



## Conditions of detention of a disabled prisoner in a wheelchair were degrading

In its committee judgment in the case of [Bayram v. Turkey](#) (application no. 7087/12) the European Court of Human Rights unanimously held that there had been:

**a violation of Article 3 (prohibition of degrading treatment)** of the European Convention on Human Rights as regards the applicant's conditions of detention in Batman Prison from 11 April 2001 to 25 September 2012, and

**no violation of Article 3** of the Convention as regards the applicant's conditions of detention in Diyarbakır Prison from 25 September 2012 to 14 June 2013.

The case concerned the conditions of detention of the applicant, who is paraplegic and cannot move around by his own means.

The applicant, whose degree of physical incapacity is 92%, received no assistance between 11 April 2011 and 27 April 2011 in Batman Prison. On 27 April 2011 the prison authorities appointed two of his fellow inmates to assist him. The period during which the applicant, being unable to move by his own means, had to be carried between different floors, continued until 25 September 2012, and therefore lasted some seventeen months.

The judgment is final.

### Principal facts

The applicant, Fikret Bayram, is a Turkish national who was born in 1972 and lives in Batman (Turkey).

Between 1990 and 1992 Mr Bayram participated in a number of terrorist acts, including three homicides, in the name of the illegal organisation Hezbollah. During one of those acts he was wounded by a shot fired by one of his victims and became paraplegic.

In 1995 he was found guilty and was sentenced to 26 years' imprisonment, before receiving a presidential pardon. In 2000, after discovering that he had taken part in other acts, the authorities placed him in custody on remand once again, then released him in 2004 during the proceedings. In 2006 he was given a life sentence.

Scores of medical reports were drawn up between 2007 and 2009, then in 2011 and 2013. The first reports showed that he was suffering from a permanent disability, that he was obliged to use a wheelchair and that his degree of physical incapacity was 92%. The more recent reports showed that he had kidney and obesity-related disorders and that he was suffering from depression.

Following his conviction in 2006, and in spite of his medical condition, Mr Bayram was imprisoned in Batman Prison in 2009, where he lived with several other prisoners in a living area spread over more than one floor. His brother, who was one of the inmates, looked after him until his own release. His care was then allocated to two other inmates in return for payment. They assisted him by carrying him up and down the stairs and helping him with his personal hygiene needs, as he was completely dependent as regards everyday activities on account of his disability. In 2012 Mr Bayram was transferred at his request to Diyarbakır Prison, where the living areas were on one floor only and there was a lift, with two wheelchairs available. A fellow inmate was appointed as his carer.

On 14 June 2013 the public prosecutor of Diyarbakır decided to order a stay of execution of the applicant's sentence in view of his state of health. He was released on the same day.

## Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 28 November 2011.

Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicant complained that he had had to spend years in prison in spite of his serious disability.

Judgment was given by a Committee of three judges, composed as follows:

Egidijus Kūris (Lithuania), *President*,  
Ivana Jelić (Montenegro),  
Darian Pavli (Albania),

and also Hasan Bakırcı, *Deputy Registrar*.

## Decision of the Court

### Article 3

While in prison, Mr Bayram, whose degree of physical incapacity was 92%, had received no assistance whatever between 11 April 2011, the date of the release of his brother, who had also been in prison and had been looking after him, and 27 April 2011, when the Batman Prison authorities had decided that two of his fellow inmates should assist him as paid carers. On 25 September 2012 Mr Bayram was transferred to the Diyarbakır D-type Prison and placed in a one-storey dormitory, with two wheelchairs at his disposal.

The Court observed that, broadly speaking, the authorities had shown a degree of diligence in providing for the applicant and improving his conditions of detention. There was nothing to suggest that there had been any intention to humiliate or debase him during his period of detention. Two sets of proceedings had been commenced seeking a presidential pardon for the applicant. He was released on 14 June 2013 for health reasons, with an obligation to undergo a medical examination every three months.

The Court reiterated that detaining disabled persons in an institution where they were unable to move about by their own means amounted to “degrading treatment” within the meaning of Article 3 of the Convention. As regards the period from 11 to 27 April 2011, in Batman Prison, Mr Bayram had been unable to move around autonomously: the living areas were on two different floors, and his bed had been on the upper floor while the toilets and the door to the exercise yard had been on the ground floor. The applicant had had to ask his fellow inmates for help in going to the toilets. On 27 April 2011 two inmates had been instructed to act as his carers, in return for payment. The period of time during which the applicant had had to be carried up and down the stairs had ended on 25 September 2012, and had therefore lasted some seventeen months.

The Court noted that the Government had not explained why Mr Bayram had not been transferred to the Metris R-type Prison, which was tailored to persons with reduced mobility, or else to a prison where the living area was on one floor only and could therefore be more readily adapted to his situation.

Finally, on 25 September 2012 Mr Bayram had been transferred to Diyarbakır Prison, where the living area occupied one floor only and an additional wheelchair had been made available to him. The toilet door had been widened specially for wheelchairs.

In the light of these facts, the Court therefore found a violation of Article 3 of the Convention on account of the conditions of detention in Batman Prison from 11 April 2001 to 25 September 2012, and no violation of Article 3 of the Convention as regards the conditions of detention in Diyarbakır Prison from 25 September 2012 to 14 June 2013.

### Just satisfaction (Article 41)

Having regard to the fact that as from 25 September 2012 the authorities had taken action to improve the applicant's conditions of detention and that they had granted him a stay of execution of his sentence on 14 June 2013, the Court held that, under those circumstances, the non-pecuniary damage sustained by the applicant had been sufficiently compensated for by its finding of a violation.

*The judgment is available only in French.*

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