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

SECOND SECTION

DECISION

Application no. 53105/22
Saim TOPALOĞLU
against Türkiye

The European Court of Human Rights (Second Section), sitting on 24 March 2026 as a Committee composed of:

Péter Paczolay*, President*,
Oddný Mjöll Arnardóttir,
Hugh Mercer*, judges*,

and Dorothee von Arnim, *Deputy Section Registrar*,

Having regard to:

the application (no. 53105/22) 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 4 November 2022 by a Turkish national, Mr Saim Topaloğlu ("the applicant"), who was born in 1967, lives in Aydın, and was represented by Mr O. Muşlu, a lawyer practising in Aydın;

the decision to give notice of the complaint concerning Article 6 § 1 of the Convention to the Turkish Government ("the Government"), represented by their Agent, Mr Abdullah Aydın, Head of the Department of Human Rights of the Ministry of Justice of the Republic of Türkiye, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the domestic courts' rejection of a request by the applicant to be exempted from paying the court fees required to initiate compensation proceedings concerning the allegedly unlawful occupation of his immovable property.

2. The applicant is the owner of two immovable properties in the Nazilli district in the province of Aydın. Those properties were both used as

dormitories by education companies that were shut down by the authorities during the state of emergency on the grounds that they were linked to or affiliated with the "Fetullahist Terror Organisation/Parallel State Structure" (*Fetullahçı Terör Örgütü / Paralel Devlet Yapılanması* – "FETÖ/PDY"), which was considered by the authorities to be behind the coup attempt that took place in Türkiye on 15 July 2016. The coup attempt and the declaration of a state of emergency are summarised in *Yüksel Yalçınkaya v. Türkiye* ([GC], no. 15669/20, §§ 10-17, 26 September 2023).

3. On 12 December 2016 and 15 December 2016 respectively the Aydın governor's office and the Nazilli district governor's office granted permission for the Ensar Foundation (*Ensar Vakfi*) and the Directorate of Religious Affairs (*Diyanet İşleri Başkanlığı*) to use the properties in question.

4. On 20 December 2021 and 10 January 2022 respectively the applicant brought actions against the Ensar Foundation and the Directorate of Religious Affairs, claiming 360,000 Turkish liras (TRY) and TRY 340,000 respectively (approximately 24,000 euros (EUR) and EUR 22,666 respectively at the material time) for the costs relating to the allegedly unlawful occupation of both his properties. In his actions, the applicant requested legal aid, in particular an exemption from paying the relevant court fees owing to his poor financial situation. In support of his claim, he submitted that his retirement pension constituted his sole source of income, which covered only his personal needs in prison. The applicant had been convicted of membership of the FETÖ/PDY and had been sentenced to 12 years' imprisonment on 19 September 2019.

5. On 4 January 2022 the Nazilli First Civil Court of First Instance allowed a legal aid request which the applicant had made in the proceedings against the Ensar Foundation, and exempted him from paying the court fees.

6. On 11 January 2022 the Nazilli Second Civil Court of First Instance rejected a legal aid request which the applicant had made in the proceedings against the Directorate of Religious Affairs. In its reasoning, the court held that (i) the applicant had failed to submit relevant documents attesting to his inability to pay the procedural costs and expenses without a significant burden being placed on him or his family as required under Article 336 § 2 of the Code of Civil Procedure (Law no. 6100); and (ii) there was another immovable property, in addition to the one at issue in the proceedings, registered in his name. It accordingly set a deadline of two weeks from the expiry of the time-limit for lodging an objection to that decision for the applicant to pay TRY 5,887.05 (approximately EUR 393 at the material time) in court fees and TRY 390 (approximately EUR 26 at the material time) as an advance on the costs of those proceedings.

7. On 17 January 2022 the applicant lodged an objection against the decision of the Nazilli Second Civil Court of First Instance, stating again that his retirement pension (amounting to around TRY 2,500 – approximately EUR 166 at the material time) constituted his only source of income and that

he had been in detention since 4 July 2018. The applicant argued that both of the immovable properties registered in his name were being occupied unlawfully and that they did not provide him with any income. Furthermore, he added that his legal aid requests had been allowed in similar proceedings that were pending before the Nazilli First Civil Court of First Instance regarding his other property (see paragraph 5 above), and in a previous application that he had submitted to the Constitutional Court in 2019.

8. On 18 January 2022 the Nazilli Third Civil Court of First Instance dismissed the applicant's objection for the same reason as the Nazilli Second Civil Court of First Instance, finding that the applicant had failed to submit relevant documents demonstrating his inability to pay the procedural costs and expenses without placing a significant burden on himself or his family.

9. On 26 January 2022 the applicant lodged an individual application with the Constitutional Court, complaining of a violation of his right of access to a court on account of the rejection of his legal aid request by the Nazilli Second Civil Court of First Instance. In his application, the applicant also requested legal aid to cover the required court fees.

10. On 2 February 2022, pending his individual application before the Constitutional Court, as submitted by the Government and subsequently acknowledged by the applicant, the latter paid the relevant court fees and the advance on the costs of the proceedings as required by the Nazilli Second Civil Court of First Instance's decision of 11 January 2022 (see paragraph 6 above). In the later stages of the proceedings, the applicant also paid approximately TRY 6,500 (approximately 433 EUR, at the material time), covering an additional advance on the costs of the proceedings and an on-site inspection fee.

11. On 7 October 2022 the Constitutional Court declared the applicant's complaint concerning the alleged violation of his right of access to a court inadmissible as being manifestly ill-founded. In its decision, the Constitutional Court granted the applicant legal aid by exempting him from the payment of the court fees required to lodge his individual application (see paragraph 9 above).

12. On 27 April 2023 the Nazilli Second Civil Court of First Instance issued its decision on the merits of the case. Allowing the applicant's claims in part, it ordered the Directorate of Religious Affairs to pay him TRY 316,971.66 (approximately EUR 15,848 at the material time) in compensation for the unlawful occupation of his property, plus statutory interest. It further decided to reimburse the applicant TRY 5,806.35 (approximately EUR 290 at the material time) for the court fees he had paid at the beginning of the proceedings (see paragraph 6 above), and ordered the Directorate of Religious Affairs to pay him 93.22% of the amount that he had paid in procedural costs and expenses in the later stages of the proceedings (see paragraph 10 above).

13. The Directorate of Religious Affairs lodged an appeal against that decision. The appeal proceedings were still pending on 2 October 2024, the date on which the Government submitted further observations to the Court.

14. Relying on Article 6 § 1 of the Convention, the applicant complained that the rejection of his legal aid request by the Nazilli Second Civil Court of First Instance, confirmed on appeal (see paragraphs 6 and 8 above) without giving reasons had constituted a breach of his right of access to a court. He argued that he did not have the financial means to pay the relevant court fees, as his retirement pension was his sole source of income and allowed him to meet his personal needs in prison only.

THE COURT'S ASSESSMENT

15. The Court observes that the Government raised several objections as to the admissibility of the application which need not all be examined, since the application is, in any event, inadmissible for the following reasons.

16. The general principles concerning the right of access to court and restrictions to that right by the duty to pay court fees and costs have been set out, *inter alia*, in the case of *Kreuz v. Poland* (no. 28249/95, §§ 52-57, ECHR 2001-VI, with further references). Domestic courts are required to give reasons for rejecting legal aid requests (see *Tabor v. Poland*, no. 12825/02, § 45, 27 June 2006).

17. The Court observes that in the Turkish legal system, the conduct of civil proceedings by the courts is dependent on the payment of court fees (for the relevant legal framework and practice regarding court fees and legal aid requests in civil proceedings in Türkiye see *Nalbant and Others v. Turkey,* no. 59914/16, §§ 19-23, 3 May 2022). This is not, in itself, incompatible with Article 6 § 1 of the Convention (see *Nalbant and Others*, cited above, § 34, *Kreuz*, cited above, § 60). As regards the operation of this system in the present case the Court notes that the applicant, while he considered himself to have been eligible for legal aid, did not complain before the Court of any financial difficulties he had experienced owing to his payment of the relevant court fees. Accordingly, the Court notes that this case differs from a number of other cases that have come before it concerning the restriction of the right of access to a court on account of excessive court fees (see, *inter alia*, *Kreuz*, cited above, and *Serap Demirci v. Turkey*, no. 316/07, 10 January 2012). While the applicants in those cases were unable to institute proceedings before the domestic courts owing to excessive court fees, the applicant in the present case instituted proceedings and obtained a judicial decision concerning his dispute – which even included a decision by the first instance court awarding him reimbursement of most of the court fees (see paragraph 12 above). The Court further observes that the domestic courts gave reasons explaining why they considered that the applicant did not comply with the requirements laid down in the Code of Civil Procedure for

being granted legal aid, notably his failure to submit the relevant documents (see the decision of the Nazilli Second Civil Court of First Instance, confirmed on appeal, paragraphs 6-8 above).

18. In view of the above, the Court considers that it has not been shown that in the present case the applicant's access to a court has been restricted in a manner incompatible with the requirements of Article 6 § 1 of the Convention.

19. It follows that this complaint is manifestly ill-founded and must be rejected, pursuant to 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 30 April 2026.

Dorothee von Arnim Deputy Registrar	Péter Paczolay President