

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

SECOND SECTION

DECISION

Application no. 42899/11
Abdurrahman TEKİN
against Turkey

The European Court of Human Rights (Second Section), sitting on 12 February 2013 as a Committee composed of:

Peer Lorenzen, *President,*
András Sajó,
Nebojša Vučinić, *judges,*
and Françoise Elens-Passos, *Deputy Section Registrar,*

Having regard to the above application lodged on 11 April 2011,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Abdurrahman Tekin, is a Turkish citizen who was born in 1950 and lives in Diyarbakır. He is represented before the Court by Ms R. Bataray Saman and Mr S. Çelebi, lawyers practising in Diyarbakır.

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

On 18 February 2009 a demonstration was organised in Batıkent, in a district of Diyarbakır. In his submissions, the applicant stated that, at that time, he had been walking around the area without participating in the demonstration. Nevertheless, police officers who were at the scene sprayed tear gas in his face, beat him up and struck him on the head with the butts of their rifles.

In the patient's questionnaire section of a medical report given to him by a doctor on 10 March 2009, the applicant stated that he had been suffering

from pain in his right knee and the pain had been increasing over the previous fifteen days as a result of an injury.

On an unspecified date, he filed a criminal complaint with the public prosecutor against the police officers, alleging ill-treatment.

On 28 December 2009 the Governor of Diyarbakır refused to grant authorisation for the prosecution of the police officers, owing to lack of sufficient evidence in support of the allegations of ill-treatment. As a result, the Diyarbakır public prosecutor, in a decision of 15 June 2010, decided not to prosecute any members of the security forces.

On 24 August 2010 the Siverek Assize Court dismissed the applicant's objection, finding that the prosecutor's decision was in accordance with the applicable legislation and procedure.

COMPLAINTS

The applicant complained under Article 3 of the Convention that he had been subjected to ill-treatment, submitting, in particular, that he had been beaten around the head by the security forces and sprayed with tear gas.

He further complained that the authorities had failed to carry out a serious and objective investigation into his allegations of ill-treatment and that they had thus deprived him of an effective remedy within the meaning of Article 13 of the Convention.

Under Article 14, the applicant complained of institutional discrimination on the grounds of ethnic origin. The applicant also alleged that he had been subjected to ill-treatment on account of his political opinions.

THE LAW

The six months rule, while technical in nature, serves an important role in the Convention system establishing the temporal limit after which the European supervision of a complaint is no longer possible. The fundamental purpose of this rule is to ensure legal certainty, avoid stale complaints, and provide for examination of the Convention issues within a reasonable time (see *Sabri Güneş v. Turkey* [GC], no. 27396/06, §§ 39-40, 29 June 2012; and *P.M. v. the United Kingdom* (dec.), no. 6638/03, 24 August 2004).

The Court recalls that according to its settled case-law, the six-month time-limit starts to run on the day following the public pronouncement of the final decision or, in cases where a decision is not pronounced publicly, on the day following the date on which the final decision is served on the applicant or his representative, and expires six calendar months later,

irrespective of the actual length of those months (see *Sabri Güneş,* cited above, § 44).

The Court observes that in the instant case the final domestic decision was the decision of the Assize Court of 24 August 2010. That decision was served on the applicant's representative on 4 October 2010. The time-limit set under Article 35 § 1 of the Convention therefore started to run from 5 October 2010 and expired as a matter of course on 4 April 2011, six months after that decision had been served. As the application was lodged on 11 April 2011, the Court concludes that it has been introduced out of time and must be rejected under Article 35 §§ 1 and 4 of the Convention (see, *Sabri Güneş*, cited above, § 60).

For these reasons, the Court unanimously

Declares the application inadmissible.

Françoise Elens-Passos
Deputy Registrar

Peer Lorenzen
President