



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

SECOND SECTION

CASE OF BENLİ v. TÜRKİYE

(Application no. 29949/20)

JUDGMENT

STRASBOURG

15 September 2026

This judgment is final but it may be subject to editorial revision.

In the case of Benli v. Türkiye,

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

Péter Paczolay, *President*,

Gediminas Sagatys,

Stéphane Pisani, *judges*,

and Dorothee von Arnim, *Deputy Section Registrar*,

Having regard to:

the application (no. 29949/20) 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 29 June 2020 by a Turkish national, Mr Salih Benli (“the applicant”), who was born in 1976, lives in Ankara and was represented by Ms K. Kıldan, a lawyer practising in Antalya;

the decision to give notice of the complaints under Article 8 of the Convention concerning the monitoring/recording of the applicant’s conversations with his lawyers in prison and the electronic recording and storage of the applicant’s private correspondence with his family in the National Judicial Network System 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 in private on 25 August 2026,

Delivers the following judgment, which was adopted on that date:

SUBJECT MATTER OF THE CASE

1. The case concerns the monitoring of the applicant’s meetings with his lawyer and the electronic recording and storage of his correspondence on the computer system of the National Judicial Network (UYAP) by the Şanlıurfa prison administration during his detention in the aftermath of the attempted *coup d’état* of 15 July 2016. It raises issues under Article 8 of the Convention.

2. On 21 July 2016 the applicant was placed in detention in Diyarbakır D-Type High-Security Prison on charges of membership of an armed terrorist organisation described by the Turkish authorities as the “Fetullahist Terror Organisation/Parallel State Structure” (*Fetullahçı Terör Örgütü / Paralel Devlet Yapılanması*, “the FETÖ/PDY”), which was considered by the authorities to be behind the coup attempt.

3. On 23 July 2016 the Diyarbakır chief public prosecutor’s office issued a notice for the Diyarbakır prison administration about investigations initiated in respect of suspected members of the FETÖ/PDY. The Diyarbakır chief public prosecutor’s office stated in that notice that, according to section 6(1)(d) of Legislative Decree no. 667, which had been adopted during

the state of emergency following the coup attempt, meetings of detainees with their lawyers could endanger the security of the nation and the penal institutions, and were likely to be used for transmitting secret, open or encrypted messages among the members of the terrorist organisation, as well as orders from the organisation to its members in detention (see, for relevant domestic law, *Canavcı and Others v. Türkiye*, nos. 24074/19 and 2 others, §§ 37-56, 14 November 2023). In this connection, the Diyarbakır chief public prosecutor's office ordered the prison administration to have an officer present during meetings so as to monitor the meetings between detainees and their lawyers, and to seize any documents and files exchanged between them and the records kept by them in relation to those meetings. The Government submits that this notice was also addressed to Şanlıurfa T-Type High-Security Prison on the same day.

4. On 17 August 2016 the applicant was transferred to Şanlıurfa T-Type High-Security Prison where he was awaiting trial.

5. It is apparent from letters from the General Directorate of Prisons and Detention Centres of the Ministry of Justice (see, for further details, *Nuh Uzun and Others v. Turkey*, nos. 49341/18 and 13 others, § 21, 29 March 2022) that the Şanlıurfa prison administration recorded the applicants' correspondence – both incoming and outgoing – on the UYAP system.

6. On 4 January 2017 the applicant lodged a complaint with the Şanlıurfa enforcement judge and requested the lifting of the measures relating to the monitoring of meetings with his lawyer since his transfer and the electronic recording and storage of his correspondence on the UYAP system.

7. On 18 January 2017 the Şanlıurfa enforcement judge rejected the applicant's complaint, finding that the above-mentioned measures were in line with the emergency legislative decrees, Law no. 5275 on the enforcement of sentences and preventive measures, and the relevant regulations. Regarding the recording of the applicant's correspondence on the UYAP system, the enforcement judge referred to the letters issued by the General Directorate of Prisons and Detention Centres of the Ministry of Justice on 10 October 2016 (see paragraph 5 above).

8. On 31 January 2017 the Şanlıurfa Assize Court dismissed an objection lodged by the applicant against the enforcement judge's decision on the grounds that the decision had been given in line with the law and procedure.

9. On 9 March 2017 the applicant lodged an application with the Constitutional Court. Relying on Article 8 of the Convention and citing the Court's relevant case-law, he complained about the monitoring of his meetings with his lawyer and the electronic recording of his letters sent to his wife on the UYAP system.

10. On 20 March 2020 the Constitutional Court declared the application inadmissible. It examined the applicant's complaint about the monitoring of his meetings with his lawyer in the light of the right to have adequate time and facilities for the preparation of his defence, and found it inadmissible for

non-exhaustion of domestic remedies as the criminal proceedings against him were still ongoing. The court further dismissed the applicant's remaining complaints of a violation of the prohibition of ill-treatment, the right to respect for private life and the right to non-discrimination as manifestly ill-founded.

11. According to the Government, the applicant had fifteen meetings with his lawyer between 1 September 2016, namely after his transfer to Şanlıurfa T-Type High-Security Prison, and 23 March 2018, the date on which he was convicted at first instance and also released. Those meetings were all monitored and took place with an officer present in the meeting room.

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION IN RESPECT OF THE MONITORING OF THE APPLICANT'S MEETINGS WITH HIS LAWYER

12. Relying on Article 8 of the Convention, the applicant submitted that the monitoring of his meetings with his lawyer had been in breach of the Convention.

13. The Government invited the Court to declare this complaint inadmissible on the same grounds as those they had raised in *Canavcı and Others v. Türkiye*, nos. 24074/19 and 2 others, §§ 68 and 75, 14 November 2023, regarding the non-exhaustion of domestic remedies and the lack of a significant disadvantage. They further argued that this complaint was manifestly ill-founded, in so far as the domestic courts, including the Constitutional Court, had carried out a thorough examination of the applicant's requests.

14. As regards the Government's non-exhaustion objection that the applicant had not raised a complaint under the right to respect for private life before the Constitutional Court, the Court notes that the applicant relied directly on Article 8 of the Convention in his application lodged with the Constitutional Court. He also referred to the relevant criteria developed in the Court's case-law and to its judgments relating to Article 8 of the Convention, while complaining that his meetings with his lawyer had been monitored (see paragraph 9 above). Accordingly, the Court considers that the applicant did indeed raise his complaint of a violation of his right to respect for private life before the Constitutional Court. The Court therefore dismisses the Government's plea of non-exhaustion of domestic remedies.

15. In respect of the Government's objection concerning the lack of a significant disadvantage, the Court reiterates its findings in *Canavcı and Others* (cited above, §§ 77-80) and dismisses it.

16. The Court further considers that the arguments put forward by the Government in support of their assertion that the application is manifestly ill-founded raise issues requiring an examination of the merits of the complaint, rather than of its admissibility (compare *Durukan and Birol v. Türkiye*, nos. 14879/20 and 13440/21, § 45, 3 October 2023, and the references therein).

17. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other grounds. It must therefore be declared admissible.

18. As regards the merits of the complaint, the applicant submitted that the relevant legislation lacked adequate procedural safeguards in respect of restrictions on his communication with his lawyer. He further argued that the impugned measure had been neither proportionate to the legitimate aim pursued by the relevant legislation nor necessary in a democratic society.

19. The Government stated that section 6(1)(d) of Legislative Decree no. 667 (see for the text of this provision *Canavcı and Others*, cited above, § 42) constituted the legal basis of the alleged interference. They further emphasised the difficulties encountered by the prison authorities in dealing with the increase in the prison population and the dismissal of prison officers owing to their links with the FETÖ/PDY following the coup attempt. They pointed out in that regard that the applicant's complaint should be examined in the light of the notice of derogation transmitted to the Secretary General of the Council of Europe on 21 July 2016 under Article 15 of the Convention.

20. The general principles concerning the right to confidential communication with a lawyer have been summarised in *Canavcı and Others* (cited above, §§ 91 and 94-96).

21. The Court finds that the monitoring of the applicant's meetings with his lawyer interfered with his right to respect for his private life (compare also *Canavcı and Others*, cited above, §§ 91-92). As to whether that interference was in accordance with the law, it has already concluded that as the discretion enjoyed by the public prosecutors in imposing restrictions on detainees' communication with their lawyers was not subject to any conditions, the scope of that discretion and the manner of its exercise were not defined, and no other specific guarantees were provided in that regard, the interpretation and application by the domestic authorities of section 6(1)(d) of Legislative Decree no. 667 was liable to be arbitrary and incompatible with the requirement of lawfulness under Article 8 § 2 of the Convention (*ibid.*, §§ 93-106).

22. As to Article 15 of the Convention, the Court considers that the absence of any safeguards against arbitrariness and abuse in section 6(1)(d) of Legislative Decree no. 667 cannot be regarded as having been justified by the respondent State's derogation of 21 July 2016 under Article 15 of the Convention (*ibid.*, § 107; compare also *Pişkin v. Turkey*, no. 33399/18, §§ 152, 153 and 229, 15 December 2020).

23. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to depart from its approach in *Canavcı and Others* (cited above).

24. There has accordingly been a violation of Article 8 of the Convention. This conclusion dispenses the Court from examining whether the interference with the applicant's Article 8 rights pursued a "legitimate aim" or was "necessary in a democratic society".

II. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION IN RESPECT OF THE RECORDING AND STORAGE OF THE APPLICANT'S PRIVATE CORRESPONDENCE

25. The applicant complained that the electronic recording and storage of his letters sent to his wife on the UYAP system had infringed his right to respect for private life under Article 8 of the Convention.

26. The Government invited the Court to declare this complaint inadmissible for non-exhaustion of domestic remedies and for being manifestly ill-founded for the same reasons they had raised in *Nuh Uzun and Others* (cited above, §§ 29-34).

27. The Government also submitted that the applicant had not suffered any significant disadvantage and lacked victim status. In addition to the arguments raised already in their further observations submitted in *Nuh Uzun and Others* (ibid., §§ 33-34), they argued that all the letters stored on the UYAP system which were not subject to investigation or prosecution had been deleted as of 29 March 2022. The Government asserted in that regard that the circumstances of the present case differ from those in *Nuh Uzun and Others* (ibid.), in which their objection relating to the lack of victim status was joined to the merits.

28. The Court notes that it dismissed the Government's objections regarding the non-exhaustion of domestic remedies and based on the manifestly ill-founded nature of the application in *Nuh Uzun and Others* (ibid., §§ 41-44) and sees no reason to depart from those findings in the present case.

29. In respect of the Government's objections concerning the alleged lack of a significant disadvantage and the applicant's alleged lack of victim status, the Court finds it relevant to refer to its reasoning on the merits in its judgment in *Nuh Uzun and Others* in which it considered that the opening, scanning and recording of private correspondence, over a long period of time, had constituted an interference with the right to respect for the applicants' private life (ibid., §§ 80-82). Furthermore, as regards the Government's arguments concerning the deletion of material recorded on the UYAP system on 29 March 2022 following the amendments to the relevant legislation, the Court reiterates that the procedural safeguards permitting the deletion of recorded correspondence entered into force long after the impugned measure

had been applied. Consequently, the Court rejects the Government's objections in that regard.

30. The Court therefore considers that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other grounds. It must therefore be declared admissible.

31. As to the merits of the application, the Court notes that it examined a similar complaint in the leading case of *Nuh Uzun and Others* (ibid., §§ 79-99) and found a violation of Article 8 of the Convention, as the impugned interference with the applicants' right to respect for their private lives and with their correspondence on account of the recording and storage of correspondence sent and received by them on the UYAP system, based on the letters from the General Directorate of Prisons and Detention Centres of the Ministry of Justice of 10 October 2016 and 1 March 2017 (see ibid., § 21 and paragraph 5 above), could not be regarded as having been "in accordance with the law" within the meaning of Article 8 § 2 of the Convention. The Court found that these letters had not been communicated to the prisoners and therefore did not satisfy the "quality of law" requirement, as they were incapable of affording adequate protection and the legal certainty necessary to prevent arbitrary interference by the public authorities.

32. In the present case, the Court observes that the interference with the applicant's right to respect for his private life and correspondence resulted from the same letters, according to the findings of the Şanlıurfa enforcement judge and the Government's observations.

33. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to depart from its approach in *Nuh Uzun and Others* (ibid.).

34. There has accordingly been a violation of Article 8 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

35. The applicant claimed 15,000 euros (EUR) in respect of non-pecuniary damage and EUR 6,000 in respect of costs and expenses incurred before the Court. In support of his claims, he submitted a fee agreement signed between him and his lawyer for the above sum relating to his representation before the Court.

36. The Government contested those claims.

37. The Court awards the applicant EUR 2,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

38. As to the costs and expenses, the Court notes that an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum (*Sevdari v. Albania*, no. 40662/19, § 152, 13 December 2022). Regard being had to the documents submitted to the

Court in the present case, the Court considers it reasonable to award EUR 500 covering costs under all heads, plus any tax that may be chargeable to the applicant, and dismisses the remainder of the claims.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints under Article 8 of the Convention concerning the monitoring of the applicant's meetings with his lawyer and the recording and storage of his private correspondence on the UYAP system admissible;
2. *Holds* that there has been a violation of Article 8 of the Convention on account of the monitoring of the applicant's meetings with his lawyer and the recording and storage of his private correspondence on the UYAP system;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
 - (i) EUR 2,000 (two thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 500 (five hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 15 September 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Dorothee von Arnim
Deputy Registrar

Péter Paczolay
President