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

SECOND SECTION

DECISION

Application no. 29067/19
Mehmet SEL against Türkiye
and 4 other applications
(see list appended)

The European Court of Human Rights (Second Section), sitting on 17 June 2025 as a Committee composed of:

Oddný Mjöll Arnardóttir*, President*,
Stéphane Pisani,
Juha Lavapuro*, judges*,

and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to:

the applications 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") by the applicants listed in the appended table ("the applicants"), on the various dates indicated therein;

the decision to give notice of the complaint concerning Article 8 of the Convention in all applications and of the complaint under Article 6 of the Convention regarding the right to adversarial proceedings in application no. 37557/19 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, and to declare the remainder of the applications inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The applications mainly concern the decision to ban the applicants from sending or receiving letters while in prison during a state of emergency.

2. A state of emergency was declared in Türkiye after the attempted military coup on 15 July 2016. On various dates the relevant magistrate's courts ordered the applicants' pre-trial detention for membership of an

organisation described by the Turkish authorities as FETÖ/PDY ("Fetullahist Terror Organisation/Parallel State Structure"). The applicant in application no. 37557/19 was placed in Antalya Prison, while the other applicants were placed in Silivri Prison.

3. On the basis of section 114 of the Law on the Execution of Sentences and Preventive Measures (Law no. 5275; see for the text of the provision *Bozoğlu v. Türkiye* (dec.) [Committee], no. 29055/19, § 8, 6 June 2023), the relevant chief public prosecutor's offices decided to ban the use of means of communication such as letters, telegrams and faxes by those in pre-trial detention for membership of FETÖ/PDY. In line with those decisions, the administrations of Silivri Prison and Antalya Prison decided not to pass on any written correspondence received from outside and not to send any post on behalf of those in pre-trial detention for membership of the above-mentioned organisation.

4. The Silivri and Antalya Enforcement Judges dismissed the applicants' objections against the above-mentioned decisions of the prison administrations, holding that they complied with the law and procedure. For adopting its decision in respect of the applicant in application no. 37557/19, the Antalya Enforcement Judge had obtained the Antalya public prosecutor's written opinion, in which, without raising any new issue, he had invited the judge to uphold the decision, stating in general that the relevant restriction order was based on legitimate grounds. The applicant was not notified of this opinion.

5. The applicants objected to the enforcement judges' decisions before the Silivri and Antalya Assize Courts respectively. The courts dismissed the applicants' objections, concluding that the enforcement judges' decisions complied with the law and procedure. In its decision in relation to the objection of the applicant in application no. 37557/19, the Antalya Assize Court referred to the public prosecutor's oral submissions and noted that the public prosecutor had requested the dismissal of the objection in these submissions.

6. Concerning the applicant in application no. 45991/19, according to the information before the Court the Istanbul Chief Public Prosecutor's Office lifted the restrictions on his written correspondence on 27 February 2018 and the applicant was subsequently released on 17 August 2018.

7. With respect to the applicant in application no. 29067/19, the Istanbul 35th Assize Court ordered the lifting of the restriction on his written correspondence on 10 January 2018. As for the applicant in application no. 44536/19, the Istanbul 29th Assize Court informed the prison authorities on 20 March 2018 that the restriction had been lifted.

8. Regarding the applicants in applications nos. 37557/19 and 44539/19, the Government submitted that the applicants were released on 23 January 2018 and 6 July 2017, respectively. Therefore, the impugned restrictions on their correspondence *de facto* ended following their release.

9. The Constitutional Court subsequently declared the applicants' complaints concerning their freedom of communication as presented in their individual applications inadmissible for failure to exhaust available remedies on various dates (in application no. 29067/19 on 8 February 2019, in application no. 37557/19 on 5 February 2019, in application no. 44536/19 on 20 February 2019, and in applications nos. 44539/19 and 45991/19 on 30 January 2019). The Constitutional Court held that Article 141 § 3 of the Code of Criminal Procedure (Law no. 5271; see for the text of this provision *Bozoğlu*, cited above, § 9) provided for a compensatory remedy by virtue of which those who believed that they had sustained damage due to decisions and acts of prosecutors or judges could bring an action against the State. It pointed out that the applicants had failed to make use of that remedy. Moreover, the court declared the complaint of the applicant in application no. 37557/19 in relation to the right to a fair trial inadmissible for being manifestly ill-founded.

10. The applicants complained that the prohibition on them to send and receive letters, faxes and telegrams in prison had violated their right to respect for their correspondence under Article 8 of the Convention. The applicant in application no. 37557/19 further complained under Article 6 of the Convention of a violation of his right to an adversarial and fair hearing due to the non-communication of the prosecutors' opinions to him during the proceedings both before the Antalya Enforcement Judge and before the Assize Court.

THE COURT'S ASSESSMENT

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

12. As to the complaint under Article 8 of the Convention, the Government objected that the applicants had not exhausted domestic remedies on account of their failure to make use of the compensatory remedy provided for in Article 141 § 3 of the Code of Criminal Procedure.

13. The Court notes that it recently found in a comparable case that the compensatory remedy under that provision constituted an effective remedy to provide redress for the alleged grievances caused by a public prosecutor's restriction on a detainee's correspondence ordered on the basis of section 114 of the Law on the Execution of Sentences and Preventive Measures once the ban on the right to use written means of communication had come to an end (see *Bozoğlu*, cited above, §§ 17-23).

14. In that connection, the Court observes that according to the information before it, the ban on the right to use written means of communication contested by the applicants has ended while their applications before the Constitutional Court were pending (see paragraphs 6-9 above). The Court notes that even though the ban on their right to send and receive letters,

faxes and telegrams came to an end at the latest by the above-mentioned dates, the applicants have not availed themselves of the remedy provided for in Article 141 § 3 of the Code of Criminal Procedure. The Court further observes that they have failed to establish that the remedy in question, at their disposal, was inadequate and/or ineffective in the particular circumstances of their case, or that there existed special circumstances exempting them from the requirement to pursue that remedy.

15. In the light of the foregoing, the Court finds that the applicants' complaint under Article 8 of the Convention is inadmissible for non-exhaustion of domestic remedies and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

16. As to the complaint under Article 6 of the Convention of the applicant in application no. 37557/19 concerning the non-communication of the prosecutors' opinions to him during the proceedings before the Antalya Enforcement Judge and the Assize Court, the Court notes that it has already examined the same issue in *Kılıç and Others v. Turkey* (dec.) (no. 33162/10, §§ 19-32, 3 December 2013) and *Günana and Others v. Turkey* (nos. 70934/10 and 4 others, §§ 78-79, 20 November 2018). It considered that the applicants in those cases had not suffered a significant disadvantage, given that the prosecutors' opinions in question were limited to indicating that the impugned decisions were in accordance with the law and procedure and did not contain any new question which could call for a comment by these applicants.

17. Having particular regard to the content of the prosecutors' opinions before the domestic courts (see paragraphs 4 and 5 above), in so far as the applicant was not notified thereof, the Court finds no particular circumstances in the present case which would require it to depart from its findings in the above-mentioned cases (see also *Çançar v. Turkey* (dec.) [Committee], no. 45027/05, §§ 14-17, 28 June 2016).

18. In the light of the foregoing, this complaint is inadmissible for lack of a significant disadvantage and must be rejected pursuant to Article 35 §§ 3 (b) 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 10 July 2025.

Dorothee von Arnim Deputy Registrar	Oddný Mjöll Arnardóttir President

APPENDIX

List of cases:

No.	Application no.	Case name	Lodged on	Applicant Year of Birth Nationality	Represented by
1.	29067/19	Sel v. Türkiye	06/05/2019	**Mehmet SEL** 1976 Turkish	Önder ÖZDERYOL
2.	37557/19	Uğur v. Türkiye	16/05/2019	**Mustafa UĞUR** 1978 Turkish	Havva ÇELİK
3.	44536/19	Aydoğmuş v. Türkiye	06/08/2019	**Tahir AYDOĞMUŞ** 1981 Turkish	İrem TATLIDEDE
4.	44539/19	Örer v. Türkiye	05/08/2019	**Vedat ÖRER** 1973 Turkish	Türker İKİBAŞ
5.	45991/19	Çapa v. Türkiye	05/08/2019	**Ömer ÇAPA** 1980 Turkish	Osman ÇENGİL