



Turkish authorities not in breach of obligations at time of suicide bombing in Ankara on 10 October 2015: no violation of Convention

In today's **Chamber** judgment¹ in the case of [Selçuk v. Türkiye](#) (application no. 23093/20) the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 2 (right to life) of the European Convention on Human Rights in its substantive and procedural aspects.

The case concerned a suicide bombing committed in Ankara on 10 October 2015.

The Court held in particular that, in the absence of a specific, concrete and imminent threat to the lives of those due to take part in a demonstration on 10 October 2015, the authorities had taken the reasonable precautions necessary to ensure the safety of persons and property. The Turkish authorities had therefore not been in breach of their substantive obligations under Article 2 of the Convention.

As to the procedural limb of Article 2, the Court noted that the Turkish legal system had afforded the applicant, in addition to criminal proceedings, compensatory remedies, both under Law no. 5233 and under Article 125 of the Constitution, in conjunction with sections 11 to 13 of Law no. 2577 on administrative procedure. The remedies afforded by the administrative courts in the present case could therefore be regarded as having satisfied the conditions of an "effective judicial system". In addition, the Court considered that the redress afforded to the applicant had been sufficient in the circumstance of the case.

There had therefore been no violation of Article 2 of the Convention in either its substantive or its procedural limb.

Principal facts

The applicant, Coşkun Selçuk, is a Turkish national who was born in 1964 and lives in Hatay (Türkiye).

In 2015 several non-governmental organisations decided to hold a demonstration for peace and democracy in Ankara. The demonstration was authorised by the Ankara governor's office and was to take place on 10 October 2015, from noon to 4 p.m. The police drew up several action plans to ensure the safety of the demonstration and maintain public order. The gendarmerie command were called upon to ensure that personnel would be made available in sufficient numbers. The municipal police were also asked to deploy several teams on the ground.

By 7.50 a.m. on 10 October 2015 fifty buses were already parked in front of Ankara city hall and the number of demonstrators had reached some 2,500 people, including 500 individuals who had gathered in front of the Ankara railway station.

At around 10.04 a.m. two explosions rang out at the junction by the Ankara railway station.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

Mr Selçuk, who was among the demonstrators, was injured. Approximately two hours after the attack he was admitted to the emergency ward of the Ankara University İbni Sina Research and Training Hospital, where he was treated. A medical report was established which showed that he had been wounded during the explosion and had multiple abrasions on his arms and legs.

On the very day of the attack, the Bureau for Crimes against the Constitutional Order at the Ankara Chief Public Prosecutor's Office opened a criminal investigation. Two weeks after the double explosion, which had killed 100 people and wounded 191 others, the prosecutor in charge of the investigation maintained that the attack had been sponsored by the "Islamic State" group. In particular, he indicated that "it [had been] established that the group [responsible for the attack] [had] planned attacks in Türkiye after receiving instructions directly from the terrorist organisation Daesh in Syria". The jihadist group's intention had been to "delay the legislative elections of 1 November [2016] by multiplying such attacks".

On 27 June 2016 the prosecutor filed a bill of indictment against 36 people in the Ankara Assize Court, charging them with premeditated murder, attempted murder and attempting to overthrow the constitutional order.

In a judgment of 3 August 2018 the Ankara Assize Court found 19 of the accused guilty of having taken part in the attack. It sentenced them to life imprisonment for premeditated murder, attempted murder and attempting to overthrow the constitutional order. Some of the accused, who are subject to an Interpol Red Notice, are still wanted.

On 9 December 2015 Mr Selçuk applied to the Ministry of the Interior seeking compensation for the non-pecuniary damage he claimed to have sustained.

The Ministry forwarded his application to the Ankara governor's office, which informed the applicant that his application had been denied. Mr Selçuk went on to apply to the Assessment and Compensation Commission for Losses resulting from Terrorism and the Fight against Terrorism, seeking compensation for the pecuniary damage he considered he had sustained. On 2 September 2016 the Commission dismissed his claim on the grounds that he had not submitted all the items that had been requested of him.

Meanwhile, on 7 April 2016 Mr Selçuk had asked the Ankara Administrative Court to set aside the decision of the governor's office to deny him compensation in respect of non-pecuniary damage.

The Administrative Court delivered its judgment on 28 April 2017. It found that the claimant had endured great suffering as a result of the events that had taken place and held that it was appropriate that he be awarded 15,000 Turkish liras (roughly 3,875 euros (EUR)) in respect of the non-pecuniary damage sustained. The court pointed out that the second paragraph of Article 125 of the Constitution did not necessarily require that negligence on the part of the administration be proved since its liability was absolute and objective based on the theory of "social risk". According to the court, the administration was required to compensate people who had suffered damage from acts committed by terrorists when, irrespective of any negligence attributable to the administration, the State could be said to have failed in its duty to maintain public order and safety, or in its duty to safeguard individual life and property.

The Ankara Regional Administrative Court upheld the judgment of the first-instance court.

Complaints, procedure and composition of the Court

Relying on Articles 2 (right to life) and 3 (prohibition of inhuman or degrading treatment) of the Convention, the applicant complained that the authorities had not taken preventive operational measures to stop the attack. He further complained that the police had used tear gas immediately after the attack and submitted that this measure had prevented the rapid intervention of rescue

workers. Lastly, he submitted that the administrative courts ought to have held the administration liable for breach of duty rather than on the basis of objective liability.

The application was lodged with the European Court of Human Rights on 10 June 2020.

Judgment was given by a Chamber of seven judges, composed as follows:

Arntfinn **Bårdsen** (Norway), *President*,
 Pauliine **Koskelo** (Finland),
 Saadet **Yüksel** (Türkiye),
 Lorraine **Schembri Orland** (Malta),
 Frédéric **Krenc** (Belgium),
 Diana **Sârcu** (the Republic of Moldova),
 Davor **Derenčinović** (Croatia),

and also Hasan **Bakırcı**, *Section Registrar*.

Decision of the Court

Article 2

Substantive aspect of Article 2 of the Convention

Article 2 of the Convention required the authorities to take steps to protect members of the public, even if they could not be picked out in advance, from a real and imminent risk of terrorist acts, the authorities knowing or supposed to be aware of such a risk. The Court emphasised the importance of this obligation for announced and authorised large-scale events. There was thus a heightened duty of vigilance in the event of large-scale demonstrations, especially where the authorities had already been confronted with lethal attacks in the recent past and there was still a live threat.

The duty incumbent on the authorities under Article 2 of Convention was to do what could reasonably be expected of them to identify the risk and to take appropriate measures to avert it, which depended on the entirety of the circumstances of each case. In that connection, the Court reiterated that it was acutely conscious of the difficulties faced by States in protecting their populations against terrorism and of the dangers of hindsight analysis.

The Court considered that the general context had been one of a terrorist threat of which the authorities could not have been unaware and which it had been their duty to gauge. However, the Court did not identify any tangible evidence that might call into question the domestic authorities' assessment as to the absence of any specific, concrete and imminent threat to the lives of those gathering for the demonstration on 10 October 2015.

The Court noted that the police had taken measures to ensure the safety of persons and property in view of the demonstration of 10 October 2015 and that the authorities had taken precautions that could be regarded as having been reasonable at the time of the events. Accordingly, the Court could not consider the authorities to have underestimated the risk of a terrorist attack in Ankara on 10 October 2015 or that more accurate intelligence, better planning and recourse to other preventive measures would have kept the events from taking the turn that had led to the death of several people and to the applicant's injury.

In the light of the fact that the national authorities had not been aware of the existence of a serious, foreseeable and imminent threat of a terrorist attack in connection with the planned demonstration of 10 October 2015, and having regard to the special difficulties inherent in preventing this kind of terrorist attack, the Court could not find that the Turkish authorities had been in breach of their substantive obligations under Article 2 of the Convention.

Moreover, the authorities had taken proactive measures to ensure that emergency rescue workers could be dispatched immediately and the applicant, who had sustained light injuries, had thus not only been able to receive adequate care relatively soon after the double suicide bombing, but had received it despite the scenes of chaos that had beset the Ankara railway station that day.

Furthermore, it had not been shown that the police's use of tear gas immediately after the attack to disperse the crowd and enable law enforcement to access the scene had hampered in any way the rapid intervention of rescue workers with a view to administering first aid to the wounded.

There had therefore been no violation of Article 2 of the Convention under its substantive limb.

Procedural aspect of Article 2 of the Convention

The Court noted that the authorities had conducted a number of investigations and inquiries in order to reconstruct the events, find those responsible and bring them to justice, and secure access to the justice system for the victims. On 3 August 2018 the Ankara Assize Court had found 19 people guilty of having taken part in the attack of 10 October 2015 and had sentenced them to life imprisonment for premeditated murder, attempted murder and attempting to overthrow the constitutional order.

In addition to the possibility of criminal proceedings, the Court noted that the Turkish legal system had afforded the applicant compensatory remedies, both under Law no. 5233 and under Article 125 of the Constitution, in conjunction with sections 11 to 13 of Law no. 2577 on administrative procedure. The Court observed that the applicant's claim for compensation in respect of pecuniary damage had been dismissed by the compensation commission because he had not submitted all the requested documents.

As to the claim that the applicant had brought for compensation in respect of non-pecuniary damage, the Court noted that the administrative courts had taken the view that the State could be held objectively liable for the shortcomings in the intelligence services' assessment of the risk of a terrorist attack. This liability mechanism was compensatory in nature and was designed to facilitate the compensation of victims by eliminating the need to prove breach of duty attributable to the State. The system therefore appeared favourable to the victim, for whom the burden of proof was lower.

In the Court's view, the approach thus adopted by the administrative courts in the present case could be regarded as having satisfied the conditions of an "effective judicial system".

As to the redress afforded to the applicant, the Court observed that the administrative court had awarded him the equivalent of EUR 3,875 in compensation for the non-pecuniary damage he had sustained. It considered that the redress thereby afforded to him could be regarded as adequate and sufficient in the circumstances of the case, having regard to the applicant's situation.

In conclusion, the Court considered that domestic law had afforded the applicant such remedies as to fulfil the respondent State's obligation under Article 2 of the Convention to implement an effective judicial system capable of providing appropriate redress through the courts, having regard to the circumstances of the case.

There had therefore been no violation of Article 2 of the Convention under its procedural limb.

The judgment is available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.