



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

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SECOND SECTION

Application no. 28945/19
Tolga AYHAN
against Türkiye
lodged on 29 April 2019
communicated on 21 September 2026

SUBJECT MATTER OF THE CASE

The application concerns the inability of a married couple to communicate by telephone while both were detained in separate prisons located in different provinces.

At the time of the events, both the applicant and his wife were in detention on the basis of accusations that they were members of the “Fetullahist Terror Organisation / Parallel State Structure” (“FETÖ/PDY”). The applicant and his wife were detained, respectively, in Gaziantep Closed Prison and Tokat Closed Prison.

On 16 November 2016 the applicant filed a petition with the administration of Gaziantep Closed Prison, requesting permission to make telephone calls to his wife.

On the same day, the prison administration rejected the applicant’s request pursuant to section 88 of the Regulation on the management of prisons and the execution of sentences and preventive measures, which provides that convicted persons may not be contacted by telephone from outside the prison.

On 6 January 2017 the Gaziantep enforcement judge upheld the prison administration’s decision, considering it to be lawful.

On 30 January 2017 the Gaziantep Assize Court dismissed the applicant’s objection to the enforcement judge’s decision.

On 8 March 2017 the applicant lodged an individual application with the Constitutional Court, complaining under Article 8 of the Convention that his

inability to hear his wife's voice for three months had caused him significant distress.

On 17 October 2018 the Constitutional Court declared the applicant's complaint inadmissible for being incompatible *ratione personae* with the provisions of the Constitution. It held that there was no impediment preventing the applicant's detained wife from lodging an individual application herself.

Relying on Article 8 of the Convention, the applicant complains of his inability to communicate by telephone with his wife while both were detained in separate prisons located in different provinces.

QUESTIONS TO THE PARTIES

Has the applicant's inability to communicate by telephone with his wife while they were both detained in separate prisons in different provinces constituted a violation of his rights protected under Article 8 of the Convention? In particular, did the national authorities take all the measures that could reasonably be expected from them in order to strike a fair balance between the competing interests at stake in the present case (see *Khoroshenko v. Russia* [GC], no. 41418/04, §§ 106, 110 and 116-20, ECHR 2015; *Lebois v. Bulgaria*, no. 67482/14, §§ 61-65, 19 October 2017; *Danilevich v. Russia*, no. 31469/08, §§ 45 and 48-50, 19 October 2021; and, *mutatis mutandis*, *Subaşı and Others v. Türkiye*, nos. 3468/20 and 18 others, § 108, 6 December 2022)?