

Q5 Humanitarian / Reference 27: Ergi v. Turkey, the European Court of Human Rights,  
<http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=ergi&sessionid=24543955&skin=hudoc-en>

**CASE OF ERGI v. TURKEY**

**(66/1997/850/1057)**

JUDGMENT

STRASBOURG

28 July 1998

“80. Turning to the particular circumstances of the case, the Court observes, on the one hand, that the Commission stated that its ability to make an assessment of how the operation had been planned and executed had been limited due to the lack of information provided by the Government. It had no information as to who took part in the operation, in what circumstances the security forces had opened fire and what steps had been taken by the security forces once the clash had developed (see paragraphs 35–37 above).

On the other hand, the gendarmerie officers’ testimonies to the Commission had suggested that the ambush was organised in the north-west of the village without the distance between the village and the ambush being known. It was to be anticipated that PKK terrorists could have approached the village either following the path from the north or proceeding down the river bed to the north-east and in the latter event, they would have been able to penetrate to the edge of the village without being seen by the security forces to the north-west.

The Commission found on the evidence that security forces had been present in the south (see paragraph 41 above). In these circumstances, the villagers had been placed at considerable risk of being caught in cross-fire between security forces and any PKK terrorists who had approached from the north or north-east. Even if it might be assumed that the security forces would have responded with due care for the civilian population in returning fire against terrorists caught in the approaches to the village, it could not be assumed that the terrorists would have responded with such restraint. There was no information to indicate that any steps or precautions had been taken to protect the villagers from being caught up in the conflict.

Accordingly, in the absence of evidence from gendarmes involved in the planning and conduct of the operation, the Commission was not satisfied that the ambush operation carried out close to Kesentaş village had been implemented with the requisite care for the lives of the civilian population.”

