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

SECOND SECTION

DECISION

Application no. 20363/07
Mehmet Nesih SARIKAYA against Turkey
and 6 other applications
(see list appended)

The European Court of Human Rights (Second Section), sitting on 24 November 2015 as a Committee composed of:

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

and Abel Campos, *Deputy Section Registrar,*

Having regard to the above applications lodged on the various dates indicated in the appended table,

Having deliberated, decides as follows:

THE FACTS

A list of the applicants is set out in the appendix. The Turkish Government ("the Government") were represented by their Agent.

A. The circumstances of the case

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

2. The applicants were serving their prison sentences in various establishments at the time of lodging their applications. All of the applicants were prevented by the prison authorities from conducting their telephone conversations in Kurdish. The applicants' objections before the enforcement judges and their appeals before the assize courts were rejected.

3. In applications nos. 35306/08 and 37790/08, the applicants were also prevented by the decisions of the prison disciplinary boards from sending

letters which were written in Kurdish. The applicants' objections before the enforcement judges and their appeals before the assize courts in order to set aside disciplinary boards' decisions were rejected.

4. In application no. 53408/07, the applicant was also refused by a decision of the prison's educational committee to receive certain copies of a newspaper and a book which were published in Kurdish. The applicant's objection before the enforcement judge and his appeal before the assize court in order to set aside disciplinary board's decision were rejected.

5. In application no. 20363/07, the applicant applied to the enforcement judge to ensure removal of an alleged restriction on his right to be visited by his friends and certain relatives. His request was rejected by the enforcement judge and subsequently by the assize court based on Section 83 of Law no. 5275.

B. Relevant domestic law

1. Regarding the prisoners' right to telephone conversations

6. A full description of the domestic law and practice at the relevant time may be found in *Nusret Kaya and Others v. Turkey* (nos. 43750/06, 43752/06, 32054/08, 37753/08 and 60915/08, §§ 22-25, ECHR 2014 (extracts)).

2. Regarding the prisoners' right to correspondence

7. A full description of the domestic law and practice at the relevant time may be found in *Mehmet Nuri Özen and Others v. Turkey* (nos. 15672/08, 24462/08, 27559/08, 28302/08, 28312/08, 34823/08, 40738/08, 41124/08, 43197/08, 51938/08 and 58170/08, §§ 30-34, 11 January 2011).

3. Regarding the prisoners' right to receive periodicals

8. A full description of the domestic law and practice at the relevant time may be found in *Mesut Yurtsever and Others v. Turkey* (nos. 14946/08, 21030/08, 24309/08, 24505/08, 26964/08, 26966/08, 27088/08, 27090//08, 27092/08, 38752/08, 38778/08 and 38807/08, §§ 78-80, 20 January 2015).

4. Regarding the competency of the Compensation Commission established by Law no. 6384

9. A full description of domestic law may be found in *Yıldız and Yanak v. Turkey* ((dec.), no. 44013/07, §§ 9-17, 21 May 2014), and *Özbil v. Turkey* ((dec.), no. 45601/09, § 6, 22 October 2015).

COMPLAINTS

10. The applicants complained of an interference with their right to respect for their correspondence on account of the fact that the prison authorities have restricted their telephone conversations in Kurdish. In applications nos. 35306/08 and 37790/08, the applicants stated that their letters were not posted by the prison administration as they were written in Kurdish. In application no. 53408/07, the applicant complained of an interference with his right to receive information as a book and a newspaper had not been handed over to him in prison. Finally, in application no. 20363/07, the applicant alleged that there had been an unjustified interference with his visiting rights. In connection with their complaints, the applicants relied on Articles 3, 6, 8, 10, 13 and 14 of the Convention.

THE LAW

11. Having regard to the similarity of the main issues under the Convention in the present cases, the Court decides to join the applications and consider them in a single decision.

12. The Government noted that following the pilot judgment procedure applied in the case of *Ümmühan Kaplan v. Turkey* (no. 24240/07, 20 March 2012), on 9 January 2013 the Turkish National Assembly enacted Law no. 6384 on the resolution, by means of compensation, of applications lodged with the Court concerning length of judicial proceedings and non-enforcement or delayed enforcement of judicial decisions. The competence of the Compensation Commission was subsequently enlarged by a decree adopted on 10 February 2014, and published in the Official Gazette on 16 March 2014 to examine complaints relating to, among other issues, complaints lodged by detainees/prisoners about the restriction of the right of detainees to correspondence/communicate in a language other than Turkish; and the refusal of the prison authorities to hand over periodicals based on different grounds. In the light of the foregoing, the Government asked the Court to reject the applications for non-exhaustion of domestic remedies, since the applicants had not applied to the Compensation Commission.

13. The Court observes that, as pointed out by the Government, a new domestic remedy has been established in Turkey. It further recalls that it has already examined similar applications and declared them inadmissible on the ground that the applicants had failed to exhaust domestic remedies, that is to say the new remedy (see *Bozkurt v. Turkey* (dec.), no. 38674/07, 10 March 2015, concerning restrictions on detainees' telephone conversations in Kurdish; *Çelik v. Turkey* (dec.), no. 23772/13, 16 June 2015 concerning restriction of detainees' correspondence in Kurdish and

Özbil v. Turkey (dec.), no. 45601/09, 29 September 2015, concerning refusal of prison authorities to provide periodicals). In so doing, the Court considered in particular that this new remedy was a priori accessible and capable of offering a reasonable prospect of redress for similar complaints.

14. As a result, taking into account the Government's preliminary objection with regard to the applicants' failure to make use of the new domestic remedy established by Law no. 6384, the Court reiterates its conclusion in the case of *Turgut and Others v. Turkey* ((dec.), no. 4860/09, 26 March 2013). It therefore concludes that these complaints should be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

15. As to the remaining complaint raised by the applicant in application no. 20363/07, the Court notes that having considered the parties' submissions and in the light of all the material in its possession, it finds that, in so far as the matters complained of are within its competence, they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the application must be declared inadmissible as manifestly ill-founded, pursuant to Article 35 §§ 3 (a) 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 December 2015.

Abel Campos
Deputy Registrar

Paul Lemmens
President

APPENDIX

No.	Application No.	Lodged on	Applicant Date of birth Place of residence	Represented by
1.	20363/07	26/04/2007	**Mehmet Nesih SARIKAYA** 20/04/1971 Rize Prison	Davut ERKAN Istanbul
2.	42789/07	24/09/2007	**Mehmet Murat DEĞER** 17/02/1982 Batman	
3.	53408/07	07/11/2007	**Mehmet Nuri TANIŞ** 15/08/1975 Bolu Prison	Murat VARGÜN Germany
4.	35306/08	04/07/2008	**Osman KAPAN** 01/01/1965 Bolu Prison	Derya BAYIR Istanbul
5.	37790/08	22/07/2008	**Cemal YILMAZ** 04/01/1965 İzmir Prison	Mazlum DİNÇ Istanbul
6.	18337/09	17/03/2009	**Aziz GEZİK** 01/05/1979 Address not known **Enver GÜNGÖR** 01/01/1982 Elazığ **Mehmet Nur ÇELEBİ** 05/07/1974 Sincan Prison	Murat VARGÜN Germany (represents Aziz Gezik and Enver Güngör)
7.	31514/09	21/04/2009	**Nedim ÖZALP** 01/04/1963 Bolu prison	Murat VARGÜN Germany