



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

Published on 5 October 2026

SECOND SECTION

Application no. 30039/20
Kamil Serdar ATAŞ against Türkiye
and 6 other applications
(see list appended)
communicated on 14 September 2026

SUBJECT MATTER OF THE CASE

The applications mainly concern the pre-trial detention of the applicants, who were all judges or prosecutors at the material time, on suspicion of membership of FETÖ/PDY (an organisation described by the Turkish authorities as “Fetullahist Terror Organisation / Parallel State Structure”), in the aftermath of the attempted *coup d’état* which took place on 15 July 2016.

Relying in particular on Article 5 of the Convention, the applicants raise the following complaints (see the appended table for detailed information as to the specific complaints raised by each applicant):

- They were detained on remand in breach of the procedural guarantees provided in domestic law for judges and prosecutors;
- They were detained in the absence of any suspicion that they committed an offence;
- There were no relevant and sufficient reasons to justify their initial and/or continued pre-trial detention;
- The length of their pre-trial detention was excessive;
- The reviews of detention took place without a hearing and they were not notified of the opinion of the public prosecutor on those reviews;
- Their access to the investigation files was restricted;
- The decisions extending their pre-trial detention were not notified to them, or were notified with a delay, which prevented them from appealing against those decisions;

ATAK v. TÜRKİYE AND OTHER APPLICATIONS – SUBJECT MATTER OF THE CASE AND QUESTIONS

- They did not benefit from effective legal assistance and facilities to challenge their detention, having particular regard to the fact that their communication with their lawyers was restricted and monitored by the prison authorities;

- The time taken by the Constitutional Court to conduct its examination on their individual applications was excessive.

Relying on Article 5 § 4 of the Convention, one of the applicants (application no. 30039/20) further complains that the Constitutional Court's decision declaring his individual application inadmissible for non-exhaustion of domestic remedies, notwithstanding the exchange of observations with the Government and the possibility of making use of the document-completion procedure under Article 66 of the Constitutional Court's Internal Regulations (dated 12 July 2012, no. 28351), had breached his right to obtain a judicial review of his detention by that court.

Relying on Article 3 of the Convention, one of the applicants (application no. 24522/22) complained of the conditions of his detention while in police custody.

Relying on Article 8 of the Convention, two of the applicants (applications nos. 17963/21 and 31382/21) also complain that the searches conducted by the authorities in their homes and offices were unlawful.

QUESTIONS TO THE PARTIES

On the basis of the complaints communicated in accordance with the list in the Appendix

A. Complaints under Article 5 of the Convention

1. In respect of application no. 24522/22, did the applicant exhaust domestic remedies in accordance with the procedural requirements, having particular regard to the individual application procedure before the Constitutional Court and the content of its decision of inadmissibility (*Vučković and Others v. Serbia* (preliminary objection) [GC], nos. 17153/11 and 29 others, §§ 69-72, 25 March 2014)?

2. (a) Did the applicants' pre-trial detention take place "in accordance with the procedure prescribed by law", for the purposes of Article 5 § 1 of the Convention, in view of the procedural guarantees provided to judges and prosecutors by the domestic law (compare *Baş v. Turkey*, no. 66448/17, §§ 143-162, 3 March 2020)?

(b) Can the applicants be considered to have been detained on the basis of "a reasonable suspicion" that they had committed an offence, for the purposes of Article 5 § 1 (c) of the Convention (see, in particular, *Fox, Campbell and Hartley v. the United Kingdom*, 30 August 1990, § 32, Series A No. 182), taking into account, in particular, Article 100 of the Code of Criminal Procedure, which requires "concrete evidence demonstrating the existence of strong suspicions" as to the commission of the offence? Moreover, has the Constitutional Court based the existence of reasonable suspicion on evidence discovered after the decisions had been taken to detain the applicants (see, in particular, *Baş*, cited above, § 185)?

3. Was the applicants' pre-trial detention compatible with the requirements of Article 5 § 3 of the Convention? In particular:

(a) Did the judges, who ordered the applicants' initial pre-trial detention and the prolongation of their detention, and who examined the objections lodged against those decisions, fulfil their obligation to provide relevant and sufficient grounds for the deprivation of liberty in question (see, in particular, *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, § 102, 5 July 2016)?

(b) Was the length of the applicants' pre-trial detention in breach of the "reasonable time" requirement under Article 5 § 3 of the Convention?

4. (a) Did the compensation remedy provided under Article 141 of the Code of Criminal Procedure constitute an effective remedy, within the meaning of Article 5 § 4 of the Convention, in respect of complaints concerning; (i) the lack of an oral hearing during the review of detention;

(ii) the lack of notification or belated notification of the detention decision (compare, for example, *Hebat Aslan and Firas Aslan v. Turkey*, no. 15048/09, §§ 92-93, 28 October 2014)?

(b) Did the applicants have at their disposal a remedy by which they could challenge the lawfulness of their deprivation of liberty, as required by Article 5 § 4 of the Convention? In particular, the Government are invited to respond to the following complaints made by the applicants:

(i) the principle of equality of arms had not been respected, as the decisions to extend their detention and their objections to those decisions had been examined without a hearing and the prosecutors' opinions had not been communicated to them (see, in particular, *Baş*, cited above, §§ 212-214, and *Kocamış and Kurt v. Turkey*, no. 227/13, §§ 34-35, 25 January 2022);

(ii) they had been unable to challenge their detention in an effective manner because of the restriction imposed on their access to the investigation file (see, *inter alia*, *Yüksekdağ Şenoğlu and Others v. Türkiye*, nos. 14332/17 and 12 others, §§ 573-83, 8 November 2022);

(iii) the decisions to extend their detention had not been notified to them or had been notified with a delay, which had prevented them from lodging objections against those decisions (compare, for example, *Voskuil v. the Netherlands*, no. 64752/01, § 83, 22 November 2007);

(iv) they had had no effective legal assistance or facilities to challenge their detention, having particular regard to the fact that their communication with their lawyers had been restricted and monitored (see, *mutatis mutandis*, *Černák v. Slovakia*, no. 36997/08, § 78, 17 December 2013);

(v) the time taken by the Constitutional Court to examine their individual applications had been excessive (compare for the relevant principles *Kavala v. Turkey*, no. 28749/18, §§ 181-184, 10 December 2019).

5. In respect of application no. 30039/20, was there a breach of the applicant's right to take proceedings by which the lawfulness of his detention shall be decided by a court, as guaranteed under Article 5 § 4 of the Convention, on account of the Constitutional Court's decision declaring his individual application inadmissible for non-exhaustion of domestic remedies, notwithstanding the exchange of observations with the Government and the possibility of making use of the document-completion procedure provided for in Article 66 of the Constitutional Court's Internal Regulation (12 July 2012, no. 28351) (see, for the general principals, *mutatis mutandis*, *Zubac v. Croatia* [GC], no. 40160/12, §§ 76-99, 5 April 2018, and *Hanan v. Germany* [GC], no. 4871/16, §§ 148-152, 16 February 2021) ?

**B. Complaints under Article 3 of the Convention (application
no. 24522/22)**

1. Has the applicant exhausted all effective domestic remedies, as required by Article 35 § 1 of the Convention, in respect of his complaint under Article 3 of the Convention concerning the conditions of detention while in police custody (see *İlerde and Others v. Türkiye*, nos. 35614/19 and 10 others, §§ 157-65, 5 December 2023)?

2. The Government are invited to provide information regarding any available and effective domestic remedies in respect of the alleged violation of Article 3 concerning conditions of detention in police custody. Considering the Constitutional Court's decision in *Nebahat Baysal Gül* (no. 2016/14634, dated 28 May 2019), the Government are further invited to provide the Court with examples of domestic court decisions in which administrative courts examined the claims of a violation of Article 3 regarding the conditions of detention.

3. Did the material conditions of the applicant's detention while in police custody amount to inhuman or degrading treatment or punishment (see and compare for the relevant principles *Muršić v. Croatia* [GC], no. 7334/13, §§ 136-40, 20 October 2016; see and compare for short periods of deprivation of liberty *Georgia v. Russia (I)* [GC], no. 13255/07, §§ 192-205, ECHR 2014 (extracts); see and compare for handcuffing *Raninen v. Finland*, 16 December 1997, §§ 52-59, Reports of Judgments and Decisions 1997-VIII; see and compare for hygienic sanitary facilities *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, § 156, 10 January 2012; see and compare for nutrition *S.F. and Others v. Bulgaria*, no. 8138/16, § 87, 7 December 2017)?

The Government are invited to submit information and documents regarding the conditions of detention in the facility/facilities where the applicant was being held, in particular demonstrating:

- the period, surface and capacity of the cell(s) at issue and the number of detainees held;
- whether the applicant was kept handcuffed in custody;
- the number of toilets in the facilities and any limitations regarding access to the hygienic sanitary facilities;
- the provision of food and water to the applicant in custody.

**C. Complaints under Article 8 of the Convention (concerning the
applications nos. 17963/21 and 31382/21)**

1. Taking into consideration the searches carried out by the authorities in the applicants' homes and offices (concerning applications nos. 17963/21 and 31382/21):

(a) Was the compensation remedy provided under Article 141 of the Code of Criminal Procedure an effective one in respect of the applicants' complaints under Article 8 of the Convention which the applicants had to exhaust?

The Government are invited to provide copies of decisions awarding compensation in cases raising similar issues.

(b) Was there an interference with the applicants' right to respect for their private life and home and was that interference in accordance with the law and necessary in terms of Article 8 of the Convention (compare, for example, *Tercan v. Turkey*, no. 6158/18, §§ 189-202, 29 June 2021)?

ATAK v. TÜRKİYE AND OTHER APPLICATIONS – SUBJECT MATTER OF THE CASE AND QUESTIONS

APPENDIX

No.	Application no.	Case name	Lodged on	Applicant Year of Birth Place of Residence Nationality	Represented by	Complaints
1.	30039/20	Atak v. Türkiye	06/07/2020	Kamil Serdar ATAK 1985 Kayseri Turkish		Failure to comply with procedural guarantees provided for in domestic law Lack of reasonable suspicion Lack of relevant and sufficient reasons for detention Right to obtain a judicial review of his detention by the Constitutional Court
2.	8445/21	Deveci v. Türkiye	19/01/2021	Ali DEVECİ 1982 Kahramanmaraş Turkish		Failure to comply with procedural guarantees provided for in domestic law Lack of reasonable suspicion Length of pre-trial detention Lack of relevant and sufficient reasons for detention
3.	17963/21	Demirezen v. Türkiye	24/03/2021	Talip DEMİREZEN 1971 İstanbul Turkish	Muhammet GÜNEY	Failure to comply with procedural guarantees provided for in domestic law Restriction of access to the investigation file Lack/difficulties of legal assistance/other facilities Delay in examination by the Constitutional Court Unlawful search of home and/or office
4.	31382/21	Ünal v. Türkiye	04/06/2021	Ramazan ÜNAL 1980		Failure to comply with procedural guarantees provided for in domestic law

ATAK v. TÜRKİYE AND OTHER APPLICATIONS – SUBJECT MATTER OF THE CASE AND QUESTIONS

				Denizli Turkish		Restriction of access to the investigation file Failure to communicate the prosecutor's opinion Lack of hearing during the detention review Failure/Delay to communicate decisions relating to detention Unlawful search of home and/or office
5.	24522/22	Öztürk v. Türkiye	05/05/2022	Nihat ÖZTÜRK 1974 Istanbul Turkish		Failure to comply with procedural guarantees provided for in domestic law Lack of relevant and sufficient reasons for detention Restriction of access to the investigation file Failure to communicate the prosecutor's opinion Lack/difficulties of legal assistance/other facilities Lack of hearing during the detention review Conditions of detention – Police Custody
6.	45548/22	Ural v. Türkiye	12/09/2022	Mehmet Emin URAL 1987 Aydın Turkish	Fatih DÖNMEZ	Failure to comply with procedural guarantees provided for in domestic law Lack of relevant and sufficient reasons for detention Restriction of access to the investigation file Lack/difficulties of legal assistance/other facilities
7.	3482/25	Can v. Türkiye	13/12/2024	Hüseyin CAN 1972 KİLİS Turkish	Zeynep Meliha KAŞ	Failure to comply with procedural guarantees provided for in domestic law Lack of reasonable suspicion Lack of relevant and sufficient reasons for detention