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

SECOND SECTION

DECISION

Applications nos. 62962/11 and 71196/11
Tayhan KARADAN against Turkey
and Mustafa ÖZKAYA against Turkey

The European Court of Human Rights (Second Section), sitting on 11 October 2016 as a Committee composed of:

Paul Lemmens, *President,*
Ksenija Turković,
Jon Fridrik Kjølbro, *judges,*

and Hasan Bakırcı, *Deputy Section Registrar,*

Having regard to the above applications lodged on 8 August 2011 and 13 October 2011 respectively,

Having deliberated, decides as follows:

THE FACTS

1. The applicants are Turkish nationals. The Turkish Government ("the Government") were represented by their Agent.

2. The facts of the case, as submitted by the parties, may be summarised as follows.

3. At the material time, the applicants were students at the Turkish Military Academy.

4. A room confinement sanction was imposed on the first applicant, Mr Tayhan Karadan, for 3 days. It was enforced between 4 and 6 March 2011 and between 12 and 13 March 2011.

5. On 7 June 2011 a room confinement sanction was imposed the second applicant, Mr Mustafa Özkaya, for 3 days. It was enforced on 11, 12 and 18 June 2011.

6. The penalties were executed in the same way as administrative restrictions imposed on military officials in the Army.

COMPLAINT

7. The applicants complained under Article 5 of the Convention that the disciplinary penalties imposed on them were ordered by their military superiors and not by an independent and impartial tribunal.

THE LAW

8. The applicants complained about the disciplinary penalties imposed on them by their military superiors. They claimed that the penalties constituted a violation of their right to liberty and security guaranteed by Article 5 of the Convention since they were not ordered by an independent and impartial tribunal.

9. The Government contested the allegations.

10. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

11. In its decision in the case of *Gül v. Turkey* ((dec.), no. 74161/11, 10 July 2012), the Court found that the administrative restriction imposed on the applicant by his military superior for one day did not constitute a deprivation of liberty within the meaning of Article 5 of the Convention. The Court indicated that although confined during off-duty hours to their dwellings or to military buildings or premises, as the case may be, servicemen subjected to such a penalty were not locked up and continued to perform their duties and they remained, more or less, within the ordinary framework of their army life (*Engel and Others v. the Netherlands*, 8 June 1976, § 61 and 62, Series A no. 22).

12. Similarly, in the present cases, the applicants were not locked up and remained in the ordinary framework of their military school life during the enforcement of the impugned disciplinary sanctions.

13. The Court therefore sees no reason to depart from its considerations in the aforementioned decision in the present cases. In the light of the foregoing, the Court concludes that the room confinement imposed on the applicants, which is comparable to administrative restriction imposed on military officials, did not pose a problem under Article 5 § 1 of the Convention.

14. Accordingly, the applications are manifestly ill-founded and must be rejected pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 17 November 2016.

Hasan Bakırcı
Deputy Registrar

Paul Lemmens
President